



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4154

Objector: A parent

Admission authority: Hearts Academy Trust for Wickford Church of England School and Hilltop Infant School in Wickford, Essex

Date of decision: 23 June 2023

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 2024 determined by Hearts Academy Trust for Wickford Church of England School and Hilltop Infant School in the local authority area of Essex.

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 this 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 parent about the admission arrangements for 2024 (the arrangements) for Wickford Church of England School and Hilltop Infant School (the schools). The schools are for children aged two to seven, known as infant schools. Wickford Church of England School has a religious character, which is Church of England, and its faith body is the Diocese of Chelmsford.

2. The objection is to the information provided in the arrangements regarding the admission to reception year (YR) of summer-born children and the admission of children outside their normal age group.

3. The parties to the case are:

3.1. the parent who made the objection (the objector);

3.2. the Hearts Academy Trust, which is the admission authority for the schools (the trust);

3.3. Essex County Council which is the local authority for the area where the schools are situated (the local authority); and

3.4. the Diocese of Chelmsford which is the religious authority for Wickford (the faith body).

Jurisdiction

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

5. The objector submitted her objection to these determined arrangements on 22 February 2023. The objector has asked to have her identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of her name and address to me. 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:

a. a copy of the minutes of the meeting of the trust at which the arrangements were determined and a copy of the determined arrangements;

b. the objector's form of objection and other communications from the objector;

c. the trust's response to the objection and responses to my enquiries;

d. the Department for Education (DfE) guidance: 'Advice on the admission of summer-born children for local authorities and school admission authorities' published September 2020, and 'Guidance on handling admission requests for

summer-born children' published 27 April 2023; and

e. information available on the websites for the trust, the schools and the DfE.

7. The local authority responded but did not wish to comment on the objection. The faith body made no comment.

The objection

8. The objection is to the admission arrangements of two schools for which the trust is the admission authority. The trust is the admission authority for other schools, but I have not looked at or considered their arrangements. The admission arrangements for the two schools are the same in all regards except for the published admission numbers (PAN) set. I have therefore considered the objection to the arrangements of the schools as one determination.

9. In summary the objector raised the following matters:

9.1. It is unclear that a parent may choose to delay their child's admission until the child reaches compulsory school age.

9.2. The information regarding admission of children outside their normal age group is not clear.

9.3. The admission arrangements do not meet the requirements of paragraphs 2.18 and 2.19 of the Code and the DfE guidance on the matters regarding admission out of the normal age group and handling admission requests for summer-born children.

10. As the matter of clarity has been raised, paragraph 14 of the Code is relevant:

"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."

11. The objector raised the following paragraphs of the Code in her objection.

11.1. Paragraph 1.9h: "It is for admission authorities to formulate their admission arrangements, but they **must not**:... discriminate against or disadvantage disabled children, those with special educational needs, or those applying for admission outside their normal age group where an admission authority has agreed to this under paragraphs 2.18 to 2.20".

11.2. Paragraph 2.17: "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:

- a) that child is entitled to a full-time place in the September following their fourth birthday;
- b) 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; and
- 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.”
- 11.3. Footnote 56 to paragraph 2.17 says: “Compulsory school age is set out in Section 8 of the Education Act 1996 and the Education (Start of Compulsory School Age) Order 1998. A child reaches compulsory school age on the prescribed day following his or her fifth birthday (or on his or her fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March, and 31 August.”
- 11.4. Paragraph 2.18: “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.”
- 11.5. Footnote 57 to paragraph 2.18 says: “The term summer-born children relates to all children born from 1 April to 31 August. These children reach compulsory school age on 31 August following their fifth birthday (or on their fifth birthday if it falls on 31 August). It is likely that most requests for summer-born children to be admitted out of their normal age group will come from parents of children born in the later summer months or those born prematurely.”
- 11.6. Paragraphs 2.19 and 2.20, which are concerned with making decisions about an application for a child to be admitted outside their normal age group.

Background

12. The schools, as infant schools, provide education for children in reception year (YR), year 1 (Y1) and year 2 (Y2). The pupils leave the schools at the end of Y2. The schools are linked to a junior school, Hilltop Junior School, which in this case means that children at the schools have a high priority for admission to the junior school. The oversubscription criteria for the schools are, in summary:

- 1) Looked-after and previously looked-after children.
- 2) Children attending the school's pre-school provision who are eligible for the early years pupil premium/pupil premium.
- 3) Children with a sibling attending the school or Hilltop Junior School.
- 4) Children of staff at the school.
- 5) Children living in the catchment area for the school.
- 6) All other children.

13. Where the PAN is reached and exceeded within an oversubscription criterion category, priority will be given to those living closest to the school as measured in a straight line.

Consideration of case

14. The objection is concerned with the information provided in the arrangements regarding the admission of summer-born children and admission outside the normal year of entry. The information in the arrangements regarding the admission of children to YR is:

“(4) it is the school's general policy that all new entrants start their schooling in September. Any requests for a deferred entry should be discussed with the school separately.”

15. The arrangements therefore do not make it clear that it is a parent's right, as required by paragraph 2.17 (above), to:

15.1. defer their child's admission until the child has reached compulsory school age: or

15.2. arrange for their child to attend part-time until they have reached compulsory school age.

Nor do the arrangements include this information on parents' rights as required by paragraph 2.17 of the Code.

16. The wording used in the arrangements implies that every child must start at school in the September of the academic year when a child will become five years old. This is not the case and so the arrangements are not clear. The arrangements do not meet the requirements of the Code because they are unclear and do not provide the information required by paragraph 2.17. I uphold this aspect of the objection.

17. If a parent so wished and their child were summer-born, the parent could decide that their child will not start school until the September after the child could do so. If a parent decides to do that, the parent can ask that their child be admitted to YR and not Y1. As described above, paragraph 2.18 says, “Admission authorities **must** make clear in their

admission arrangements the process for requesting admission out of the normal age group.”

18. The information provided in the arrangements is:

“Exceptional requests for pupils to be placed outside their year group must be made separately.”

19. The arrangements do not explain how or to whom these requests should be made. The arrangements do not make it clear how to request admission out of the normal age group and so do not meet the requirements of paragraphs 14 and 2.18 of the Code. I uphold this aspect of the objection.

20. The objector also raised concerns about the process whereby the admission authority considers requests for admission to other than the normal year of admission. The application of the arrangements is not within my jurisdiction. However, the arrangements say, “Such requests will be considered taking into account the school organisation, class sizes, medical evidence and professional evidence of emotional and social need.”

21. Paragraph 2.19 of the Code says,

“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 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. When informing a parent of their decision on the year group the child should be admitted to, the admission authority must set out clearly the reasons for their decision.”

22. Arrangements do not need to state that decisions will be made in the best interests of the child, but in this case it would be possible to assume from the wording used that the decision is largely made on consideration of the efficiencies of class organisation. This would be in contradiction to paragraph 2.19 of the Code. Similarly, the arrangements refer to “medical evidence and professional evidence of emotional and social need” as if this were essential evidence and must be provided. The Code only says, “where relevant, the [child’s] medical history and the views of a medical professional will be taken into account” (my emphasis added by underlining). It is therefore not necessary to provide such information. The arrangements are therefore not aligned with the requirements of paragraph 2.19 of the Code and so are unclear. I uphold this aspect of the objection.

Other matters

23. When I considered the arrangements, I thought that there may be other matters that did not meet the requirements of the Code. I therefore brought these to the attention of the

admission authority and I have used my power under section 88I of the Act to consider the arrangements as a whole. The other matters are as described below.

Information on the catchment area

24. The oversubscription criteria include giving a priority to children living in the catchment area for the school and therefore paragraph 1.8 of the Code applies which says, "Oversubscription criteria **must** be...clear". The arrangements refer to a map being available and this does not appear to be the case. The catchment area information is provided by a list of streets. It is not a requirement to provide a map of a catchment area, and a list of streets can be a clear way of describing a catchment area. However, it may make the arrangements unclear if the arrangements state that there is a map when there is not.

Looked-after children

25. The first priority is for looked-after and previously looked-after children. No definition is provided for looked-after children. This makes the arrangements unclear and so not meet the requirements of paragraphs 14 and 1.7 of the Code.

Apparent additional oversubscription criterion

26. The arrangements say, outside of the oversubscription criteria, "Exceptional medical circumstances of the child (supported by evidence from a medical professional) may override the above criteria (other than Looked-After Children)." This appears to mean that the oversubscription criteria can be set aside. Such a criterion could be included in the oversubscription criteria, but its inclusion elsewhere makes the arrangements unclear. In addition, there is no reference in this further paragraph to previously looked-after children who must be given first priority along with looked-after children. The arrangements therefore do not meet the requirements of paragraphs 14, 1.7 and 1.8 of the Code.

Misleading heading

27. There is a section headed "Mid-year applications (Applications for school places outside the normal admissions round)". Under this heading is information on the admission of children with an educational, health and care plan, how the home address is determined, and some information on the waiting list, appeals against refusals to admit and the tie-breaker. Presenting these matters under this heading implies that this information only applies to admission outside the normal point of admission, but this information is not given elsewhere in the arrangements. Either this information has not been provided for admissions at the normal point of admission, which would not meet the requirements of the Code, or it is unclear that it also applies to the normal point of admission and so the arrangements do not meet the requirements of the Code.

Waiting list

28. The information on the waiting list does not make it clear that the waiting list will be maintained until 31 December and that it will be reranked in line with the oversubscription criteria when a child is added to the list as required by paragraph 2.15 of the Code.

Provision for where parents have shared responsibility for a child and live at different addresses

29. Paragraph 1.13 of the Code says, as far as is relevant here, “Admission authorities must clearly set out how distance from home to the school...will be measured. This must include making clear how the ‘home’ address will be determined and the point(s) in the school ...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.”

30. The arrangements say, “We may ask for verification of the child’s home address, in particular in the case of children to who (sic) shared parental responsibility arrangements apply. Where this is the case, the application may be processed on the basis of that address (where the child resides for the majority of the school week) and proof of address and residence arrangements will be required with the application. The child must be living with the parent, relative or carer 24 hours per day, for the majority of the school week.” Clearly a child could live equally with both parents where they share care and the arrangements do not address that situation. In addition, I do not understand why proof of address is “in particular” necessary in these circumstances. The 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 is not clear and so the arrangements do not meet the requirements of the Code.

Supplementary information form

31. There is a supplementary information form in the arrangements. Its purpose is to ascertain whether a child meets oversubscription criteria 2, 3 and 5. Paragraph 2.4 says, in as far as is relevant here: “In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria”. The form asks for the gender of the child which has no bearing on the application of the oversubscription criteria and so does not meet the requirements of paragraph 2.4 of the Code.

32. The form also has space for both parents to sign which could make it appear that both need to sign it. Paragraph 2.4e) of the Code says,

“Admission authorities must not ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for:... e) both parents to sign the form”.

31. Either the form could imply that both parents need to sign when this is not expected and so the arrangements do not meet the requirements of the Code to be clear, or both parents are required to sign the form which would not meet the requirements of paragraph 2.4e) of the Code.

33. The trust has expressed its willingness to address all these matters which is welcomed.

Summary of findings

34. The arrangements do not provide the information required by the Code regarding the admission of children who have not reached compulsory school age and children for whom admission may be sought other than at the normal year of admission. In addition, the arrangements do not meet the requirements of the Code in other ways as set out above.

Determination

35. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2024 determined by Hearts Academy Trust for Wickford Church of England School and Hilltop Infant School in the local authority area of Essex.

36. 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.

37. 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: 23 June 2023

Signed:

Schools Adjudicator: Deborah Pritchard