



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: REF4228**

**Referrer: A parent**

**Admission authority: Westminster City Council for its community primary schools**

**Date of decision: 24 January 2024**

### Determination

I have considered the admission arrangements for September 2024 for all community primary schools in the area of Westminster City Council, in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the information on admissions out of normal age group the arrangements do not conform with the requirements.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements by 29 February 2024.

### The referral

1. Westminster City Council (the local authority) determined its admission arrangements for September 2024 in February 2023. Having considered the objection raised, I concluded that I do not have jurisdiction to consider it under section 88H(4) of the School Standards and Framework Act 1998 (the Act). This is because the objection was sent to the Office of the Schools Adjudicator on 3 October 2023, after the statutory deadline for making objections, which was 15 May 2023.
2. However, the objection has brought the admission arrangements for community schools maintained by the local authority to my attention, and it appeared to me that the matters raised therein suggest that the arrangements did not comply with the requirements of the School Admissions Code (the Code) or other relevant education legislation. I accordingly decided to treat the issues raised in the objection as a referral under section 88I of the Act and so to consider the arrangements as a whole

and whether they conform with the requirements relating to admissions. Consequently, I will call the objection the referral and the objector the referrer.

3. The referral relates to the provisions for consideration of requests for admission of a child outside their normal age group. The referrer is particularly concerned with the application of these provisions to summer born children. These matters are dealt with in paragraphs 2.18 and 2.19 of the School Admissions Code (the Code), which are as follows:

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.

2.19 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.”

4. The determined admission arrangements for community primary and infant/junior schools maintained by the local authority deal with this issue as follows:

**“Requests to apply for Reception in the following year** – Requests for admission outside of the child's chronological year of entry will be considered in accordance with para. 2.17 (Admissions Code). Such requests would normally apply to children that are Summer born (between April and August) 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 Council, as the admission authority for community schools (or the governing body for the academies), must make decisions on the basis of the circumstances of each case, informing parents of their statutory right to appeal. The headteacher of each of the school(s) applied for will be informed of the request and their views taken into account. his right to request a later admission, does not apply if the child is offered a place in another year group at the school. Each case will need to be supported by a professional (e.g. GP, social worker)

that provides the reason for admissions outside of the chronological year group.”

5. The referrer points out that the reference to the Code should be to paragraph 2.18 which the local authority have acknowledged and agreed to change. I would add that the reference should also be to paragraph 2.19.
6. The referrer states their objection as follows:

“Westminster’s wording implies that being summer-born is not enough of a reason to request entry into Reception at Compulsory School Age [CSA], and that reasons **on top** of this are needed to qualify for consideration.

The same section of the admissions arrangements, in the last part, states that ‘Each case will *need* to be supported by a professional (e.g. GP, social worker) that provides the reason for admissions outside of the chronological year group’.

However, 2.19 of the Code states ‘*where relevant*, their medical history and the views of a medical professional’.

The associated guidance for admissions authorities states that admissions authorities ‘should not expect parents to get evidence they do not already have’ and ‘authorities should not refuse a request solely because it is not accompanied by professional evidence’. The guidance also states ‘there do not need to be exceptional circumstances, and a child does not need to have a medical need or SEND for it to be in their best interests to be admitted out of their normal age group’ yet Westminster’s admissions arrangements appear to make it compulsory for each request to be accompanied by medical evidence, implying that being summer-born is not a distinct criteria sufficient enough to make a CSA Reception request.”

7. I take the guidance cited by the referrer to be non-statutory guidance from the Department for Education titled “Guidance for handling admission requests for summer born children” published 27 April 2023 (which I note is after the admission arrangements for 2024 were determined).
8. In essence the referral is concerned that what appears to be an absolute requirement for supporting professional evidence does not comply with the provisions of the Code set out above.
9. On 11 December 2023, in response to the jurisdiction and further information paper, the local authority responded:  
“With reference to our wording in the policy, the below text has been highlighted which suggests we do not consider cases without such evidence. We do actually consider all cases with or without professional support with 99% of cases

agreed.

‘Each case will need to be supported by a professional (e.g. GP, social worker) that provides the reason for admissions outside of the chronological year group’

I propose the following amendment to the wording:

‘where relevant, documentation from a professional (e.g. GP, social worker) that provides information for admission outside of the chronological year group can be provided’.

10. I find that this demonstrates that the local authority accept that the wording quoted above does not comply with the provisions of the Code and that it will need to be revised. I find that is so. I make no comment on the suitability or otherwise of the proposed amended wording as that would be outside my remit.
11. The referrer also raised an issue with the wording in the sentence “Such requests would normally apply to children that are Summer born (between April and August) 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 objection being that this wording goes further than the Code by suggesting that something in addition to merely being summer born would be required.
12. I do not find that this is in breach of the provisions of the Code. Paragraph 2.19 requires the decision maker to take account of “information about the child’s academic, social, and emotional development” and paragraph 2.18 states that “Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group”. I find that the wording of the admission arrangements complies with these requirements.

## Determination

13. I have considered the admission arrangements for September 2024 for all community primary schools in the area of Westminster City Council, in accordance with section 88(5) of the School Standards and Framework Act 1998 and find that in relation to the information on admissions out of normal age group the arrangements do not conform with the requirements in the way set out above.

14. 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 by 29 February 2024.

Dated: 24 January 2024

Signed:

Schools Adjudicator: Thomas Brooke