



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** REF3886

**Referrer:** A parent

**Admission authority:** London Borough of Barking and Dagenham for  
Community Primary Schools in Barking and Dagenham

**Date of decision:** 16 December 2021

### Determination

I have considered the admission arrangements for September 2022 for community primary schools in Barking and Dagenham in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to some of the matters raised by the referrer, the arrangements do not conform with the requirements. 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 7 January 2022.

### 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 parent (the referrer), about the admission arrangements (the arrangements) for community primary schools in Barking and Dagenham, for which the London Borough of Barking and Dagenham (the local authority) is the admission authority, for September 2022.
2. The referral relates to the process for seeking the admission of children outside the normal age group.

3. When the arrangements were brought to my attention, I considered that there were additional matters did not, or might not, conform with the requirements for admission arrangements.

4. The parties to the case are the local authority and the referrer.

## **Jurisdiction**

5. On 10 September 2021, the referrer submitted an objection form, provided by the OSA headed, "Objection to School Admission Arrangements for September 2022." Those arrangements had not, at that stage, been determined under section 88C of the Act by the local authority. The referrer's objection appears to have been based on the local authority's composite prospectus for admission to primary schools in 2022. The School Admissions Code (the Code) requires objections to admission arrangements for 2022 to be made to the OSA by 15 May 2021. The objection was not submitted by this deadline; therefore, the case cannot be treated as an objection. Indeed, the arrangements had not been determined by 15 May 2021; they were subsequently determined by the local authority on 18 November 2021. 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 they conform with the requirements relating to admission arrangements and I am treating the objection as a referral.

## **Procedure**

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

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

- a) the referrer's form of objection dated 10 September 2021 and subsequent correspondence;
- b) confirmation from the local authority that the arrangements were determined;
- c) a copy of the determined arrangements;
- d) comments from the local authority on the matters raised; and
- e) the local authority's composite prospectus for parents seeking admission to schools in the area in September 2022.

## **Details of the Referral**

8. The referrer contends that the arrangements do not comply with the Code in two respects:

- they do not make clear the process for requesting admission out of the normal age group as required by paragraph 2.18 of the Code; and
- they do not state that decisions on the admission of children out of the normal age group (a) are made on the basis of the circumstances of each case and in the best interests of the child concerned and (b) take into account the views of the head teacher of the school concerned, as required by paragraph 2.19 of the Code.

## Other Matters

9. The first oversubscription criterion refers to “children in care” rather than “looked after children” and the second note in the arrangements, in respect of previously looked after children, makes reference to “residence orders”, which were replaced by child arrangements orders in 2014. These references are potentially unclear; paragraph 1.8 of the Code requires oversubscription criteria to be “clear.”

10. The arrangements state that parents may request that their child attends part-time until they reach statutory school age and that such requests will be “considered.” Paragraph 2.17 c) of the Code states that arrangements must make clear that part-time attendance in these circumstances is an option, that is to say a right, “where the parents wish.”

## Background

11. The arrangements for admission in September 2022 state that the local authority is the admission authority for 33 community primary schools. There are no voluntary controlled schools for which the local authority is the admission authority. The determined arrangements include a section headed “Summer - born children.” It reads:

“It is expected that a parent or carer will apply for a reception school place for their child in the normal admissions round. However, some parents of children born in the summer months would rather their child not start school in the relevant year group but rather go back a year. Such requests must be made in writing in the child’s normal round of admissions. We should receive your request before the closing date (15 January 2022). The School Admissions Team, in conjunction with the School Improvement Team, will consider such requests.”

12. The local authority’s composite prospectus for admission to primary school in 2022, which is entitled “Starting School Full Time”, includes a section headed “How can I educate my child outside their usual year group?” It is worded in very similar terms to the arrangements themselves, but is not restricted to children born in the summer months and also mentions the possibility of requesting that a child go “forward a year.” The section concludes with two sentences that do not appear in the arrangements:

“You must still apply for a 2022 reception place as usual while we consider your request.

Please contact us for more details.”

## Consideration of Case

13. In the first part of the referral, the referrer argues that the arrangements “do not explain the process for seeking admission outside the normal year group. Instead, they instruct the reader to contact them for further information.” This, she says, is a breach of paragraph 2.18 of the Code, which reads as follows:

“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.”

14. In fact, the arrangements make no mention of parents and carers contacting the admission authority; that wording appears in the composite prospectus. However, it is important to note that at the point when the referrer completed the form of objection (10 September 2021), the arrangements for admission in September 2022 had not been determined or published by the local authority. The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 require admission authorities to determine their arrangements by 28 February each year and to publish them on their website by 15 March. These requirements, which are summarised in paragraphs 1.49 and 1.50 of the Code, were not met by the local authority.

15. The local authority explains that during the period of lockdown at the beginning of 2021 caused by the Covid-19 pandemic, a meeting of its admission forum did not take place and the determination of admission arrangements was overlooked. It was 18 November 2021 before the arrangements were determined and subsequently published. The local authority recognises that this is a serious matter. It denied parents and carers the opportunity to consider the arrangements for admission in 2022 prior to the deadline for making objections to the OSA. The referrer’s form of objection to the arrangements for 2022 was actually completed without having sight of the arrangements themselves. It is therefore understandable that there is some discrepancy between the wording in the referral and the arrangements themselves. The essence of the referral is unaffected by this. The key question for me to consider is whether the arrangements do make clear the process for requesting admission out of the normal age group, as the Code says they must.

16. The wording in the arrangements, reproduced in paragraph 11 above, is rather brief. It is restricted to “summer – born” children whose parents would prefer them to start the reception year until the year following their fifth birthday. It does not cover children of other ages whose parents may seek admission outside their normal age group and does not mention the possibility of children being admitted in advance of their normal age group at all. Nothing is said about the type of information that parents could include in their request,

for example details of medical conditions or reports from professionals. Specifically in the case of summer – born children, it is not stated that parents should apply for a reception year place in the normal admission round, while the request is being considered (although this information is included in the composite prospectus).

17. In all of these respects, the arrangements fail to make clear the process for requesting admission out of the normal age group. They therefore do not comply with paragraph 2.18 of the Code.

18. The second part of the referral relates to paragraph 2.19 of the Code. The referrer says that the local authority does not “consider applications for admission outside the normal year group as individual decisions in the child’s best interests. Instead, they operate a blanket policy”, nor does it “take into account the views of the head teacher of the school concerned.”

19. The relevant sentences in paragraph 2.19 of the Code read:

“Admission authorities **must** make decisions on the basis of the circumstances of each case and in the best interests of the child concerned... They **must** also take into account the views of the head teacher of the school concerned.”

20. I am unable to investigate the first of the referrer’s assertions, that is, that the local authority operates a “blanket policy” and does not make individual decisions in each child’s best interests. My jurisdiction is limited to the arrangements themselves, rather than the process undertaken by the local authority when it applies those arrangements to applications. That is a matter for the Local Government and Social Care Ombudsman. The arrangements do not specifically state that decisions are made on the circumstances of each case, but they do say that “The School Admissions Team, in conjunction with the School Improvement Team, will consider such requests.” Taken at face value, I consider that this wording suggests that requests are considered on an individual basis. In this respect, I do not find that the arrangements fail to comply with requirements.

21. Similarly, I cannot investigate the second of the referrer’s assertions, that is, that the local authority does not take into account head teachers’ views. However, I am concerned that the arrangements make mention of the School Admissions Team and the School Improvement Team considering requests, with no reference to taking into account the views of the head teacher of the school concerned. I consider that it would not be unreasonable to infer from the arrangements that the two teams specifically mentioned are the only bodies whose input is taken into account. If this is the case, then paragraph 2.19 is breached. If, in fact, the local authority does take into account the views of head teachers, I consider that the arrangements should make this clear. Their failure to do so means that they fall short of the requirement for clarity in the practices used to decide the allocation of school places, set out in paragraph 14 of the Code. I should make a further point. So long as they provide the minimum amount of information required, it is open to admission authorities to provide further information in their arrangements and this can be very helpful to parents and others.

Where they do so, however, they need to ensure that the information is accurate and complete and does not render arrangements unclear as has happened here.

22. The local authority accepted that the wording in the arrangements does not conform with the requirements. It provided me with revised wording. I consider that this wording does comply with paragraph 2.18 of the Code and makes clear that the requirements set out in paragraph 2.19 will be followed.

23. The local authority also accepted that both of the other matters outlined in paragraphs 9 and 10 above do not conform with requirements. With respect to the oversubscription criterion for looked after and previously looked after children, it undertook to correct what it describes as a “drafting error.”

24. Regarding part-time attendance for children below statutory school age, the local authority told me,

“What we do experience with a number of families asking for part time attendance is quite often for a variety of reasons a family sadly in crisis. By making contact it provides us with an early opportunity help the family in terms of advice and assistance, for example problems with travel”.

I have no doubt that such contact may well be helpful for some families, but the arrangements may not imply that a parent’s decision for a child to attend part-time must be authorised by the local authority, for the simple reason that such authorisation is not part of the statutory scheme. There is no requirement for a child to attend school before reaching compulsory school age and there is a right for part-time attendance from the September after the child is four until compulsory school age is reached. The local authority undertook to make the necessary corrections in their arrangements.

25. The local authority has acted promptly to address the aspects of the arrangements that do not conform with requirements. It is necessary for it formally to determine the changes it has proposed. It is important that parents whose children are due to start at primary school in September 2022 have clear and accurate information. I see no reason why revised arrangements cannot be determined by the local authority immediately and certainly before the closing date for admissions to primary school for September 2022, that is, 15 January 2022. I therefore determine that the arrangements must be revised by 7 January 2022.

## Summary of Findings

26. I find that in respect of some of the matters raised by the referrer, the arrangements do not conform with requirements, namely that the process for seeking admission outside the normal age group is not made clear, as required by paragraph 2.18 of the Code, and it is unclear whether the views of the headteacher are taken into account in accordance with paragraph 2.19. There are also other ways, set out above, in which the arrangements do not meet the requirements relating to admissions.

## Determination

27. I have considered the admission arrangements for September 2022 for community primary schools in Barking and Dagenham in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to some of the matters raised by the referrer, the arrangements do not conform with the requirements. 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.

28. 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 7 January 2022.

Dated: 16 December 2021

Signed:

Schools Adjudicator: Peter Goringe