



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2923

Objector: A member of the public

Admission Authority: Gotherington Primary School Academy Trust,
Gloucestershire

Date of decision: 22 September 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined for Gotherington Primary School for admissions in September 2016.

I have also considered the arrangements in accordance with section 88I(5) of the Act and have found there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 the timescale specified by the Adjudicator, and the school has already done so.

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 member of the public about the admission arrangements for admissions in September 2016 (the arrangements) for Gotherington Primary School. The objection concerns whether or not the school's arrangements comply with the School Admissions Code (the Code) by including the option of part-time admission of children below compulsory school age and the information that the parents of summer born children may request that their child delay entry to school and start reception at five years of age.

Jurisdiction

2. The terms of the academy agreement between Gotherington Primary School Academy Trust (the trust) and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. The arrangements were determined by the governing body on behalf of the academy trust which is the admission authority for the school on this basis.

3. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider this objection. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the Code.

5. The documents I have considered in reaching my decision include:

- a. the form of objection of 22 June 2015 including hyperlinks to the arrangements for a previous admission round on the school's website and to the co-ordinated admission scheme on the website of Gloucestershire County Council (the local authority);
- b. the school's response of 7 July 2015 with attachments including the admissions policies for 2015 and 2016, and its funding agreement;
- c. the 2016 arrangements for the school downloaded from the local authority's website;
- d. a copy of the redacted minutes of the governing body's meeting on 17 June 2014 sent by the school on 9 July 2015;
- e. a response from the local authority including a hyperlink to the 2016 guidance booklet;
- f. a further email from the objector on 14 July 2015; and
- g. a further response from the school on 10 August 2015.

6. I arranged a meeting with the objector, and representatives of the school and the local authority on 16 July 2015 (the meeting). At the meeting the objector explained that, as a Gloucestershire resident, she had made the objection in support of parents considering the school for their child's education. Correspondence was also submitted by the school after the meeting and this has been copied to the local authority and to the objector. I have considered the representations made to me at the meeting and the documentation and correspondence submitted before and after the meeting.

The Objection

7. The objection concerns whether or not the school's arrangements comply with the Code with respect to the option that children below compulsory school age may be admitted part-time (paragraph 2.16(c)) and that the parents of summer born children may request that their child delay entry to school and start reception at five years of age, outside of their chronological year group (paragraph 2.17).

8. The objector also expressed concern that the local authority's guidance booklet and also the co-ordinated admissions scheme had not been updated appropriately for 2016 at the time of the objection. These matters were also discussed at the meeting, but I explained that my role as adjudicator is to consider the determined arrangements for the school and whether the level of detail is appropriate and sufficient, but not to consider the detail about any procedural matters. Further consideration of the local authority's published information is therefore beyond the scope of this determination about the admission arrangements for the school.

Other Matters

9. In reviewing the arrangements as a whole I noticed several other matters that appeared to contravene the requirements of the Code including that a change had been to the arrangements without public consultation, out-of-date arrangements on the school's website, inadequate information about the waiting list, and the wording of the priority for looked after children and previously looked after children.

Background

10. The school first opened in 1881 and converted to be a state-funded, independent academy school for boys and girls aged 4 to 11 years on 1 August 2011, replacing the predecessor school of the same name which ceased to be a maintained community school on that date. The school has a published admission number (PAN) of 30 and the funding agreement confirms that this primary academy has a planned capacity of 212 pupils

11. On its website, the school describes itself as *"a highly motivated, hardworking school, totally committed to providing an excellent platform for learning...the key to our success is the quality of relationships and the high levels of care which exist between all members of the school community. Home and school work closely together to provide a safe and secure environment in which children grow in confidence and independence."*

Consideration of Factors

12. The first matter of concern to the objector was that the arrangements make no mention that children can attend part time until they reach statutory school age if their parents so wish, in breach of paragraph 2.16(c) of the Code.

13. On the objection form, the objector explained that she had contacted the

school by email on 26 February 2015 about her concerns and had provided the relevant sections of the Code. She told the school that *“because the Code is a statutory document, these points should be covered in your school’s admissions policy.”* The objector provided a copy of the school’s response that it reviews the *“admissions policy on an annual basis and always asks the local authority which manages our admissions, to check the accuracy of this policy. This has been followed prior to the release of the information that you have outlined...”* The school said it would pass on the objector’s comments to the local authority and seek advice prior to any revisions being undertaken to our policy.

14. The objector said on the objection form that she had raised her concerns as a formal objection because the school had still not changed its policy, and the same draft admissions policy had been on the school’s website since January 2014. The objector said *“parents should be aware that these options are available by law so they can make an informed decision about the best time and way their child enters school.”*

15. Paragraph 2.16 of the Code states that *“admission authorities ... **must** make it clear in their arrangements that, where they have offered a child a place [in Year R] 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.”

16. The term “compulsory school age” is detailed further at footnote 49 to paragraph 2.16 which explains that *“a child reaches compulsory school age on the prescribed day following his or her fifth birthday (or on his or her fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March and 31 August.”*

17. I have reviewed the school’s arrangements that were published on its website at the time of the objection, and it is clear that the arrangements make no mention at all of the mandatory information required by paragraph 2.16(c). I therefore uphold this part of the objection.

18. The second matter of concern to the objector was that the arrangements make no mention of the option for parents of summer born children to request that their child delay entry to school and start reception aged 5, which contravenes paragraph 2.17 of the Code.

19. Paragraph 2.17 of the Code 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.”*

20. Having reviewed the arrangements, there is no mention at all of the mandatory information required by paragraph 2.17 concerning how parents request admission for their child out of the normal age group. I therefore uphold this part of the objection.

21. It is for the admissions authority to satisfy itself that the arrangements comply with the Code before it determines the arrangements every year. In the meeting, the school averred its *“willingness to do it right.”* I acknowledge that after the meeting the arrangements were revised promptly and now comply with paragraphs 2.16 and 2.17 of the Code. However, regarding the request for admission of a child out of out of their normal age group, it may be helpful to parents to make clear to whom their request should be made.

Other matters

22. In reviewing the arrangements I noticed that there were other aspects that appeared not to comply with the requirements relating to admission arrangements, so I used my power under s88I of the Act to review the arrangements as a whole for compliance with the Code. I raised with the school the aspects below which appeared to me to contravene the Code and could be amended immediately by the school as a permitted variation under paragraph 3.6 of the Code.

23. The objector had noted that the *“same draft admissions policy”* had been on the school’s website since January 2014, and the link to these out-of-date arrangements was still on the home page of the school’s website at the time of the meeting. In the meeting I explained that the 2016 arrangements should have been published on the school’s website as soon as possible after they have been determined. Furthermore, paragraph 2.14 of the Code requires that the waiting list must be maintained until 31 December in the school year of admission, and the waiting list is based on the oversubscription criteria in the 2015 arrangements. Consequently, it was important for the school to ensure that arrangements are labelled clearly with the relevant year to avoid confusion for parents. The school agreed to remove promptly the arrangements that were out-of-date and in future admissions rounds to label arrangements clearly and publish promptly after determination. I acknowledge that the school’s website now displays the 2015 arrangements, as well as the 2016 revised arrangements which state that the waiting list will be maintained until 31 December.

24. Paragraph 1.46 of the Code states that *“all admission authorities **must** determine (i.e. formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required. Admission authorities **must** determine admission arrangements for entry in September 2016 by **15 April 2015** and for all subsequent years, by **28 February** in the determination year.”* The minutes of the governing body’s meeting of 17 June

2014 record the decision to include a new priority for the children of staff in the 2016 arrangements. However, as this change to the arrangements had not been subject to a consultation process, this new criterion is therefore unlawful and must be removed from the arrangements. Should the school wish to include a priority for the children of staff at a future date, the criterion must comply with paragraph 1.39 of the Code and must be consulted on before it can be included. I acknowledge that since the meeting, the oversubscription criteria no longer include a priority for the children of staff.

25. The first oversubscription criterion refers to "*children in public care*" but paragraph 1.7 of the Code makes clear that the highest priority must be given to "*looked after children and previously looked after children*". Since the meeting, the first criterion has been rephrased appropriately.

26. The only reference in the arrangements to children with a statement of special educational needs or an education health care plan that names the school appeared in the "definitions" section of the arrangements. In accordance with paragraph 1.6 of the Code, it would be helpful to include a clear statement in the introductory paragraphs, before the oversubscription criteria, that children with a statement of special educational needs or an education health care plan that names the school will be admitted. I acknowledge that the revised arrangements include an appropriate statement to this effect.

Conclusion

27. The arrangements at the time the objection was made did not comply with paragraph 2.16 of the Code because there is no mention of the option for children below compulsory school age to attend part-time. I uphold this part of the objection.

28. Furthermore, the arrangements did not comply with paragraph 2.17 of the Code because there was no mention of how a parent may request admission for his/her child outside of the normal age group. I also uphold this part of the objection.

29. As the arrangements at the time of the objection did not include the mandatory information required by paragraphs 2.16 and 2.17 of the Code, I uphold this objection.

30. I acknowledge that the school has worked promptly with the local authority to improve the clarity of the arrangements, and to ensure that all the issues identified in the meeting have been addressed so that the arrangements now comply with the Code.

Determination

31. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined for Gotherington Primary School for admissions in September 2016.

32. I have also considered the arrangements in accordance with section 88I(5) of the Act and have found there are other matters which do not conform with the

requirements relating to admission arrangements in the ways set out in this determination.

33. 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 the timescale specified by the Adjudicator, and the school has already done so.

Dated: 22 September 2015

Signed:

Schools Adjudicator: Ms Cecilia Galloway