



DETERMINATION

Case reference: ADA 2879

Objector: A member of the public

Admission Authority: The London Borough of Richmond upon Thames for Carlisle Infant School, Stanley Primary School and Collis Primary School.

Date of decision: 7 August 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the London Borough of Richmond upon Thames.

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 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 Carlisle Infant School, Stanley Primary School and Collis Primary School (the schools), which are community primary schools, for September 2016. The objector has also complained that all community primary schools in the London Borough of Richmond upon Thames have the same admission arrangements as those raised in the objection.

2. The objection concerns the deferred entry to school of children below compulsory school age and requests for children to be admitted to school outside their normal age group. The objector states that the arrangements are not compliant with the content of the School Admissions Code (the Code) concerning both these matters.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the London Borough of Richmond upon Thames Council, the local authority (the council), which is the admission authority for the schools. The objector submitted the objection to these determined arrangements on 21 May 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.

Procedure

4. In considering these matters I have had regard to all relevant legislation and the Code.

The documents I have considered in reaching my decision include:

- a. the objector's email and form of objection dated 21 May 2015;
- b. the council's response to the objection and supporting documents, and subsequent correspondence;
- c. the council's composite prospectus for parents seeking admission to schools in the area in September 2015;
- d. confirmation of when consultation on the arrangements last took place;
- e. copies of the minutes of the meeting of the council's Cabinet at which the arrangements were determined; and
- f. a copy of the determined arrangements.

The Objection

5. 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 required by Regulation 24 of The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012. The objector believes that there are two aspects of the determined admission arrangements that fail to conform with the requirements of the Code.

6. First, the objector believes 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 state that "grounds" for delaying the early entry of children to school are needed, which should be based on the needs of the individual child and discussed as a parental request with the Headteacher of the school, accompanied by professionally supported evidence "of the grounds and their impact on the date of admission to school". The objector believes that the Code confers on parents the right to delay their child's entry to school, as well as the right to send their child to school on a part-time basis, prior to the date on which compulsory schooling must begin.

7. Secondly, the objector says that a statement in the arrangements that there are similar requirements concerning any request that a child be admitted to "an age group below their child's actual age", which is the phrase used in the arrangements, fails to recognise that the Code sets out no requirement that professional evidence be provided to accompany such requests. The objector takes the view that the Code has established an absolute right to have a request for admission out of the normal year group considered with or without

such supporting evidence and that therefore the arrangements do not comply with paragraph 2.17 of the Code, which the objector says establishes this right.

Background

8. 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.

9. 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. It 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.

10. A revised version of the Code came into force in December 2014. The objector has stated that she believes that the arrangements fail to conform to what it contains in paragraphs 2.16 and 2.17.

11. 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.”

I believe it is worth bearing in mind however that the previous version of the Code provided that admission authorities **must** make it clear in their arrangements that parents could “request” a delay in the early admission of their child, on either a full or part-time basis until the compulsory age of admission.

12. The next paragraph of the Code, paragraph 2.17, which addresses the admission of children out of their normal age group, has the following to say:

*“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 to 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.”

13. When the current Code was approved, this paragraph was added to by the insertion of two further paragraphs, 2.17A and 2.17B. These concern the matters to be considered and the process to be adopted by the admission authority in dealing with requests for admission outside the normal age group.

Consideration of Factors

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

14. When I looked at the council’s website on 26 May 2015, I was able to find the admission arrangements in the form provided by the objector on 21 May 2015. They contained the following paragraph:

“ Request to delay entry to school (known as deferred entry)

11. Parents can request to delay their child’s entry to school until later in the school year, but only until the child reaches compulsory school age in that school year ie the latest their child can start school is at the beginning of the summer term 2017. Grounds for deferred entry to reception should be based on the needs of the individual child. Professionally supported evidence of the grounds and their impact on the date of admission to school should accompany the request.”

15. The council responded to the objection on 11 June 2015 and accepted that paragraph 11 of its determined arrangements, as quoted above, “erroneously contains the expectation that evidence should accompany a request” and said that it had changed the wording on its website so that the arrangements contained a differently worded paragraph which refers to a request for a child to attend part-time and replacing the suggestion of profession evidence with the phrase “*parents can discuss their request with the Headteacher of the school.*” It also referred me to the contents of its brochure for parents for admissions in September 2015, saying that it was compliant with the Code since it allowed parents to request delayed entry and to discuss this request with the Headteacher of the school.

16. The objector responded by saying that what the LA had to say did not negate the substance of the objection, which was that these changes still failed to satisfy paragraph 2.16, which has the effect in the objector’s words that “no special circumstances are required to exercise this right”- meaning the right to delay early entry to school.

17. The council had not provided me with a copy of the arrangements as determined or proof of that determination as it had been requested to, but did so after a further request. The arrangements were determined by the council’s Cabinet on 16 April 2015, which is after the deadline for making such decisions. The version of the arrangements which it provided with its email on 29 June 2015 contained paragraph 11 in the form which it had said on 11 June was the revised form. It provided me with no evidence that the arrangement had been

formally varied by the admission authority, and I have looked at the published papers of the council's Cabinet, finding there the version of the admission arrangements which the objector and I obtained from the council's website in May and which in the absence of any evidence to the contrary I take still to be its determined admission arrangements for September 2016.

18. The council also told me that the consultation which it carried out on its admission arrangements for September 2016 had taken place "between December 2014 and January 2015, before the revised School Admissions Code came into force and was applicable".

19. The revised Code came into effect on 19 December 2014. This means that admission arrangements determined after that date, in other words initially those for admissions in 2016, were subject to its provisions irrespective of whether an admission authority had already begun consultations based upon the earlier version of the Code.

20. It is clear to me that the council's arrangements, both in their originally determined form and as the council has told me they are now worded, fail to make clear the matters laid out as a mandatory requirement in paragraph 2.16b and 2.16c of the Code. My view is therefore that they are in breach of what the Code requires. I uphold this part of the objection.

(ii) concerning admission outside the normal age group

21. The determined admission arrangements have the following to say:

"Request to delay a year

12. Parents seeking admission to an age group below their child's actual age should submit their request with their application by the closing date of 15 January of the year when children of the actual same age are due to start school. Requests may be accompanied by professionally supported evidence to explain why their child should be considered to start school a year later than other children of their age. Each request and supporting evidence will be carefully considered and the educational, social and developmental reasons will be taken into account to arrive at a decision."

22. The objector has taken the view that the admission arrangements should make specific mention of summer born children as a special case in relation to requests for admission out of the normal age group, and that the arrangements for them should be based on the guidance to admission authorities which has been issued by the Department for Education. The objector complains that this guidance is not reflected in the arrangements, which should differentiate between requests concerning summer born children and all others. The objector believes that the effect of the additional paragraphs in the revised Code is that parental requests must be considered whether or not professional evidence is provided, since admission authorities are simply required to make their decisions in the best interests of the child and to explain the reasons for their decision

23. The role of the adjudicator does not extend to a consideration of the process used by an admission authority in making decisions about the admissions of individual children, or about that process in general. Rather, it is limited to a consideration of the admission arrangements themselves and to whether or not they meet the requirements set out in the Code. That is to say, the matters dealt with in paragraphs 2.17A and 2.17B fall outside the adjudicator's remit. Although I have looked very carefully what the objector has said, I have no jurisdiction concerning the objection which has been made about this part of the arrangements.

24. The objector has referred to paragraph 2.17 in making the objection. This says that:

*"Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group."*

Having considered the council's admission arrangements, my view is that they make the process of making such a request clear, in the wording which is set out above.

Conclusion

25. I have set out above my reasons for coming to the view that:

(i) the council's arrangements fail to 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) I have no jurisdiction to consider the objection which has been made concerning that part of the arrangements which deals with the process used in considering requests for admission outside the normal age group of a child in relation to paragraphs 2.17A and 2.17B of the Code; and

(iii) having considered the arrangements, the part of them covered by paragraph 2.17 of the Code does not contravene what is required in respect of those matters which it falls to me to consider.

Determination

26. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the London Borough of Richmond upon Thames.

27. 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 this decision.

Dated: 7 August 2015

Signed:

Schools Adjudicator: Dr Bryan Slater