



Office of
the Schools
Adjudicator

Determination

Case reference: REF3906

Admission authority: Wigan Council

Date of decision: 6 May 2022

Determination

I have considered the admission arrangements for September 2023 for community and voluntary controlled schools in Wigan in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to four elements of the admission arrangements, they do not conform with the requirements.

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.

The referral

1. The adjudicator dealt with a variation request from Leigh St Peter's Church of England primary school, a voluntary aided school in Wigan and, in the course of this determination identified a number of elements in the school's admission arrangements which did not conform to the law and the Code. The case reference for that case is VAR2234.

2. The school explained that their admission arrangements were based on those used by Wigan Council for those community and voluntary controlled schools for which they are the admission authority and this brought the arrangements determined by the local authority to my attention. When, I considered these arrangements it appeared to me that the following matters did not, or might not, conform with the requirements for admission arrangements;

- 1) The use of the recipient of child benefit to establish parental priority (paragraph 1.8 of the Code)

- 2) The definition of length of time a waiting list is in place (paragraph 2.15 of the Code)
 - 3) The use of the term 'request' when referring to part time admissions (paragraph 2.17 of the Code)
 - 4) The use of the term 'request' when referring to deferred entry (paragraph 2.17 of the Code)
3. The parties to the case are the OSA and Wigan Council.

Jurisdiction

4. These arrangements were determined under section 88C of the Act by Council's Cabinet, which is the admission authority for these schools on 17 February 2022. When they were brought to my attention it appeared that the arrangements did not, or might not, conform with the requirements for admission arrangements. I therefore decided to use my power under section 88I(5) of the Act to consider them as a whole.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
- a) papers from the previous referral to the OSA
 - b) copies of the minutes of the meeting of the local authority at which the arrangements were determined;
 - c) a copy of the determined arrangements; and
 - d) comments from the admission authority on the matters raised.

Consideration of Case

7. The elements of the admission arrangements identified are as followed;
- 1) The use of the recipient of child benefit as the sole determinant of a child's address when parents do not live together for the purposes of priority for places (paragraph 1.8 of the Code). There are many families across the country in which the recipient of the child benefit allowance is not, in fact the parent with whom the child lives for most of the school week, term or year. It follows that if child benefit is used as the only way to determine where a child lives for the purposes of priority for a school place, this may not give an accurate result. It could result in a child having a lower or, indeed, a higher priority than would be afforded by the use of the address where the child actually did live for most of the school week, term or year. Both would be unreasonable and therefore non-compliant with paragraph 1.8 of the Code which states that; 'Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all

relevant legislation, including equalities legislation. This section of the arrangements requires review.

- 2) The definition of length of time a waiting list is in place (paragraph 2.15 of the Code). The arrangements report that the waiting list will operate until the end of the autumn term only. Paragraph 2.15 of the code states that '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 arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.' The date therefore requires amendment.
- 3) The use of the term 'request' when referring to part time admissions (paragraph 2.17 of the Code). The word 'request' infers that the decision to allow the take up of a part time admission rests with someone other than the parent and that such a request could be rejected. Paragraph 2.17 states that '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.' This makes it clear that taking up part time admission before a child reaches compulsory school age is a parental entitlement and does not require the parent to 'request' it. This requires amendment.
- 4) The use of the term 'request' when referring to deferred admissions (paragraph 2.17 of the Code). The word 'request' infers that the decision to allow a delay to admission rests with someone other than the parent and that such a request could be rejected. Paragraph 2.17 states that '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'. This requires amendment.

8. The local authority has responded to the referral and have itemised each of the elements above as follows;

- 1) The use of the recipient of child benefit to establish parental priority (paragraph 1.8 of the Code). 'We propose to review this section of the admission arrangements to reflect where the child spends the majority of their time'.
- 2) The definition of length of time a waiting list is in place (paragraph 2.15 of the Code). 'We propose to amend this section of the admission arrangements to replace 'Maintain the waiting list until the end of the autumn term' to 'Maintain the waiting list until 31 December 2023'.
- 3) The use of the term 'request' when referring to part time admissions (paragraph 2.17 of the Code). We propose to amend the wording of this section of the admission arrangements to make it clearer to parents that part time attendance is their right and not dependent upon a decision by anyone other than the parent.
- 4) The use of the term 'request' when referring to deferred entry (paragraph 2.17 of the Code). We propose to amend the wording of this section of the admission arrangements to make it clearer to parents that deferred entry is their right and not dependent upon a decision by anyone other than the parent.

9. I am grateful to the local authority for their timely and sensible response. Paragraph 3.6 of the Code states that ‘Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Schools Adjudicator or any misprint in the admission arrangements’. As these matters have been determined by an adjudicator the amendments can be made without further consultation or determination.

Summary of Findings

10. Four elements of the admission arrangements were deemed to not comply with the Code and having been drawn to the attention of the local authority (who is the admission authority for these schools) amendments have now been suggested.

Determination

11. I have considered the admission arrangements for September 2023 for community and voluntary controlled schools in Wigan in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to four elements of the admission arrangements, they do not conform with the requirements.

12. 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.

Dated: 6 May 2022

Signed:

Schools Adjudicator: Ann Talboys