



Determination

Case reference: ADA3911

Objector: An individual

Admission authorities: Lambeth Council for community and voluntary controlled schools in its area and the Oasis Community Trust for Oasis Academy Johanna in Lambeth

Date of decision: 22 August 2022

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements for September 2023 determined by Lambeth Council for community and voluntary controlled primary schools in its area and by the Oasis Community Trust for Oasis Academy Johanna in Lambeth.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authorities to revise their admission arrangements within two months of the date of the determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), objections have been referred to the adjudicator by an individual (the objector), about the admission arrangements (the arrangements) determined by Lambeth Council (the council) for the community and voluntary controlled primary schools for which it is the admissions authority (the schools) and by the Oasis Community Multi Academy Trust (the trust) for the Oasis Academy Johanna (the academy).

2. I am dealing with both objections in this one determination (and in many ways treating them as one objection) because the trust has decided that it will adopt for the academy the same admission arrangements as those used by Lambeth Council for the primary schools for which the council is the admission authority. It is open to the trust to do

this, but it does not in any way affect the status of the trust as the admission authority for the academy or the trust's responsibility in accordance with its funding agreement to ensure that the arrangements for the academy are in line with the requirements relating to admissions as these apply to maintained schools.

3. The objections concern the way the arrangements provide for the admission of children whose parents may be seeking an out of year group place for their child, or who may wish to defer a place for their child or for their child to attend school part time up to compulsory school age. The objector also points out the arrangements refer to paragraph 2.17 of the Code and that the reference should be to paragraph 2.18.

4. The local authority as the admission authority for the schools is a party to this objection. I have not included each of the community and voluntary controlled schools as a party to these objections on the grounds that it is the local authority that has determined the arrangements. I have, however, included the trust as a party because it is the admission authority for Oasis Academy Johanna even though as explained above it has an agreement with the council concerning the admission arrangements for the academy. The other party to the objections is the objector.

Jurisdiction

5. These arrangements were determined under section 88C of the Act by Lambeth Council for the schools for which it is the admission authority and by the trust for the academy. The objector submitted her objections to these determined arrangements on 12 April 2022. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and are within my jurisdiction.

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 objector's form of objection dated 12 April 2022;
- b. the local authority's comments in response to the objections;
- c. the trust's comments in response to the objections;
- d. the determined arrangements for the schools and the academy for September 2023; and
- e. the local authority's online composite prospectus for admissions to schools.

The Objections

8. The admission arrangements contain the following paragraphs:

“Starting Reception Class

All children entering a Lambeth community primary school and Oasis Academy Johanna will be admitted in September 2023, as Lambeth LA will be operating a single point of entry. It will be expected that all children will start reception class in September. However, parents/carers can request that the date their child is admitted to school is deferred until later in the academic year. Parents/carers can request that their child takes up the place part-time until the child reaches compulsory school age. This must be agreed between the parent/carer and the school for which a place has been accepted and will be considered on a child-by-child basis. (see details below about Deferred entry).

Admission of children out of cohort/outside their normal age group

Delayed entry

In line with the School Admissions Code, parents/carers may seek a place for their child outside of their normal age group. We are aware that some parents/carers of summer-born children may not want 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 if they feel that it is in their child’s best interest to start school later due to exceptional circumstances.

Before deciding to request to delay a child’s admission, parent/carers should first contact the school(s) they are interested in applying for. They will be able to explain the provision on offer to children in Reception class, how it is tailored to meet the needs of all children including those born during the summer months, and how those needs will continue to be met as children move up through the school. They may also be able to reassure parent/carers about any concerns that they may have about their child’s readiness for school. All schools will have differentiated lessons to meet the needs of a wide range of children’s abilities.

Parent/carers will also have to be mindful that if the request is granted, their child’s application for secondary school may not be considered in the same light and the child may have to change cohorts.

Lambeth LA will manage request for a child to be taught out of cohort at one or more of its community schools and Oasis Academy Johanna via the following process:

- Parents/carers applying for an out-of-year group place in a Lambeth community primary school or Oasis Academy Johanna must submit supporting documentation (as per criterion 3 – Children with Exceptional Medical or Social Needs) with their application. The MEDSOC Panel will then decide (along with the relevant headteacher for the school concerned) whether such an out-of-year group place will be offered at the named school. This will allow this LA to comply with section 2.17 of the Code, where it states that “Admission authorities must make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This will include taking account of the parent’s/carer’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. They must also take into account the views of the head teacher of the school concerned.”

- This application must be received in the correct year in the relevant admissions round, i.e. the chronological year group the child is due to start.
- If the request has been agreed/accepted, the application will be withdrawn and places will be offered to another child/children as places cannot be held open. The parent/carer must then submit an application for the admissions round that has been agreed (i.e. 2024/24), which must be received before the deadline of 15 January to be processed as an on time application.
- The child's application will then be processed with all other children in the agreed round in accordance with the schools admissions criteria. There is no guarantee that an offer can be made at a school listed as a preference on the new application (this is the same for any application whether an out of cohort request has been granted or not).
- If the request is not granted, and no offer is made for the child to attend the school in any other year group, then the family will be given the right of appeal. However, if another year group has been offered in the school then the right of appeal will not be offered.
- If delayed entry is not granted parent/carers must make an application for their child for their chronological year group the following year.”

9. There are four parts to the objections. The first part is that the objector points out that the arrangements refer to paragraph 2.17 of the Code when they should refer to paragraph 2.18.

10. The second part of the objections is that the arrangements describe a panel (the MEDSOC Panel) that is used to consider applications for out of normal age group admissions for medical and social need reasons. The panel also considers requests for summer born reasons. The objector considers that there should be a distinction between how decisions are made for these different reasons.

11. The third part of the objections is that the arrangements say that evidence **must** be submitted while the objector considers that evidence should only be invited.

12. The last part is that the objector considers that it is not necessary for a parent to have to request a deferred start or part-time attendance before compulsory school age. She asserts that parents have this right.

Consideration of Case

13. I shall consider the aspects of the objections in turn. Both the local authority and the trust provided me with their comments on the objections and I shall refer to these when appropriate as I discuss the points. The objector first points out that the arrangements refer to paragraph 2.17 of the Code when referring to out of year group places in the arrangements. The objector observes that this reference should in fact be to paragraph 2.18 of the Code. The local authority in its response to the objections acknowledged that the paragraph reference is incorrect and notes that paragraph 2.19 is also relevant and expressed its willingness to make the necessary amendment(s). The objector is correct in pointing out this incorrect paragraph reference and I uphold this aspect of the objection and

require the local authority and the trust to amend the reference in the arrangements appropriately.

14. The second part of the objections concern the arrangements for out of year admissions. The objector is concerned that a parent must submit documentation to a panel (called the MEDSOC panel) in order that a request for admission out of the normal age group can be considered. This is the same panel that would consider admissions under criterion 3 of the arrangements which give priority to children with individual medical or social needs. The objector thinks that there should be a distinction between these matters.

15. The Department for Education published non statutory guidance which was updated on 27 May 2021 with the title, "Admission of summer born children: advice for local authorities and school admission authorities". The description of the document states that "this advice is non-statutory, and has been produced to help admission authorities understand the framework within which they must operate when responding to parental requests for summer born children to be admitted out of their normal age group. It will help admission authorities fulfil the duties imposed on them by the statutory school admissions code, and should be read in conjunction with the Code."

16. The local authority and the trust explain for parents and others with an interest that admission out of the normal age group is possible as can be seen in the section quoted above. The approach taken is to ask parents to make their request in writing and a panel (the MEDSOC panel) then considers the matter. The Code requires admission authorities and in this case therefore the local authority and the trust to consider requests for children to be admitted out of their normal age group. With the process described, I consider that these requirements are fulfilled. The non statutory guidance referred to above says that while there is no specification for how this should be done, many admission authorities find it helpful to convene a panel to consider such matters. This is the approach taken authority in this case. I do not consider that it is relevant that the same panel may also consider other matters provided that the panel deals with this particular matter and in doing this provides an effective and appropriate means of considering an out of year admission request by a parent and can give clear reasons based on the evidence provided about whether or not the request should be agreed in the best interests of the child.

17. Having considered the matter, I am satisfied that the approach taken complies with the requirements of the Code in the way that it requests for admission out of the normal age group and I do not uphold this aspect of the objections.

18. The third part of the objections is that the objector takes the view that the local authority should invite but not insist on the submission of documentation to support a request for out of year admission. The local authority responded by saying that "the Code does not stipulate that supporting documentation cannot be insisted on, quoting paragraph 2.18 that states "admission authorities must make clear in their admission arrangements the process for requesting admission out of the normal age group." The response continues by saying that the local authority considers that it has made the process clear.

19. For my part, I agree that the process is set out clearly. The objector suggests that a parent could be invited to submit evidence rather than it being insisted upon. I think it is important here to draw a distinction between “information” on the one hand and “evidence” by which I mean information from third parties, in particular expert third parties such as doctors or social workers. Without information as to the child’s circumstances and the reasons why a parent wishes to seek an out of year admission, the panel cannot be expected to make a properly informed decision. It is entirely justifiable to ask for this. Third party evidence, however, is a different matter. It may simply not exist and this does not mean that a parent cannot make and have considered a request for out of year admission.

20. The arrangements in dealing with out of normal age group admissions cross refer to criterion three of the oversubscription criteria which concerns social and medical need to attend a particular school. That criterion says, so far as is relevant here: “Documents from an appropriate professional (e.g. GP, consultant or social worker letter or report, not including general information from a website) must support these applications.”

21. I emphasise that I am making no judgment on what may legitimately be required for priority under social or medical need to attend a particular school. However, by the cross reference, the implication is made that applications for out of normal age admissions must be supported by “documents from an appropriate professional”. This in my view amounts to requiring expert professional third party evidence to consider an out of normal age group application. The question for me is whether this is compliant with the Code, including its requirement at paragraph 14 that admission arrangements are fair.

22. The non-statutory guidance on out of normal age group admissions for summer born children says the following about the provision of information and 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.”

23. In my view the arrangements – through the cross referring to the criterion concerned with social and medical need – go much further in terms of what is required than the non-statutory guidance suggests is appropriate.

24. To sum up here, it is reasonable to require parents to provide information they have – and to provide this in writing – about their child and their reasons for wanting their child to be admitted to school outside their normal age group. It is not, however, fair to insist on third party professional evidence. To the extent that that the arrangements require this I uphold this part of the objections.

25. The next part of the objections is that the objector asserts that it is not necessary to request a deferred start or part-time attendance before compulsory school age. The objector says that parents have this right. The objector quotes the first paragraph of the admission arrangements that are set out above.

26. The local authority comments that the section of Lambeth’s determined arrangements quoted by the objector makes no reference to a specific time period for these requests to be submitted and that there is further detail about this in the arrangements. I was unable to find this further detail. I have read the paragraph carefully and consider that the first sentence contradicts the second sentence. As it stands the first sentence clearly states that the local authority operates a single point of entry and all children will start school in September. However, this cannot be the case because the second sentence says that parents may choose to defer entry until later in the year. The arrangements also say that a request must be made and “agreed between the parent/carer and the school...” This suggests that the “request” could be refused by the school.

27. The objector is correct that parents have a right to delay the entry of their child until later in the Reception year and for its part this is what the local authority appears to be saying through its second sentence. This is not a case where a request may be made and may be agreed or not agreed. It is a right given to parents by law. I am of the view that this aspect of the arrangements is not clear as it does not accurately reflect the legal position. The wording of the arrangements will need to be changed to come into line with the law and the requirements of the Code. As a minimum it will need to clarify that although a child has the right to a full-time place in the September following their fourth birthday, the child’s parents also have the right to defer the date their child is admitted to the school until they reach compulsory school age or until the beginning of the summer term if the child is summer born and that part time schooling is also a right until a child reaches compulsory school age.

28. Having considered the points made, I uphold this aspect of the objections and require the local authority to clarify this paragraph so that the contradiction between the two sentences is removed and parents can easily understand what the arrangements mean in this respect and to ensure that the revised wording complies with the requirements of the Code.

Summary of Findings

29. I have upheld the technical objection that the local authority as admission authority has referred to paragraph 2.17 erroneously and note that the local authority has acknowledged this and expressed its willingness to refer to the correct paragraph(s) in its

admission arrangements. I have also upheld the aspects of the objections relating to the provision of professional advice and to the right for parents to delay their child's entry to school until they reach compulsory school age or the beginning of the summer term and to part-time education before compulsory school age.

30. I have not upheld the aspects of the objection that relate to the use of the same panel to consider out of normal age group admissions as for social and medical need admissions.

31. The council must amend its arrangements as a result of this determination. The Code requires this to be done within two months of the date of this determination.

32. The trust has determined that the admission arrangements for Oasis Academy Johanna are the same as those determined by the council for its community and voluntary controlled primary schools. The trust will need to consider whether this determination requires it to amend its arrangements for the academy itself or whether the action of the council in amending the council's arrangements will suffice in ensuring that the arrangements for the academy as published on its website comply with the Code within two months of the date of this determination.

Determination

33. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objections to the admission arrangements for September 2023 determined by Lambeth Council for community and voluntary controlled primary schools in its area and by the Oasis Community Trust for Oasis Academy Johanna in Lambeth.

34. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authorities to revise their admission arrangements within two months of the date of the determination.

Dated: 22 August 2022

Signed:

Schools Adjudicator: David Lennard Jones