



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** REF4093

**Referrer:** A member of the public

**Admission authority:** Bradgate Education Partnership for Seagrave Village Primary School in Leicestershire

**Date of decision:** 8 September 2022

## Determination

We have considered the admission arrangements for September 2023 for Seagrave Village Primary School determined by the Bradgate Education Partnership in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the arrangements do not conform with the requirements.

By virtue of section 88K(2) the adjudicators' 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. 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 referrer), about the admission arrangements for September 2023 (the arrangements) for Seagrave Village Primary School (the school) determined by the Bradgate Education Partnership (the trust) which is the admission authority for the school. The school is an academy school in the local authority area of Leicestershire County Council (the local authority) and provides for children aged four to eleven.
2. The referrer also referred the admission arrangements determined by five other admission authorities in Leicestershire. As permitted by the Education (References to Adjudicator) Regulations 1999, two adjudicators, Dr Robert Cawley and Deborah Pritchard were appointed to consider these six cases with Deborah Pritchard being lead adjudicator for this case.

3. The arrangements came to the attention of the referrer in his previous role as a member of an independent appeals panel considering appeals for admission. The referral related to:

- 3.1. the priority given to the children of Crown Servants which may breach paragraph 1.9f) of the School Admissions Code (the Code); and
- 3.2. that the catchment area may not be clear.

4. The referrer said that the arrangements did not meet the requirement of the Code that admission arrangements are clear. Paragraph 14 of the Code says,

“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

5. When the arrangements were brought to our attention, we considered that there were other matters which did not, or might not, conform with the requirements for admission arrangements. The case manager wrote to the trust on our behalf providing details of the referral and our concerns that the arrangements included matters that did not meet the requirements of the Code with sections that were not clear, subjects that were referred to in different parts of the arrangements and not always consistently and that the ordering and presentation of information could make it easy to misunderstand the arrangements and thus not meet the requirements of the Code to be clear. We will consider these matters below.

## Jurisdiction

6. These arrangements were determined under section 88C of the Act by the trust on 9 March 2022. The referrer submitted his objection to these determined arrangements on 18 July 2022. The Code requires objections to admission arrangements for 2023 to be made to the adjudicator by 15 May 2022. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to our attention, we decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements conform with the requirements relating to admission arrangements and we are treating the objection as a referral.

## Procedure

7. In considering this matter we have had regard to all relevant legislation and the Code. The documents we have considered in reaching our decision include:

- a) the referrer’s form of objection;
- b) copies of the minutes of the meeting of the trust at which the arrangements were determined;

- c) a copy of the determined arrangements; and
- d) information available on the websites for the trust, the local authority and the Department for Education (DfE).

8. We have also taken account of information received during a meeting we convened on 31 August 2022 via Microsoft Teams. The referrer declined to attend and the local authority was unable to attend. The meeting was attended by two representatives of the trust and ourselves.

## **Background**

9. Admission arrangements are published documents, as required by paragraph 1.50 of the Code, and so available to all. As provided for in section 88H of the Act and paragraph 3.3 of the Code, anyone can object to admission arrangements (subject to the types of objections that cannot be made which are also described in paragraph 3.3 of the Code). The referrer was a member of the local authority's independent appeals panel and the work of the panel brought the arrangements to his attention. He said in his objection that he had been on panels that had raised concerns about admission arrangements to the local authority, but he had not seen changes made. He therefore made the decision, as is his right to do so, to make an objection to the arrangements to the adjudicator.

10. The trust is the admission authority for 16 schools and all are in the area of the local authority. The trust purchases advice from the local authority on its admission arrangements and the local authority is also commissioned by the trust to undertake some of the admission processes on behalf of the trust. The admission arrangements for the school are specific to the school and not the same as the admission arrangements for other schools for which the trust is the admission authority.

11. The oversubscription criteria in the arrangements can be summarised as:

- 1) Looked after and previously looked after children
- 2) Children who live in the catchment area
- 3) Siblings of existing pupils at the school
- 4) Children with a serious medical condition or exceptional social or domestic needs that make it essential that they attend the school
- 5) Children living closest to the school.

## **Consideration of the arrangements**

12. In our consideration of the arrangements, we found a variety of matters which gave us concern regarding clarity, as required by paragraph 14 of the Code, and meeting the requirements of the Code in other ways. We were pleased that when we discussed these

matters with representatives of the trust at the meeting, the trust showed its willingness to address these matters. In addition, the trust said that it would review the arrangements for the other schools for which the trust is the admission authority to make sure that they also met the requirements of the Code. This is welcomed.

13. There were three general aspects that contributed to making the arrangements unclear.

13.1. The arrangements often refer to the “Council” as if it were the admission authority and in other places to the school as if it were the admission authority. It therefore appears unclear which body, the trust, the local authority or the school, is the admission authority. For the avoidance of doubt, the trust is the admission authority; while it can contract with other bodies to carry out some of its functions, it remains legally responsible for admissions and for ensuring that its arrangements are compliant.

13.2. The arrangements include references to infant, junior and secondary school admissions. These are not relevant to admissions to the school, which is a primary school, and make the arrangements unclear.

13.3. The arrangements lack a logical progression so that partial information is provided in one place and then later statements on the same matter, and the information provided is not always consistent. This makes the arrangements confusing and unclear.

14. We will now consider specific matters, including those raised by the referrer, largely in the order of the arrangements.

15. Section 3 of the arrangements has the title, “Application for First Time Admissions.” The normal year of entry to the school is reception year (YR). The closing date for applications for admissions to YR is 15 January each year, as stated in the Code, but the arrangements say,

“For first time admission, applications for a school place must be made by the relevant closing date during the academic year (between 1<sup>st</sup> September and 31<sup>st</sup> August) in which the child turns four, even if the child will not be of compulsory school age in September when they start school.”

This is an unnecessarily overcomplicated sentence to express quite simple information and still does not explain that the closing date for applications is 15 January as it is for all state funded primary schools.

16. Similarly the section says, “All applications received by the relevant closing date (please see co-ordinated scheme for dates) will be considered first.” It is inappropriate to require parents and others to find and search through another document to get basic information such as the closing date for applications. The same paragraph says, “All late applications received after the closing date will receive the lowest priority and will be

considered after those that have been received on-time.” This could imply that applications received after 15 January will be considered under the last criterion in the oversubscription criteria. We think that what is meant here is, “All applications received after the closing date will be considered after those that have been received on-time”, but this is not clear.

17. Section 3 of the arrangements explains that the admission number (AN) for the school is 15 and then says, “The decision will either be to offer a place at a school or refuse the place because: the school is full or because admission would breach the infant class size limit.” The term ‘admission number’ is used in the arrangements, which is also the term used in the Act, whereas the Code uses the term published admission number. Both mean the same thing and we have adopted the term used by the school. The AN is the minimum number of children who must be admitted in the year of entry if there were to be sufficient demand. It would not be lawful to refuse to admit below the AN if there were sufficient demand. Section 5 of the arrangements then says, “Infant Classes (Foundation Stage, Year 1 and Year 2) must not exceed 30 children per teacher and applications for year groups which would cause that number to be exceeded will be refused.” These sentences imply that the trust might refuse admission below AN. If these statements in the arrangements mean that children will be refused entry in the year of entry even if the AN has not been reached, this would not comply with section 86(5) of the Act. The arrangements therefore either express the intention of the trust to act unlawfully and/or the arrangements are unclear.

18. We also note that the Code permits there to be more than 30 children in an infant class in specific circumstances, as provided in paragraph 2.16 of the Code. The language used in the arrangements imply that such exceptions do not exist. Such partial information makes the arrangements unclear.

19. The final paragraph in section 3 says “The majority of admissions to reception to all infant and primary schools is the September immediately following a child’s fourth birthday (i.e. all children who have turned 4 before 31<sup>st</sup> August).” This is an odd statement not least as it concerns (as it says) all infant and primary schools and not the school, the subject of these arrangements. This is also not a useful place or a clear statement to make in isolation and does not meet the requirements of paragraph 2.17 of the Code which says, “The [admission] authority **must** make it clear in their arrangements that where they have offered a child a place at a school: a) that child is entitled to a full-time place in the September following their fourth birthday”. There is other information in section 6 in the arrangements which provides fuller and clearer information on when children can and must start full time education.

20. Section 7 in the arrangements is headed, “Admission of children outside their normal age group to Community or Voluntary Controlled schools”. The school is an academy so the drafting – by referring to community and voluntary controlled schools - could be read as suggesting that these provisions do not apply to the school. This makes this aspect of the arrangements potentially misleading and unclear. The section contains numerous references to other irrelevant matters such as junior and secondary admissions and there

are references to the local authority as if it were the admission authority. These matters make the arrangements unclear.

21. Section 8 relates to in-year admissions, which are admissions that occur after the normal point of entry. In this case the normal point of entry is to YR in September 2023. Paragraph 2.30 of the Code says, “Upon receipt of an in-year application, the admission authority, or the local authority if it is co-ordinating the admissions authority’s in-year admissions, should aim to notify the parents of the outcome of their application in writing within 10 school days, but they **must** be notified in writing within 15 school days.” The arrangements say, “The Council will aim to process mid-term applications within 20 working days (5 days if child is indicated as in care or previously in care), wherever possible.” This is not consistent with the requirements of the Code. Section 13 also provides information on in-year admissions and also refers to 20 school days for a response. The arrangements do not meet the requirements of the Code in this regard.

22. Sections 8 and 20 contain information on waiting lists. Section 8 says, “The Academy will maintain an over-subscription waiting list throughout the autumn term for the first-time admissions year (FTA) and throughout the relevant year for in-year admissions (mid-term transfers), ranked in the same order as the published over-subscription criteria and in line with the LA’s waiting list rules, and not by the date of application.” Section 20 says, “The Council does not hold waiting lists past 31 December in relation to any mid-term applications.” It is not clear to us, as the information provided in sections 8 and 20 is inconsistent, whether waiting lists are held for in-year admissions. This makes the arrangements unclear.

23. Section 9 sets out the oversubscription criteria as summarised above. Paragraph 1.8 of the Code, in so far as is relevant here, says, “Oversubscription criteria **must** be reasonable, clear [and] objective”. In respect of the oversubscription criteria, we have considered the matters set out in the following paragraphs.

24. Criterion 2 concerns children who live in the catchment area. A map of the catchment area is provided at the end of the arrangements. Paragraph 1.14 of the Code says, “Catchment areas **must** be designed so that they are reasonable and clearly defined.” The referrer said “The Code requires that admission arrangements are clear. Where there is a catchment area any map should be sufficiently clear that parents can easily see whether their address falls within the catchment area or not; in my view the map included at the end of the policy document falls short of meeting this standard.” We have studied the map and have come to the view that the map is clear and parents would be able to see easily if their address falls within the catchment area or not. We do not agree with the referrer’s view on this matter.

25. Criterion 3 is, “Pupils who will have a brother or sister attending the same school at the same time at the point that they are attending.” The meaning of this sentence is not clear and so does not meet the requirements of the Code.

26. Criterion 4 is for those children with “a serious medical condition or exceptional social or domestic needs that make it essential they attend the school requested.” Paragraph 1.16 of the Code says, “If admission authorities decide to use social and medical need as an oversubscription criterion, they **must** set out in their arrangements how they will define this need and give clear details about what supporting evidence will be required (e.g. a letter from a doctor or social worker) and then make consistent decisions based on the evidence provided.”

27. The note to criterion 4 says, “If criterion 4 is used, professional supporting documentation from the Lead Professional must be supplied and must be submitted with the application. The following list are the areas that are considered exceptional:

- Crown Servants
- Children subject to Child Protection Plans
- Hard to Place children – who fall under the Fair Access Protocol
- Parents suffering domestic violence (This is dependent on documentary evidence by a lead professional)
- A child for who transfer to the catchment area school would involve attending a different school until he/she is the right age for transfer. (This is dependent on the child having attended the present school for at least a year.) Each case will be assessed on its individual merits.”

28. The referrer said, “The fourth oversubscription criterion, in combination with the explanatory note iv, apparently potentially gives priority on grounds of occupation to Crown Servants. In my view this is a breach section 1.9 of the Code by giving priority on the basis of parental occupation, which is not permitted.” Paragraph 1.9f) of the Code says admission authorities **must not** “give priority to children according to the occupational...status of parents applying.” We agree that to give priority to a child because their parent is a Crown Servant is a breach of 1.9f) of the Code and the arrangements do not comply with the Code in this matter. We note, however, that it is possible that there could be situations in which a parent’s occupation may create an exceptional social need for an individual child to attend a particular school. For example, it might be that Child A, the child of a prison governor could not attend the same school already attended by a child of a particular inmate of the prison concerned. If there were only one other local school child A might have a social need for priority to attend the other local school.

29. As noted above criterion 4 refers to the role of the “lead professional”. “Working Together to Safeguard Children”, which was published by the government in 2018 as “a guide to inter-agency working to safeguard and promote the welfare of children”, says, “A lead practitioner should undertake the assessment, provide help to the child and family, act as an advocate on their behalf and co-ordinate the delivery of support services.” Many local authorities refer to the lead professional when describing this role. The term “Lead Professional” is therefore open to interpretation, and it is not clear what or who is meant by

the term in this context and so the arrangements do not conform with the requirement of paragraph 1.6 that the arrangements must state clearly what supporting evidence will be required.

30. Children being considered under the fair access protocol (the protocol) are also included in the list in criterion 4. The protocol is, as paragraph 2.14 of the Code says, “to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible [our underlining for emphasis].” The criterion would therefore not apply to the normal admissions round and the protocol is a separate process. The inclusion of this category therefore makes the arrangements unclear.

31. The list of those to be considered under criterion 4 also includes, “A child for who [sic] transfer to the catchment area school would involve attending a different school until he/she is the right age for transfer. (This is dependent on the child having attended the present school for at least a year.) Each case will be assessed on its individual merits.” It is not clear to us why this situation would be deemed to be “a serious medical condition or exceptional social or domestic needs that make it essential they attend the school requested” particularly as the year of admission is to YR and the trust does not hold a waiting list for other years. The inclusion of this category for this criterion is therefore inappropriate and unclear.

32. The list provided in the note to criterion 4 appears to be exclusive but does not include children with “a serious medical condition” who are referred to in the criterion. It is therefore unclear if such children are included.

33. Criterion 5 gives priority to children with those living nearest to the school having the highest priority. The note on this criterion explains how the distance will be measured as required by paragraph 1.13 of the Code and continues to say that the explanation for how distance is measured, “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.” No such information is provided in the arrangements and so they do not comply with the Code in this regard. We note here that the notes to criterion 2, sections 18, 19, 22 and 23 of the arrangements also provide information on establishing the home address but not always consistently. In addition, such sprinkling of partial information in various parts of the arrangements makes the arrangements confusing and unclear.

34. Paragraph 1.8 of the Code says, “Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.” The note to criterion 5, which is based on distance from the school, says, “Where there is equal distance then lots will be drawn, supervised by an independent officer.” The next section is section 10 which is headed “Tiebreaker” and says, “If, two or more applications have identical ranking following applying all the above criteria in priority order, lots will be drawn. The drawing of lots will be undertaken by a senior officer in the Children and Families Department, supervised by an officer of the Council from



another department that is independent of the Council’s School Admissions Service.” Setting aside the frequent references to the Council, the information in the note to criterion 5 is not consistent with this. This makes the arrangements unclear.

35. Sections 10, 15, 16 and 17 in the arrangements all refer to the local authority as if it were the admission authority. We understand that the local authority may have been commissioned to undertake certain tasks on behalf of the trust but there is a confusion of language and role which makes the arrangements unclear.

## Summary of Findings

36. The arrangements include matters prohibited by the Code, some inconsistencies and some unclear or inaccurate information as detailed above. The arrangements therefore do not meet the requirements of paragraphs 14, 1.8 and other paragraphs of the Code as detailed above. Parents will not be able to look at the arrangements “and understand easily how places for that school will be allocated.”

## Determination

37. We have considered the admission arrangements for September 2023 for Seagrave Village Primary School in the local authority area of Leicestershire County Council in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the arrangements do not conform with the requirements.

38. By virtue of section 88K(2) the adjudicators’ 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: 8 September 2022

Signed:

Schools adjudicator: Deborah Pritchard

Schools adjudicator: Dr Robert Cawley