



Office of
the Schools
Adjudicator

Determination

Case reference:	ADA3534
Referrer:	A member of the public
Admission authority:	The governing board of Reay Primary School, Lambeth, London
Date of decision:	29 October 2019

Determination

I have considered the admission arrangements for September 2020 for Reay Primary School, London Borough of Lambeth in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the school's use of a Supplementary Information Form and the school's requirement that this is brought personally to the school, the arrangements do not conform with the requirements relating to admissions. I have also found that 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 two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 30 November 2019.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of Schools Adjudicator (OSA) by a member of the public, (the referrer), about the admission arrangements (the arrangements) for Reay Primary School (the school), a Foundation school for children aged 3 to 11 for September 2020. The date of the objection was 15 April 2019.
2. The referral relates to the school's requirement that a Supplementary Information Form (SIF) is completed and brought personally to the school.

3. When the arrangements were brought to my attention it appeared that they did not, or might not, conform with the requirements for admission arrangements in many ways. I, therefore, decided to use my powers under section 88I(5) to consider them as a whole.

4. The parties to the case are the governing board of the school and the London Borough of Lambeth.

Jurisdiction

5. Admission authorities are required by section 88C of the Act to determine admission arrangements by 28 February each year for the following year – so by 28 February 2019 for admissions in September 2020. On 15 April 2019 when the objection was received, the governing board, which is the admission authority for the school, had not determined the 2020 arrangements. Because my jurisdiction is for determined arrangements it was not possible for me to consider the objection at that time. The governing board of Reay Primary School subsequently determined the arrangements on 16 July 2019. This was, however, after 15 May 2019 by when the School Admissions Code (the Code) requires objections to admission arrangements for 2020 to be made to the adjudicator.

6. As the deadline for objections was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements for admission in 2020 conform with the requirements relating to admission arrangements and I am treating the objection as a referral.

Procedure

7. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

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

- a) the referrer's form of objection dated 15 April 2019;
- b) copies of the minutes of the meeting of the governing board at which the arrangements were determined;
- c) a copy of the determined arrangements;
- d) comments from the governing board on the matters raised and supporting documents; and
- e) the local authority's composite prospectus for parents seeking admission to schools in the area in September 2019/2020.

Other Matters

9. Having considered the arrangements as a whole it appeared to me that the following matters may also fail to conform with the requirements relating to admission in the Reception year (YR):

- a) The admission arrangements “**must**” be published on the school’s website. When I checked, the school’s website had a link titled School Admission Policy 2018/19. The link leads to information, which is dated January 2019. The arrangements for 2019 and for 2020 should be published, as the latter had to be determined by 28 February this year. This is required by paragraph 1.47 of the Code.
- b) Paragraph 1.6 of the Code says, “*All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school **must** be admitted.*” This is not stated in the arrangements so they do not meet the requirements of paragraph 14 of the Code.
- c) The arrangements do not appear to inform parents of children starting school of their right to request part-time education or to defer admission. These rights, and the requirement to set them out in arrangements, are set out in paragraph 2.16 of the Code.
- d) The oversubscription criteria give the highest priority, as required in the Code, to looked after children and all previously looked after children. The Code further sets out the definitions for these groups. The school has included the wording “*for whom the school can best meet their needs*”. Paragraph 1.7 of the Code does not allow for the qualification of this highest priority with this wording.
- e) Oversubscription criterion 1 defines siblings but it does not include siblings who are adopted. It may be that the reference to children living as part of the family by reason of a court order refers to children who have been adopted but it is not clear and may not meet paragraph 14 of the Code.
- f) The arrangements do not appear to make it clear how distance is defined, as it does not “*include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*” This is required by paragraph 1.13.
- g) Paragraph 2.14 sets out that admission authorities **must** maintain a waiting list until at least 31 December of each school year of admission. This information does not appear to be included in the arrangements.

Background

10. Reay primary school is a foundation school with a published admission number of 30 and was judged outstanding by Ofsted at its last inspection in 2017. It is located in the

London Borough of Lambeth. The school's oversubscription criteria can be summarised as giving priority to applicants in the following order:

- a. looked after and previously looked after children;
- b. siblings;
- c. children with exceptional medical and social needs;
- d. children of staff at the school,
- e. other children ranked by the distance of their home from the school.

Consideration of the case

11. I deal first with the requirements relating to determination and publication of arrangements. At the time the initial objection was made, the only admission arrangements on the school's website were for admissions in 2018 although the school's arrangements for 2019 were set out in the local authority's composite prospectus *Starting primary school in Lambeth 2019/20*. The headteacher told me on 15 July 2019 *"As regards the timing of determination of our admissions policy, our practice has been that our policy would be reviewed by our governing board annually (most recently in December 2018 - I attach the relevant minutes), and would then new [sic] published on our website. We did not expressly mark our policy as being applicable to any particular academic year. In future, we will ensure that we follow the procedure contemplated by the School Admissions Code more closely i.e. determining a policy for a school year by 28 February in the school year before those arrangements are to apply."* In the minutes of 5 December 2018 it was noted that the headteacher would *"update the school's Admission Policy before next year"*.

12. The headteacher sent me a copy of the unratified admission arrangements for 2020 on 7 June 2019 and told me *"We do not yet have a formally agreed admissions policy for 2020-21. This will be agreed in the next Pupil Welfare committee meeting on 12th June and ratified in the next Full Governing Body meeting on 16th July 2019. I have attached a copy of the un-ratified policy for your information. There are no changes to the current one (except the price of school lunches)." The headteacher sent me on 29 July 2019 the minutes of the meeting of the governing board on 16 July 2019 and the revised and determined arrangements for 2020. The minutes of that meeting record that "It was **noted** that the policy had been changed substantially since the version previously approved."* The minutes also record that *"the complaint was lodged with the Office of the Schools Adjudicator (the "OSA"), and subsequently dismissed because it was judged that the complainant had misunderstood the substance of the policy."* I should point out in this context that, in fact, the objection was ruled out of jurisdiction because the admission arrangements for 2020 had not been determined at that time and I can only consider objections if the arrangements have been determined. I had at that point made no assessment of the *"substance of the policy"*.

13. The determination of the school's admission arrangements does not comply with the requirements of the Code. For the school year beginning in September 2020, the arrangements were required to have been determined by 28 February 2019 even if they have not changed from the previous year and a consultation had not been required.

14. The referrer wrote *“The school requires ‘supplementary’ information as well as related proofs in the form of a Supplementary Application Form, and requires this to be personally brought to the school. However, the information and proof is exactly the same as the information collected through the CAF [Common Application Form]: name, DOB (in the form of a birth certificate) and address. There is nothing truly supplementary required, and the need to visit the school in person during opening hours makes it difficult for many. Most importantly, the SAF does not fulfil paragraph 2.4 of the School Admissions Code, that SAFs must “request additional information [only] when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability.” This is not the case.”*

15. I should start by making clear that what the school refers to as a “Supplementary Application Form” is what the Code refers to as a Supplementary Information Form or SIF – which is how I shall refer to it here. I agree with the referrer's assessment and note that he has quoted paragraph 2.4 of the Code. All the information requested in the SIF is covered by the local authority's CAF. By requiring a SIF when one was not needed, the arrangements as they appeared on the school's website when the referrer first saw them, (albeit undetermined at that time), did not comply with paragraph 2.4 of the Code. I should also add that a requirement to bring a SIF personally to the school would be unfair (and hence in contravention of paragraph 14 of the Code which requires that arrangements be fair) as it places unnecessary and unreasonable barriers in the way of parents who may not be able to get to the school at times when it is open.

16. When I was provided with the determined arrangements in July, it was clear that the school have made a number of changes to their admission arrangements to bring them into conformity with the Code and they should receive credit for that. Such changes are permitted by paragraph 3.6 of the Code. The school has published the 2020 arrangements on the school's website, included in those arrangements details about deferred and part-time arrangements, amended the definition of siblings to include adopted children and clarified how distance is measured. In terms of the original concern raised by the referrer, there is no longer a requirement to complete a SIF for the school.

17. In addition, the revised arrangements state under the heading *“Waiting lists – The School Admissions Code states that waiting lists must be maintained until the end of the term after the children start reception class. Therefore a child's name will automatically remain on the list for Reay Primary School, if Reay Primary School was listed as a higher preference than the school where a place is offered, until 31 January of that year.”* It is helpful for parents that the waiting lists are maintained until 31 January after term has commenced in September but I should point out that the Code does not say that they must be maintained until the end of the term after the children start reception class. Paragraph

2.14 of the Code sets out that admission authorities **must** maintain a waiting list until at least 31 December of each school year of admission.

18. However, there are still a number of areas which need to be amended:

- a) Paragraph 1.6 of the Code says, “*All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school must be admitted.*” I drew this to the school’s attention but the revised arrangements state, as part of the introduction, “*School applications for children with an Education Health Care Plan (EHCP) or Special Educational Needs Plan (SEN) are dealt with by Lambeth Educational Needs and Disabilities Team. Children with EHCPs or SENPs naming one of the schools where Lambeth is the admission authority will be admitted to the school.*” In the first place, the phrase “where Lambeth is the admission authority” is unclear: Lambeth is NOT the admission authority for this school, the governing board is. Secondly, the requirement to admit a child whose EHCP or SEN statement names the school applies wherever the child concerned lives and cannot be limited to children living in Lambeth.
- b) In the oversubscription criteria about looked after and previously looked after children, the school has removed the reference to “*for whom the school can best meet their needs*”. However, this section needs to be updated in line with the Code and the footnotes about looked after and previously looked after children, in particular to address the fact that the term “*residence order*” has been replaced by “*child arrangements order*”.

Summary of Findings

19. The objection drew attention to the school’s requirement that parents needed to complete a SIF for the school, even though all the information requested was also in the local authority’s CAF. I then found a number of significant errors in the arrangements which did not comply with the Code. The governing board has put in place a number of changes to meet the requirements of the Code. However, there are more issues which need to be amended. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or certain other limited and specified circumstances. Paragraph 3.6 of the Code states that admission authorities can revise their arrangements to give effect to a mandatory requirement of the Code, admission law or a determination of the adjudicator.

20. It is also clear that the governing board must meet the requirements of the Code in respect of the deadline for determining arrangements and for posting that information on the school’s website. The arrangements for 2021 must be determined by 28 February 2020 and a copy sent to the local authority by 15 March 2020 and published on the school’s website by the same deadline. I also draw governors’ attention to the requirement to consult on the arrangements at least every seven years even where there have been no changes made. Paragraphs 1.42 to 1.45 set out details about the consultation.

21. There remain a small number of amendments which need to be made by the governing board. The deadline for applications to the school is 15 January 2020 and it is within my power to set down when the amendments must be made. To ensure the arrangements are fully compliant before the date for applications closes, I determine that the arrangements should be amended by the end of November 2019.

Determination

22. I have considered the admission arrangements for September 2020 for Reay Primary School, London Borough of Lambeth in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the school's use of a Supplementary Information Form (SIF) and the school's requirement that the SIF is brought personally to the school, the arrangements do not conform with the requirements relating to admissions. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 30 November 2019.

Dated: 29 October 2019

Signed:

Schools Adjudicator: Lorraine Chapman