



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA3014

**Objector:** A parent

**Admission Authority:** The Governing Body of St Mary's Catholic Primary School, Chiswick, Hounslow

**Date of decision:** 11 September 2015

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to admission arrangements determined by the governing body of St Mary's Catholic Primary School, Chiswick, Hounslow for admissions in September 2016.**

**I have also considered the arrangements in accordance with section 88I (5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.**

**By virtue of section 88K (2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a parent (the objector), about the admission arrangements (the arrangements) for St Mary's Catholic Primary School, (the school), a voluntary aided primary school for 3 to 11 year olds. The objection concerns the arrangements for September 2016 and the admission of children starting school for the first time.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. The objector submitted her objection to these determined arrangements on 30 June 2015. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I

of the Act to consider the arrangements as a whole.

## Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
  - a) the objector's form of objection dated 30 June 2015 and subsequent correspondence;
  - b) the school's response to the objection and supporting documents;
  - c) the Diocese of Westminster's (the diocese) response to the objection and supporting documents;
  - d) the response from Hounslow Council, the local authority (the LA) to the objection;
  - e) the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - f) a copy of the minutes of the meeting of the governing body at which the arrangements were determined; and
  - g) a copy of the determined arrangements.

## The Objection

5. The objection has two parts. First, the objector says that the arrangements have not been written with "*proper consideration*" to paragraph 2.16 of the Code which states that "*Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that, where they have offered a child a place at a school;*
  - a) *that child is entitled to a full-time place in the September following their fourth birthday;*
  - b) *the child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and*
  - c) *where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.*

The objector believes that: the use of the term "*statutory school age*" in the arrangements is incorrect; the section in the arrangements which deals with deferrals is inaccurate; and the section on part-time entry

does not reflect the Code and is confusing.

6. Secondly the objector says that the arrangements directly contravene paragraphs 2.17, 2.17A and 2.17B of the Code. Paragraphs 2.17 states that *“Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1. Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.”* The objector says that the arrangements do not make clear the process for requesting admission out of the normal age group.
7. In relation to paragraph 2.17A the objector says that this part of the arrangements is confusing and does not provide the information contained in the Code. She believes that the use of the term *“exceptional circumstances”* in the arrangements contravenes this paragraph of the Code. The objector also says that the details of how decisions are made are mostly omitted from the arrangements and this does not comply with paragraph 2.17B.

### **Other Matters**

8. The arrangements on the school’s website are for admission in September 2015. Paragraph 1.47 of the Code states that *“Once admission authorities have determined their admission arrangements they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year.”* The school has not published its arrangements for 2016 on its website and therefore has not complied with the requirements of the Code.

### **Background**

9. The school is designated as having a Roman Catholic religious character and is within the Archdiocese of Westminster. It has a published admission number (PAN) of 30 for admission to reception (YR). Currently there are 235 pupils on roll and the school has a capacity of 210. The school has provided me with a copy of the minutes of the governing body meeting of 29 January 2015 at which the governors determined the arrangements for September 2016. I am satisfied that the governors determined the arrangements at that time and informed the LA of the arrangements. The arrangements are published and are required on the LA’s website.

### **Consideration of Factors**

10. A section of the arrangements headed *“Reception Year Deferred Entry”* states that *“Applicants may defer entry to school up until statutory school age i.e. the first day of term following the child’s fifth birthday.”*

*Application is made in the usual way and then the deferral is requested. The place will be held until the first day of the spring or summer term. Applicants may also request that their child attends part-time until statutory school age is reached. Entry may not be deferred beyond statutory school age or beyond the year of application. Parents of summer born children who wish to delay their child's entry should be aware that they can only defer until 1 April 2017.*

11. The objector refers to this section of the arrangements and says that the use of the term "*Statutory school age*" is incorrect; she goes on to say that the arrangements suggest that a deferral or part-time attendance is "*requested*" and this does not make it clear that the parent can defer or decide on part-time attendance and that this does not need to be approved by the school. The objector believes that to say "*that deferral cannot be made beyond the year of application*" is not accurate in terms of the Code which states that "*deferral cannot be made beyond the final term of the school year*". The objector goes on to say that the arrangements are unclear because the paragraph describes deferral and then part-time attendance and then returns to an explanation of deferrals.
12. The education officer for the diocese states that the term "*compulsory school age is interchangeable with statutory school age*". She suggests that by "*requesting*" deferral or part-time attendance the parents are informing the school so that appropriate arrangements can be made, for example in staffing. She says that there is no suggestion that someone else should approve the request. She explains that deferred entry and part-time attendance are grouped together in the Code and that the arrangements reflect this.
13. The school agrees with the diocese that the term "*compulsory*" is interchangeable with the word "*statutory*" in this context and says that the arrangements are clear. It goes on to say that the arrangements make it clear that parents can defer by using the phrase "*Parents ... can defer*". The school states that other elements of this section are clear. The LA agrees with the diocesan response and did not make any further comments on the objection.
14. The Code has the force of law and where the words "**must**" and "**must not**" are used these represent a mandatory requirement. The Code does not specify the words to be used by an admission authority in their arrangements only that "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*" (Paragraph 14 of the Code). The diocese and the school are correct that the words statutory and compulsory have the same meaning when referring to the age at which children must start school. As the arrangements go on to explain the definition of the term I consider this to be clear. This section of the arrangements begins with the statement that "*Applicants may defer entry to school*" and the final

sentence in this section of the arrangements says that parents can defer; I believe that this makes it clear that deferral is an entitlement to parents and not something which requires a formal application. The use of the term “request” does not necessarily suggest that someone else has to make a decision; one of the dictionary definitions of the word is “something asked for” and I am of the view that this is appropriate in this context. The arrangements make it clear that a deferral can result in a child starting school in the spring or summer terms and I am of the view that this is clear and does not contravene the Code. The positioning of text relating to paragraph 2.16 in the arrangements is a matter for the school to decide. I am of the view that the section in the arrangements is clear and conforms with the requirements in the Code. I therefore do not uphold this part of the objection

15. The second part of the objection refers to paragraphs 2.17, 2.17A and 2.17B of the Code. Under the heading “*Children educated outside their chronological age group*” the arrangements state that “*Parents may request that their child be educated out of his/her chronological age group. Such requests must be made in writing to the Chair of Governors during the autumn term in the year of application. Governors will consider each request on its own merits and permission will only be given in exceptional circumstances. When the application is made, it will be ranked with all the other applications and no further exceptions will be given*” The objector says that the arrangements do not make clear the process for requesting admission out of the normal age group
16. The diocesan response explains that this section of the arrangements was amended after the publication of the revised Code in December 2014 in order to conform with the Code.
17. Paragraph 2.17 of the Code states that “*Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group*” and the arrangements state clearly that the application must be in writing to the Chair of Governors and during the autumn term in the year of application. I am of the view that this conforms with this part of the Code. I do not uphold this element of the objection.
18. Paragraphs 2.17A and 2.17B concern the process to be used when considering admission outside the normal age group. The Code does not require the details of the process by which admission authorities agree or disagree with out of normal age group requests for admission to be explained in the arrangements, only that the arrangements make clear how parents may make such a request. Any concerns about the process of decision making itself are outside my jurisdiction and should be referred to the DfE.

## **Conclusion**

19. I conclude that the arrangements do not contravene the Code at paragraphs 2.16 and 2.17 as they make clear the process of deferral and explain how a parent may request an admission out of the normal age group. I therefore do not uphold the objection. The elements of the objection concerning the processes by which the admission authority makes the decision about admission outside normal age group are outside my jurisdiction.
20. I have also drawn to the attention of the governing body the requirement to publish the arrangements for September 2016 on the school's website.

## **Determination**

21. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to admission arrangements determined by the governing body of St Mary's Catholic Primary School, Chiswick, Hounslow for admissions in September 2016.
22. I have also considered the arrangements in accordance with section 88I (5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.
23. By virtue of section 88K (2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.

Dated: 11 September 2015

Signed:

Schools Adjudicator: Ann Talboys