



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2891

Objector: A member of the public

Admission Authority: The Academy Trust for Harpenden Academy

Date of decision: 25 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 by the Academy Trust for Harpenden Academy

I have also considered the arrangements in accordance with section 88I (5). I determine that they do not conform with the requirements relating to admission arrangements as 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 make the further revisions to its admission arrangements within two months of the date of this decision.

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 (the objector), about the admission arrangements (the arrangements) for Harpenden Academy, a state-funded independent academy school for children aged four to 11 for September 2016.
2. The objection concerns the deferred entry of children to school below compulsory school age and requests for children to be admitted outside their normal age group. The objector states that the arrangements are not compliant with the relevant provisions within the School Admissions Code (the Code) concerning each of these matters.

Jurisdiction

3. The terms of the academy agreement between the Harpenden 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. These arrangements

were determined by the governing body on behalf of the academy trust, which is the admission authority for the school, on that basis.

4. The objector has exercised the right not to have their identity revealed to other parties to the case, but their name and address are known to me as is required by Regulation 24 of The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012. 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.

5. I have also used my power under section 88I to consider the arrangements as a whole.

Procedure

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

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

a. the objector's email and form of objection dated 9 June 2015, and email of 22 June 2015 concerning the school's determined admission arrangements;

b. the school's response to the objection, supporting documents and subsequent correspondence;

c. the Hertfordshire County Council's, the local authority (the LA), composite prospectus for parents seeking admission to schools in the area in September 2016;

d. the school's funding agreement with the Secretary of State;

e. confirmation of when consultation on the arrangements last took place;

f. copies of the minutes of the meeting at which the governors of the school determined the arrangements; and

g. a copy of the determined arrangements and those resulting from variations made to them.

The Objection

8. The objector said that the school's arrangements do not comply with the Code in two ways; first, concerning the delayed early entry of children to school, known as "deferred entry", and secondly concerning requests for admission outside a child's normal age group.

9. The objector says that the arrangements are in breach of paragraph 2.16 in the "*Admission of children below compulsory school age and deferred entry to school*" section of the Code because they refer to parents requesting deferred entry. The objector argued that paragraph 2.16 confers on parents the right to

part-time attendance or to deferred full-time attendance for their child if they are below compulsory school age and that they therefore do not need to make a request for admission to a school on that basis.

10. The objector also said that the arrangements made no mention of how parents can make a request that their child be admitted outside their normal age group, as they are required to do by paragraph 2.17 of the Code.

11. The objector made particular reference to summer born children and stated that in their case, in the absence of the information which the Code requires admission authorities to include in their arrangements, those determined by the school gave the impression that a summer born child *“has no choice but to start school either aged four or by missing out on most of their reception schooling by deferring until they turn five”*.

12. The school determined its admission arrangements for September 2016 on 19 March 2015, and has given me evidence to this effect. It is unfortunate and confusing that they have been published under the title “Admissions Policy 2015” by the school. These arrangements were provided to me on 22 June 2015 but were not those on the school’s website when I looked at it on 11 June 2015, as the school has accepted, and were not those which the objector had taken to be the school’s admission arrangements when making their objection which was dated 9 June 2015.

13. The determined arrangements for September 2016 provided by the school were accompanied by a link to a document entitled “Out of Year Admissions and Summer Born Process and Guidance” (the school’s guidance document) on its website. Having seen these documents, the objector repeated on 22 June 2015 the complaint which had been submitted about those appearing earlier on the school’s website and made the specific complaint that they failed to *“mention provisions for summer born children as outlined in (paragraphs) 2.16 and 2.17 of the School Admissions Code”*.

Other Matters

14. I have also raised with the school the following matters which I considered may not conform with the requirements set out in the Code concerning its admission arrangements:

(i) that the highest priority is not given explicitly to looked after and all previously looked after children, as required by paragraph 1.7 of the Code, and

(ii) that the description of how places are allocated from a waiting list does not conform to the requirements which are set out in paragraph 2.14 of the Code.

Background

15. All children must attend school on a full-time basis, or be otherwise educated by their parents, at the beginning of the school term following their fifth birthday. Admission to a school before this date is an early admission. Children who are born between 1 April and 31 August are commonly referred

to as “summer born” children.

16. The Code sets out requirements concerning early admissions to schools in terms of the provision that must be made by admission authorities and the ways in which parents can access it for their child.

17. Paragraph 2.16 of the Code says:

*“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.”

18. The Code also places requirements on admission authorities concerning the possible admission of children to school in an age group which would not be their normal one, based on their date of birth. Paragraph 2.17, of the Code addresses this as follows:

*“Parents may seek a place for their child outside 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 so send their 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.”*

19. The school has told me that it is aware that the arrangements which were determined on 19 March 2015 as those for September 2016 were entitled “Admissions Policy 2015” and I have been assured by the school that this title will be changed. It also informed me in further correspondence that it believes that it has now rectified defects in its arrangements, and has sent me a revised admissions policy for admissions in 2016. In response to my enquiry, the school has said that these varied arrangements were adopted by a meeting of the school governors which took place in July 2015.

Consideration of Factors

(i) concerning deferred entry to school of children below compulsory school age

20. The school's arrangements determined on 19 March 2015 make no mention at all of the deferred entry to school of children below compulsory school age. Although the objector's reference is to summer born children, these are only one group of children to whom the provisions of paragraph 2.16 of the Code apply as other children will be entitled to defer until January or April according to when they reach compulsory school age. Nevertheless, the school's admission arrangements which were determined on 19 March 2015 do not make clear those matters set out in paragraph 2.16 of the Code, as they are required to do, since these are not mentioned. At the time the objection was made, these were the school's determined arrangements and so I must uphold this part of the objection.

21. The arrangements which the school has varied subsequently refer the reader to guidance on the admission of summer born children which has been issued by the Department for Education, and to its own guidance document. The school's document, which is not mentioned in the arrangements determined on 19 March 2015, discusses parents making "requests" for deferred full-time or part-time admission, in the following terms:

"Parents can also request that their child attends part-time until they reach compulsory school age. Any parents interested in taking up a part-time place or deferring entry should contact the school with this request in writing. The school will enter discussions with the parents and jointly consider the individual circumstances of each child and their best interests within the wider context of school life."

22. It is clear in my view from this wording that the school is not offering deferred early entry to school on a full-time or part-time as a right, which is not in accord with the wording of paragraph 2.16 of the Code. The varied arrangements do not meet the requirements laid out in paragraph 2.16 as a result.

(ii) concerning admission outside the normal age group

23. The arrangements which were seen by the objector also say nothing about possible admission outside the normal age group and do not refer to the school's guidance document. While the objector has made reference specifically to summer born children, who are mentioned in paragraph 2.17 of the Code, the requirement which it makes is that admission authorities set out arrangements for any child for whom admission out of the normal age group may be requested, of which a summer born child may be one. Nevertheless, the arrangements do not comply with the requirement of paragraph 2.17 of the Code that this process for requesting admission out of the normal age group is set out. As these were the school's arrangements at the time the objection was made, I must uphold this part of it.

24. The arrangements which it has determined subsequently refer the reader to the school's guidance document, which does give details of the process the school intends to use, and so in my view the arrangements comply with what is required under paragraph 2.17 of the Code.

(iii) other matters

25. The arrangements as determined on 19 March 2015 and those which the school has varied subsequently contain the same matters which I have brought to the attention of the school as possible breaches of what the Code requires.

26. The school has told me that it is happy to include previously looked after children within the group given first priority for admission in its oversubscription criteria and to ensure that the definition of this group includes all those listed in the Code. However, the published arrangements still do not comply with the requirement of paragraph 1.7 that looked after children and all previously looked after children are given highest priority and therefore do not comply with the Code.

27. The arrangements contain the following:

“Allocation of places from a waiting list

Harpenden Free School will operate a continuous waiting list.

.....Applications will be considered using the same criteria as used of (sic) Reception applicants where there are more applicants than spaces available.”

28. Paragraph 2.14 of the Code has the following to say about waiting lists:

*“Each admission authority **must** maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission, stating in their arrangement that each added child will require the waiting list to be ranked again in line with their published oversubscription criteria. Priority must not be given to children based on the date their application was received or their name was added to the list. Looked after children, previously looked after children, and those allocated a place at the school in accordance with a Fair Access Protocol, **must** take precedence over those on a waiting list.”*

29. I was concerned that the arrangements failed to satisfy paragraph 2.14 since the required statements are absent. My view is that the published arrangements still fail to meet the requirements of paragraph 2.14 of the Code.

Conclusion

30. I have set out above my reasons for coming to the view that the school's arrangements at the time the objection was made concerning them:

(i) did not comply with what is required by paragraph 2.16 of the Code concerning the deferred entry to school of children below compulsory school age;

(ii) did not meet the requirement of paragraph 2.17 of the Code that they make clear the process for requesting admission outside the normal age group;

(iii) were not in accord with the requirement of paragraph 1.7 of the Code that looked after and all previously looked after children are given the highest priority for places, and

(iv) failed to satisfy fully the requirements in paragraph 2.14 of the Code concerning statements that are required concerning waiting lists.

31. The school had also failed to ensure that its admission arrangements for September 2016 were displayed on its website once they were determined in March 2015, as it was required to do by paragraph 1.47 of the Code.

32. Although the school has made changes to its determined arrangements, I have explained in the previous paragraphs why I am of the view that these revised arrangements still fail to satisfy the requirement of the Code concerning the matters listed above in sub-paragraphs (i), (iii) and (iv).

Determination

33. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the Academy Trust for Harpenden Academy.

34. I have also considered the arrangements in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements as set out in this determination.

35. 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 make the remaining revisions to its admission arrangements within two months of the date of this decision.

Dated: 25 September 2015

Signed:

Schools Adjudicator: Dr Bryan Slater