



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: ADA3926**

**Objector: member of the public**

**Admission authority: the governing board of Bellevue Place Education Trust for Braywick Court School in the Royal Borough of Windsor and Maidenhead**

**Date of decision: 18 August 2022**

## Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2023 determined by the governing board of Bellevue Place Education Trust for Braywick Court School in the Royal Borough of Windsor and Maidenhead.**

**I have also considered the arrangements in accordance with section 88I(5) and find 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 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 adjudicator by a member of the public (the objector), about the admission arrangements (the arrangements) for September 2023 for Braywick Court School (the school), a free school (a type of academy) for 2 to 11 year olds. The school is part of a multi-academy trust, Bellevue Place Education Trust (the trust).

2. The objection concerns specific parts of the arrangements which deal with the admission of pupils out of their normal age group (for summer born children) and when a parent wishes to seek deferred entry to Reception (YR).

3. The local authority (LA) for the area in which the school is located is the Royal London Borough of Windsor and Maidenhead. The LA is a party to this objection.

## **Jurisdiction**

4. The terms of the agreement between the multi-academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing board of the trust (the trust board), which is the admission authority for the school, on that basis.

5. The objector submitted her objection to these determined arrangements on 3 May 2022. 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.

6. I have also used my power under section 88I of the Act to consider the arrangements as a whole, because they have come to my attention by way of the objection, to determine whether they conform to the requirements relating to admissions and if not in what ways they do not so conform. When I considered the arrangements, I identified a number of matters which did not appear to meet the requirements. I will refer to my findings in that regard in the sections of the determination headed 'Other Matters'.

## **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. a copy of the minutes of the meeting of the trust board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 3 May 2022;
- d. the response by the trust board and the LA to the objection; and
- e. information available on the websites of the school, LA, the Department for Education (DfE) and Ofsted.

## **The Objection**

9. The objection is to the following two parts of the arrangements:

- 9.1. the admission of pupils out of their normal age group (for summer born children), specifically:

“[The reference in this section to the Code in the arrangements] should be sections 2.18 – 2.20 of the Code. This school is referring to the 2014 [Code]. Supporting documentation should be invited but cannot be insisted on. They make no distinction between seeking admission out of normal age group for medical/SEN reasons and summer born reasons. They say each case MUST be supported by a letter from a professional that provides the reasons for admission out of chronological year group”.

- 9.2 and when a parent wishes to seek deferred entry to YR. The objector asserts:

“Earlier in this school’s admissions policy, it says that ‘Parents can also request that their child attends part-time until he/she reaches compulsory school age.’ It is not necessary to request part-time attendance before compulsory school age. Parents have this right.”

## Other Matters

10. In two respects the arrangements appeared to me to lack the clarity required by the Code and / or to include all the information that the Code requires to be provided in arrangements. The areas of specific concern to me were in relation to children with special educational needs, specifically in relation to the admission of children with special educational needs, and how the home address would be determined for children who lived for some of the time with one parent and some with another. The arrangements as they related to in-year admissions also appeared to me not to meet requirements. I raised these matters with the trust board.

## Background

11. The school is a primary free school for 2-11 year olds. The school opened in 2015 as a one-form entry school serving the community of Bray Village in Maidenhead, Berkshire. It is an all-ability, co-educational school. The trust, of which the school is a part, runs eight other primary academies (in Reading, Barnet, Twickenham, Brent, Hackney, Wokingham and Wandsworth). Ofsted rated the school as ‘Outstanding’ in 2017. According to the ‘Get Information About Schools’ (GIAS) website, the number of students at the school is 254. The school has a capacity of 246. The Published Admission Number (PAN) for the school is 30. The school is oversubscribed, receiving 195 preferences for places for September 2022. According to the GIAS website, there are 13 other primary schools within two miles of the school’s location.

12. Although the objection does not refer to the oversubscription criteria, the other matters I have raised with the trust board do. I summarise those criteria here, as follows:

1. Looked after children and previously looked after children.

2. Children with a sibling at the school at the time of admission.
3. Children of staff at the school.
4. Children eligible for pupil / service premium (up to 10 per cent).
5. Proximity to school.

13. The arrangements for 2023 were determined by the trust board on 8 March 2022. This is after the deadline for determining arrangements which was 28 February 2022. This does not affect the standing of the arrangements or my power to consider them or the objection.

## Consideration of Case

### **Admission of children outside of their normal age group**

14. This aspect of the school's arrangements, in part, state:

“Children will normally be admitted to the reception year in the September following their fourth birthday and the vast majority of pupils are educated within their normal chronological age group. Any request for admission outside of the child's chronological year of entry will be considered in accordance with paragraphs 2.17-2.17B of the Admissions Code. Such requests would normally apply to children that are summer born and there are significant reasons that would benefit the child's academic, social and emotional development by starting Reception in the following year as opposed to Year 1.

The school's governing body will consider requests on the circumstances of each case and in the best interests of the child concerned. This will include taking account of the parent's views; information about the child's academic, social and emotional development; where relevant, their medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely. The Headteacher's views will also be taken into account. Each case must be supported by a letter from a professional (e.g. GP, Hospital Consultant, Social Worker) that provides the reasons for admissions outside of the chronological year group. If the request is approved, the application will then be considered in accordance with the school's oversubscription criteria in the event of oversubscription.”

15. Paragraphs 2.18 to 2.20 of the Code provide the requirements in respect of the admission of children outside of their normal age group. Not all of what is included in those paragraphs is relevant to the objection, so I do not include a copy of all three paragraphs in their entirety here, but will refer to the relevant parts where necessary.

16. The objector was first concerned that the school continues to refer in its arrangements in this regard to “paragraphs 2.17 to 2.17B”, which is a reference to the 2014

Code. The paragraph numbers were changed when the revised Code came into force in September 2021. The trust board concedes that this aspect of its arrangements is out of date. I uphold this part of the objection. The trust board has confirmed to me that it will ensure the arrangements reference the correct numbered paragraphs of the current Code.

17. Secondly, the objector was concerned with the following statement in this part of the arrangements: “Each case must be supported by a letter from a professional (e.g. GP, Hospital Consultant, Social Worker) that provides the reasons for admissions outside of the chronological year group.” The objector stated that supporting documentation cannot be insisted upon and must be invited.

18. I note that paragraphs 2.18 to 2.20 of the Code do not expressly prohibit schools including in their admission arrangements that such evidence must be provided. For that reason, I do not entirely agree with the objector. However, I note that the Government website contains a series of guidance documents about school admissions. One, entitled ‘Admission of summer born children: advice for local authorities and school admission authorities’, records the following in its section ‘8. The submission of evidence by parents’:

“It is reasonable for admission authorities to expect parents to provide them with information in support of their request – since without it they are unlikely to be able to make a decision on the basis of the circumstances of the case. This should demonstrate why it would be in the child’s interests to be admitted to reception rather than year 1.

In some cases, parents may have professional evidence that it would be appropriate for them to submit this, for example, when a child receives support from a speech and language therapist. However, there should be no expectation that parents will obtain professional evidence that they do not already have. Admission authorities must still consider requests that are not accompanied by professional evidence. In such cases the supporting information might simply be the parent’s statement as to why they have made their request. A lack of professional evidence, or limited evidence, does not mean that requests should be refused outright.”

19. This guidance states that admission authorities must still consider requests that are not accompanied by professional evidence. However, this guidance applies only to applications from those with summer born children and not for any other of the reasons why an application may be made for a place out of the normal age group.

20. The objector’s third and final concern in respect of this part of the arrangements is relevant to address at this point as it relates to the second concern. She says that the school: “[...] make[s] no distinction between seeking admission out of normal age group for medical/SEN reasons and summer born reasons.” The arrangements, in relation to admission outside the normal age group, state only that: “Such requests would normally apply to children that are summer born”. The way this part of the arrangements has been phrased has excluded other reasons why an application for admission out of the normal age group might be made. In consequence:

- 20.1 by appearing to restrict applications to only those from summer born children, this part of the arrangements does not comply with the guidance from the Government in respect of the professional evidence requirements to accompany applications from summer born children; and
- 20.2 the arrangements are not clear in that there is no explanation why the school would be expecting a supporting letter from one of the listed professionals, when that would only apply to applications for admissions out of the normal year group for medical reasons. The school is unlikely to require such a letter for summer born children. I also note that the trust board has included, word-for-word, the list of evidence sources, as is set out in paragraph 2.19 of the Code, that a school can take into account in respect of any application of this type. The requirement for a letter of this type to accompany all applications contradicts the fact that the arrangements state that a range of evidence will be considered.
21. Paragraph 2.18 requires that a school: “[...] **must** make clear in their admission arrangements the process for requesting admission out of the normal age group”. I find this part of the school’s arrangements is not clear, and is therefore not in accordance with the requirements for clarity for parents in respect of the process for requesting admission out of the normal age group as set out in paragraph 2.18, and the more general expectations in paragraphs 14 and 1.8 of the Code. I uphold this part of the objection.
22. I note the trust board’s response to this part of the objection here:
- “[...] the wording around the requirement for evidence from a professional should also be removed. Whilst the 2021 Code is silent on the manner of evidence required to support a request for admission out of chronological age group, we have taken account of the non-statutory guidance which states that requests without professional evidence should still be considered.”
23. I welcome the trust board’s intention to address these matters in their revised arrangements. However, I urge the trust board to take account of the points I have made in this section of the determination in respect of the guidance they mention in their response.

### **Deferred entry into YR**

24. In its arrangements, the following is stated about deferred entry into YR:

“Children will normally be admitted to the reception year in the September following their fourth birthday.

In line with the Admissions Code, parents can defer their child’s entry to the reception year until later in the school year, where they have been offered a place at a school to start before they are of compulsory school age. Where entry is deferred, the school will hold the place for that child and not offer it to another child. However,

entry cannot be deferred beyond the beginning of the term after the child's fifth birthday, nor beyond the beginning of the final term of the Reception Year. Parents can also request that their child attends part-time until he/she reaches compulsory school age."

25. The objector's concern is in respect of the final sentence of that section of the arrangements. The objector asserts that:

"It is not necessary to request part-time attendance before compulsory school age. Parents have this right."

26. In the trust board's response, it was stated that:

"[...] our view is that the wording in the admission arrangements for 2023 follows the wording in paragraph 2.17 of the 2021 Code. We do not see that there is an error within that wording."

27. Paragraph 2.17 c) of the Code states:

"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:

[...]

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."

28. The Code does extend the right to parents to choose whether their child should attend school part-time under the circumstances covered by paragraph 2.17. This paragraph does not state that parents are expected to request part-time attendance from the school. The use of the word 'request' (defined as 'the act or an instance of asking for something') implies that the school has something to decide in this circumstance and to grant if it so chooses. It shifts to the school that which the Code has put in the hands of the parents. I do not agree with the trust board that this part of the arrangements follows the wording of paragraph 2.17 of the Code. Consequently, I find that this part of the arrangements is not clear. I uphold this part of the objection.

## Other Matters

29. Having considered the arrangements as a whole it appeared to me that the following matters do not conform with the requirements of the Code and so I brought them to the attention of the trust board. These matters are (paragraphs of the Code are indicated where relevant):

29.1 The arrangements refer to 'statements of special educational needs'. This term is no longer used, having been superseded some years ago by the term Education, Health and Care Plan (EHCP). Using obsolete terms could render

the arrangements unclear and be confusing to parents. Paragraphs 14 and 1.8 of the Code require that arrangements are clear.

29.2 Paragraph 3 of the Notes section states that: “Proximity of the child’s home to the school, with those living nearer being accorded the higher priority, will also serve to differentiate between pupils in criteria 2-5 if there are more applicants than available places under each criterion”. Paragraph 1.13 of the Code states that: “Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the ‘home’ address will be determined and the point(s) in the school or nodal points from which all distances will be measured. This should 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 section of the arrangements 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.

29.3 Oversubscription criterion 4 states: “Children eligible for the Pupil Premium (including service premium) such that up to 10% of children admitted **within each year group** are in receipt of the pupil premium or service premium (including children eligible for the pupil premium or service premium through the first four priority criteria above). Proximity to school will be used when the number of pupils **in each year group** who are eligible for the pupil premium or service premium exceeds 10%.” (Those phrases emboldened are my emphasis). The arrangements are for the year of entry only. Therefore, references to other year groups in this part of the arrangements may make the arrangements unclear. Paragraphs 14 and 1.8 of the Code require that arrangements are clear.

30. The trust board has told me that it intends to address the first two of these matters so that the arrangements will conform to what the Code requires. I welcome this and as the trust board is actively seeking to address the first two areas I have brought to its attention, I will not mention those matters further in this determination.

31. In respect of the third matter, the trust board’s response was as follows:

“Pupil Premium wording – as we understand it, that it is considered that the references to other year groups is unclear (and therefore in breach of the Code) because the arrangements relate to the year of entry only. We think that is incorrect. The arrangements are for the academic year 23-24 but apply not only to admissions for September entry but also to in-year admissions (as referenced towards the end of the policy). For in-year admissions, the policy is clear that the same oversubscription criteria are used and therefore it would be appropriate to consider Pupil Premium across any year groups. We do not believe it is unclear or in breach of the Code.”



32. I explain step-by-step why I disagree with the trust board here. Paragraph 1.6 of the Code states: “The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied”.

Oversubscription criteria apply when the published admission number (PAN) is exceeded. Paragraph 1.2 of the Code states that the PAN applies to the relevant year group, which is “the age group at which pupils are or will normally be admitted to the school” (footnote 11), which in the school’s case is YR. The PAN and the oversubscription criteria apply, therefore, only to YR. Admission to other year groups can only be refused on the basis of prejudice to the provision of efficient education and / or the efficient use of resources. Those year groups are not subject to a PAN and therefore the oversubscription criteria do not apply, except in the circumstance I will next describe.

33. Paragraph 2.26 of the Code requires admission authorities to include information in their arrangements about the process for in-year admissions. This is a discrete part of the arrangements that explains the process specifically for the situation where applications are made out of the ‘normal admissions round’ (defined in footnote 8 under paragraph 15 d) of the Code as covering “[...] applications for admission in a relevant age group, which are made in time for the local authority to offer a school place on National Offer Day”).

Paragraph 2.29 of the Code states: “Where an admission authority is dealing with multiple in-year admissions and do not have sufficient places for every child who has applied for one, they **must** allocate places on the basis of the oversubscription criteria in their determined admission arrangements only” (that means those referring to the admission of YR pupils in the school’s case). Therefore, the oversubscription criteria must be deployed only when the number of in-year applicants exceeds the school’s capacity to admit all of them (in any year group) and they would only be used to rank the in-year applicants themselves, not the pupils already in the same year group, save for those pupils under oversubscription criterion 4 (which I will cover next). It is not clear for parents when the oversubscription criteria themselves to refer to the situation in other year groups.

34. Oversubscription criterion 4 is different from the other criteria in the arrangements in that it gives priority for a proportion of places (10 per cent) to children eligible for pupil / service premium. The trust board are right to want parents to know that in the circumstances where there are in-year admission applications from parents of children under this criterion, the relevant year group will be looked at as a whole to ensure 10 per cent of that year group has been given such priority. However, the arrangements need to explain this clearly to parents in the part of the arrangements that deals with in-year admissions and not as part of the list of oversubscription criteria which relate only to the relevant year of entry.

35. As it is required under paragraph 2.29 of the Code for an admission authority to apply the oversubscription criteria for in-year admissions, but only in the specific circumstances outlined above, the oversubscription criteria themselves must not refer to anything which makes them unclear for parents of YR pupils. Therefore, I do not agree with the view expressed by the trust board on this aspect of its arrangements. The trust board

must address the issue I have raised in the same timeframe as specified for the two other matters.

## Summary of Findings

36. The objector raised concerns about two aspects of the school's arrangements. I uphold the objection on the basis that I have found the arrangements are not clear for parents in the following ways:

36.1 in respect of admissions outside of the normal age group:

36.11 the references to paragraphs from the Code are from the 2014 Code and not the 2021 Code;

36.12 by stating that this part of the arrangements would normally apply to those who are summer born, parents may believe that this section does not apply to those with other reasons for making such an application; and

36.13 by requiring a supporting letter from a professional to accompany any application for admission outside of the normal age group, the arrangements do not follow the guidance in respect of applications from those with summer born children, and are not clear for those same parents as a letter from such professionals would not be of any relevance to their application.

36.2 in respect of deferring entry into YR, specifically that a parent might wish for their child to attend school part-time until later in the school year following their fourth birthday but not beyond the point at which they reach compulsory school age, the trust board has used language which implies to those parents that it is something to be requested from the school, when it is in fact a right.

37. As such I find that the arrangements do not comply with the requirements of paragraphs 14, 1.8, 2.17 and 2.18 of the Code.

38. I have also found that three other areas of the arrangements do not comply with the Code and have brought those matters to the trust board's attention.

39. The trust board must address my findings in the timescale set out in this determination.

## Determination

40. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2023 determined by the governing board of Bellevue Place Education Trust for Braywick Court School in the Royal Borough of Windsor and Maidenhead.

41. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

42. 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 2022.

Dated: 18 August 2022

Signed:

Schools Adjudicator: Dr Robert Cawley