



Determination

Case reference:	ADA4380
Objector:	A member of the public
Admission authority:	The Impact Education Multi-Academy Trust for the Lee Mount Academy, Halifax
Date of decision:	04/09/2024

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by the Impact Education Multi-Academy Trust for the Lee Mount Academy, Halifax.

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 2025 for the Lee Mount Academy (the LMA or the school).
2. The school is a primary academy for 3 to 11 year olds. The school is part of a multi-academy trust called the Impact Education Multi-Academy Trust (IEMAT or the trust), the trust board of which acts as the admission authority for the school (the admission authority).
3. The local authority (LA) for the area in which the school is located is Calderdale Council. The LA is a party to this objection. Other parties to the objection are the objector, the trust and the school.
4. The objector is concerned that the arrangements do not conform to the School Admissions Code (the Code) in that: there is no mention of a parent's right to defer entry until compulsory school age; there is no mention of a parent's right to choose part-time

attendance up to compulsory school age; and the procedure for requesting admission out of the normal age group is unclear.

Jurisdiction

5. The terms of the funding agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the school, as a type of academy, are in accordance with admissions law as it applies to maintained schools.

6. The governing body is the admission authority for the school. It told me that, as there had been no changes to the 2025 arrangements from the 2024 arrangements it had, therefore, determined its arrangements on 6 February 2023 when the 2024 arrangements were determined. I told the governing body that this approach is not compliant with paragraph 1.49 of the Code, which requires that:

“All admission authorities **must** determine their admission arrangements, including their PAN, every year, even if they have not changed from previous years and a consultation has not been required by 28 February in the determination year.”

7. The governing body have since determined their arrangements for 2025, on 20 June 2024. This is after the deadline for determining arrangements, which was 28 February 2024. However, this does not affect the standing of the arrangements or my power to consider them or the objection about them.

8. The objector submitted their objection to these determined arrangements on 13 May 2024. The objector has asked to have their 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 their name and address to me.

9. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction.

Procedure

10. In considering this matter I have had regard to all relevant legislation and the Code.

11. The documents I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the trust's governing body at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection;
- d. the response of the trust to the objection, along with supporting documents;
- e. a copy of the supplementary funding agreement for the school;

- f. the LA's online composite prospectus for admissions to secondary schools;
- g. Google Maps; and
- h. information available on the websites of the school, LA, Ofsted, the Department for Education (DfE – particularly the 'Get Information About Schools' (GIAS) site) and the page entitled 'Guidance on handling admission requests for summer born children' published 27 April 2023 (the April 2023 non-statutory guidance).

12. I note here that the only response received from the LA was this:

"The LA do not have any additional comments. We look forward to hearing the outcome so that we can see if any other schools in the borough are affected."

Background

13. According to GIAS, the school is a non-selective and co-educational primary academy without a religious character. The school converted to academy status in 2023. There has not yet been an inspection by Ofsted. The predecessor school (Lee Mount Primary School) was graded as 'Required Improvement' in March 2019. The published admission number (PAN) for Reception (YR) is 50.

14. The IEMAT includes eight academies, including:

- A. Two secondary academies: Castle Hall Academy (Mirfield); and Newsome Academy (Huddersfield).
- B. Four primary academies: LMA (Halifax); Warley Road Primary Academy (Halifax); Old Bank Academy (Mirfield); and Hill View Academy (Huddersfield)
- C. One alternative provision: The Whitley AP Academy in Halifax.
- D. One all through provision: The Halifax Academy.

15. The LMA's arrangements set out that children with Education, Health and Care Plans (EHCPs) will be admitted first. If oversubscribed, children will be prioritised according to the oversubscription criteria. These can be summarised as follows:

- 1. Looked after children or previously looked after children.
- 2. Children with siblings at the school at the time of admission.
- 3. Children who attend a IEMAT primary school: Warley Road Primary Academy; The Halifax Academy; Hill View Academy; or Old Bank Academy.
- 4. Children of staff employed at the academy, having a permanent contract of at least two years at the time of application.
- 5. Distance from the school, with the children who live nearest to the school being given the highest priority.

In the event of two or more applications that cannot otherwise be separated, the arrangements state that distance from the school will be used, with the priority being given to those living nearest to the school. Where two more applications cannot be separated, an independently verified random allocation process will be employed.

16. The trust provided me with the number of children in each year group in the school (as of July 2024). I have put that data into Table 1.

Table 1: Number of children in each year group (as of July 2024)

YR	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	TOTAL
36	34	41	43	38	35	50	277

Consideration of Case

17. The objector set out their concern as follows:

“I believe the admissions policy for 2025-26 does not comply with sections 2.17 to 2.20 of the School Admissions Code. This is because there is no mention of a parent’s right to defer entry until compulsory school age or choose part time attendance up to CSA, and its procedure for requesting admission out of normal age group is unclear.”

18. The objector referenced the following paragraphs of the Code in their form of objection:

- 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:

[...]

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;

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.”

- 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.”
- 2.20: “Where an admission authority agrees to a parent’s request for their child to be admitted out of their normal age group and, as a consequence of that decision, the child will be admitted to a relevant age group (i.e. the age group to which pupils are normally admitted to the school) the local authority and admission authority must process the application as part of the main admissions round, unless the parental request is made too late for this to be possible, and on the basis of their determined admission arrangements only, including the application of oversubscription criteria where applicable. They must not give the application lower priority on the basis that the child is being admitted out of their normal age group. Parents have a statutory right to appeal against the refusal of a place at a school for which they have applied. This right does not apply if they are offered a place at the school, but it is not in their preferred age group.”

19. I have also identified that the following paragraph of the Code is relevant to the objection:

- 14 (part): “Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

20. The concerns raised by the objector can be summarised as:

- A. there is no mention of a parent’s right to defer entry until compulsory school age;
- B. there is no mention of a parent’s right to choose part-time attendance up to compulsory school age; and
- C. the procedure for requesting admission out of the normal age group is unclear.

21. I will consider each in turn.

A. There is no mention of a parent’s right to defer entry until compulsory school age.

22. The requirement to make clear in the school's arrangements that a 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) is set out under paragraph 2.17 b) of the Code (quoted earlier).

23. In the trust's response to concerns A and B, it told me:

"Admissions to Lee Mount Academy fall within the co-ordinated arrangements conducted by Calderdale LA. The Education Act 2002 and School Admissions Regulations 2012 requires every local authority to operate a co-ordinated admissions scheme for children who are due to start school in September 2024, this includes a parent's right to defer entry until compulsory school age. Information for parents including knowing what steps to follow are all detailed on the Calderdale website."

24. Whilst it is the responsibility of the LA to co-ordinate admissions in its area, the trust board is the admission authority for the school, which is an academy. The arrangements are therefore the responsibility of the trust board and not the LA. I note that there is a link on the school's website which when clicked, would take a parent to the front page of the LA's admissions website. However, this does not take parents to information specific to their right to defer entry of their child. There is also no link in the arrangements to resources specific to this matter on the LA website. In fact, there is no mention of a child's parent's right to defer entry as set out under paragraph 2.17 b) of the Code in the arrangements or on the school's website.

25. There being this information on the LA's website does not allow the trust to abdicate its responsibilities under the Code in respect of the LMA's arrangements. The arrangements do not contain the required information on deferred entry, are not clear for parents in this regard and, accordingly, are not compliant with paragraphs 14 and 2.17 b) of the Code.

26. I, therefore, uphold this part of the objection.

B. There is no mention of a parent's right to choose part-time attendance up to compulsory school age.

27. The requirement to make clear in the school's arrangements that children may attend part-time until later in the school year (but not beyond the point at which they reach compulsory school age) is set out under paragraph 2.17 c) of the Code (quoted earlier).

28. The trust's response to the first two of the matters raised by the objector is as set out under concern A. I restate here that the responsibility for communicating the required information clearly to parents lies with the admission authority for the school, which is the trust board, and not the LA.

29. The arrangements do not contain the required information about a parent's right for their child to attend school part-time until the child reaches compulsory school age, are not

clear for parents in this regard and, accordingly, are not compliant with paragraphs 14 and 2.17 c) of the Code.

30. I, therefore, uphold this part of the objection.

C. The procedure for requesting admission out of the normal age group is unclear.

31. The objector set out a concern that the school's arrangements do not make the procedure for making requests for admission out of the normal age group clear for parents, stating:

"It does not explain that it is possible to request this for a summer born child, and makes it sound as if evidence relating to a child's development must be presented. It says 'Evidence relating to all aspects of the child's development would be considered in the decision-making process.' It does not explain who will make the decision, nor exactly what the decision would be about. It does not explain that parents unhappy with a decision could make a complaint, it just says they cannot appeal."

32. In its response to this the trust said that the information is included in section 5 of the arrangements. This section states:

"5. Requests for admission outside the normal age group

Parents are entitled to request a place for their child outside of their normal age group. They may request that their child is educated in a year group above or below their chronological age.

Evidence relating to all aspects of the child's development would be considered in the decision-making process. Parents should make a request for admission outside of the year group in writing to: Lee Mount Primary School, Lee Mount Road, Halifax, HX3 5EB.

Decisions on requests for admission outside the normal age group will be made on the basis of the circumstances of each case and in the best interests of the child concerned. In accordance with the School Admissions Code, this will include taking account of:

- Parents' 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
- Whether they may naturally have fallen into a lower age group if it were not for being born prematurely
- The headteacher's views

Wherever possible, requests for admission outside a child's normal age group will be processed as part of the main admissions round. They will be considered on the basis of the admission arrangements laid out in this policy, including the oversubscription criteria listed in section 6.

Applications will not be treated as a lower priority if parents have made a request for a child to be admitted outside the normal age group.

Parents will always be informed of the reasons for any decision on the year group a child should be admitted to. Parents do not have a right to appeal if they are offered a place at the school but it is not in their preferred age group.”

33. The requirements relating to making requests for admission out of the normal age group are set out under paragraphs 2.18 to 2.20 of the Code (quoted earlier). Specifically, paragraph 2.18 states:

“It is a requirement of paragraph 2.18 of the Code that admission arrangements **must** include the process for requesting admission out of the normal age group”

34. Further guidance on this issue is provided in the DfE's April 2023 non-statutory guidance. This guidance provides support for admission authorities with implementing paragraphs 2.17 to 2.20 of the Code (only paragraphs 2.18 to 2.20 of which are relevant to this part of the objection). I point out here that there is a distinction to be drawn between mandatory requirements such as those laid down in the legislation and the Code, and the provisions of guidance. The former, where they relate to admissions, must be adhered to for admission arrangements to be lawful. There is no absolute requirement to 'follow' or 'adhere' to guidance, but admission authorities must have regard to it.

35. The April 2023 non-statutory guidance sets out the following:

“Admission authorities should ensure parents:

- are aware of when and how they can make requests
- know what information they need to provide
- know the outcome of their request in time to make an informed decision about whether their child will start school before compulsory school age

Paragraph 2.18 of the School Admissions Code requires authorities to make clear the process for requesting admission outside of the normal age group in their admission arrangements. This applies in relation to all mainstream schools, including secondary schools.

It is for local authorities and admission authorities to decide what their process should be.

For primary school admissions, we recommend that the process:

- expects parents to make an application for a school place in their child’s normal age group at the usual time
- enables parents to submit a request for admission outside the normal age group at the same time
- ensures parents receive the response to their request before primary national offer day.

[...]

Admission authorities must still consider requests that are made outside the timescales set out in the process.”

36. In respect of concern C., I have taken into account the following: paragraph 2.18 of the Code requires that admission authorities make clear the process for requesting admission outside of the normal age group; the April 2023 non-statutory guidance which specifies how to make such information clear; and that part of the guidance which states that admission authorities ‘should ensure’ that the information listed therein is included. As the guidance is designed to support admission authorities to meet the requirement of paragraph 2.18 of the Code, an admission authority would need a good reason to depart from it.

37. Section 5 of the arrangements states that parents must write to the school to make a request that their child be admitted out of the normal year group, and I deem that to be a clear indication of what parents need to do to make such an application. However, it is not clear what form the application is expected to take or what a parent needs to include with it. It is not clear when parents should make such a request and how this relates to the timing of the application process for a place at the school (such as is covered in the section entitled “Handling requests for admission out of normal age group” in the April 2023 non-statutory guidance); although the arrangements state “Wherever possible, requests for admission outside a child’s normal age group will be processed as part of the main admissions round”, this is ambiguous and non-compliant with the requirement for arrangements to be clear for parents, as set out in paragraph 14 of the Code. Additionally, it is not clear what the phrase ‘evidence relating to all aspects of the child’s development’ means or what a parent has to provide in that regard (such as is covered in section entitled ‘Evidence provided by parents’ in the April 2023 non-statutory guidance). I, therefore, uphold this part of the objection.

38. The objector is also concerned that this section of the arrangements does not explain who will make the decision or what the decision would be about. The former is not something that the Code requires nor is it included in the April 2023 non-statutory guidance. I take the view that it is inherent that the decision-maker will be the admission authority. In respect of the latter, the April 2023 non-statutory guidance states:

“Notification of the decision

Paragraph 2.19 of the School Admissions Code requires the admission authority to set out clearly for the parent the reasons for their decision.

If an authority refuses the request, they will need to explain why they believe it is in the child's best interests to be admitted to their normal age group, even though this means they will miss a year of their education.

It may also be helpful to inform parents what they need to do next. For example, where a request is agreed, the parent needs to withdraw their application for a place in their child's normal age group and make a new application in the following admissions round."

39. I read that part of the guidance as stating the actions an admission authority has to take in respect of informing parents, not that this information needs to be included in admission arrangements. Therefore, I do not uphold this aspect of the objection.

40. Finally, about the objector's concern that the arrangements do not include information on parents being able to challenge a decision not to admit a child outside of a normal age group, I note that the April 2023 non-statutory guidance states:

"Complaints and appeals

Parents who wish to challenge a decision to refuse their request for admission out of the normal age group may submit a complaint using the school's complaints procedure or the local authority's complaints procedure in the case of community and voluntary controlled schools.

If a parent is unhappy with the way a local authority or maintained school has handled their complaint, once they have exhausted the local complaints process, they may complain to the Local Government and Social Care Ombudsman.

If they are unhappy with the way an academy has handled their complaint they may complain to the Department for Education, once they have exhausted the local process.

Parents whose request for delayed entry is refused have no statutory right to appeal this decision. The statutory admission appeals process does not cover a decision to refuse delayed entry to school."

41. Other than the final paragraph of this section of the guidance (which relates to paragraph 2.20 of the Code), the arrangements do not include this information. However, whilst the April 2023 non-statutory guidance sets out how parents might challenge such a decision, this: is not linked to any requirement in the Code to have to include this information in arrangements; and does not itself say that this information needs to be communicated to parents in arrangements.

42. For the avoidance of doubt, whilst the Code does not – and the guidance cannot – compel an admission authority to include some of the information the objector is concerned

is missing in its admission arrangements, there is nothing in the Code that would prevent the school from including this information to assist parents. However, since the Code does impose a requirement that the arrangements state that parents must be notified of the reasons for the decision, I do not uphold this aspect of the objection.

43. Taking into account all of my findings in respect of concern C., I partially uphold this part of the objection.

44. As I uphold the parts of the objection covered by concerns A. and B. and partially uphold the objection covered by concern C., I therefore partially uphold the objection as a whole.

Determination

45. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by the Impact Education Multi-Academy Trust for the Lee Mount Academy, Halifax.

Dated: 04/09/2024

Signed:

Schools Adjudicator: Dr Robert Cawley