



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** REF4308

**Objector:** a member of the public

**Admission authority:** London Borough of Lambeth for the community schools in its area

**Date of decision:** 16 September 2024

### Determination

I have considered the admission arrangements for September 2025 for the community schools in the London Borough of Lambeth in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to information on the admission of children outside their normal age group, the arrangements do not conform with the requirements of the School Admissions Code. I have also found that 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 the determination.

### The referral

1. The arrangements for the community schools in the London Borough of Lambeth for 2025 (the arrangements) were brought to my attention by an objection. The objection was to the information on the admission of children outside their normal age group.
2. The London Borough of Lambeth (the local authority) is the admission authority for the community schools. The local authority and the objector are the parties to this referral.

## Jurisdiction

3. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the local authority. The objector submitted her objection to these determined arrangements on 11 May 2024.

4. Paragraph 3.3e) of the School Admissions Code (the Code) explains that:

“Any person or body who considers that any maintained school or Academy’s arrangements are unlawful, or not in compliance with the Code or relevant law relating to admissions, can make an objection to the Schools Adjudicator. The following types of objections cannot be brought:...objections to arrangements which raise the same or substantially the same matters as the adjudicator has decided on for that school in the last 2 years”.

5. In this instance the objection was to similar matters to those raised previously to the admission arrangements for the community schools on 12 April 2022. That objection was considered by a fellow adjudicator and their decision published 22 August 2022 (case reference ADA3911) and which I will refer to as the previous determination.

6. The previous determination found that the arrangements did not comply with the Code and required the local authority to revise its arrangements within two months of the date of the determination, which would have been October 2022. The local authority told me that it had done so but as discussed below, there are matters outstanding. I am unable to consider the objection under section 88H(4) of the Act because of the prohibition in paragraph 3.3e) of the Code as above. I decided to use my powers under section 88I of the Act to consider the objection as a referral and to consider the arrangements as a whole.

7. The previous determination was also to the admission arrangements for the Oasis Academy Johanna, which is an academy, and its admission authority is the Oasis Community Trust (the trust). The arrangements say that the local authority is the admission authority for “Oasis Academy Johanna on behalf of Oasis Community Learning.” I have not explored how this responsibility of the trust is delegated to the local authority but, for the avoidance of doubt, any matters I raise below apply to the whole arrangements including those of Oasis Academy Johanna.

## Procedure

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

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

- a. a copy of the minutes of the meeting of the local authority at which the arrangements were determined and a copy of the determined arrangements;
- b. the objector’s form of objection and response to the information circulated;

- c. the local authority's response to the objection;
- d. the previous determination ADA3911 published 22 August 2022;
- e. Department for Education (DfE) guidance: regarding the admission of summer born children (published 2023):
  - a. 'Summer born children starting school: advice for parents';
  - b. 'Making a request for admission out of the normal age group';
  - c. 'Guidance on handling admission requests for summer born children' (the DfE guidance); and
- f. information published on the websites for the local authority and the DfE.

## The referral in detail

10. The objector said,

"The arrangements state that the application "must" be made in the correct chronological year but this is contrary to government guidance

The arrangements are not clear. It should refer to a "delay" or starting school at Compulsory School Age. It should not insist that evidence from social or medical professionals is necessary because this gives the appearance that the local authority makes the decision about when the child starts school. It is also contrary to government guidance".

11. The relevant paragraphs of the Code are provided below. Paragraph 14 of the Code requires arrangements to be clear and 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."

12. Paragraphs 2.18 to 2.20 relate to admission other than at the normal age of entry and say:

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.”

## Background

13. The local authority is the admission authority for the community schools in its area (there are no voluntary controlled schools) and these include primary and secondary schools. The admission arrangements for these schools vary depending on the type of school. The oversubscription criteria are, for most schools, in summary:

- 1) Looked after and previously looked after children
- 2) Children with a sibling who already attends the school, and who will not have left at the point of admission
- 3) Children with exceptional medical or social needs
- 4) Children of staff at the school
- 5) Distance measured in a straight line with priority for children living closer to the school.

14. The DfE guidance explains it is,

“non-statutory guidance to help local authorities and other school admission authorities respond to parents’ requests for summer born children to be admitted out

of their normal age group. It will help authorities fulfil the duties imposed by the statutory School Admissions Code, and should be read in conjunction with this.”

15. The DfE guidance is therefore not mandatory. However, the purpose of government guidance is to explain how the law should be interpreted, and admission authorities are expected to follow DfE guidance which applies to them unless they have a good reason to depart from it.

## Consideration of case

16. The local authority is the admission authority for community primary (including infant and junior) and secondary schools with some having slightly different arrangements to other schools. The arrangements for all community schools in the local authority’s area are set out in a single document and include those for Oasis Academy Johanna as described above. An effect is that the arrangements are thirty-one pages long and include some repetition. One section has the title, “Other general admission elements to these arrangements”. Within this section are several paragraphs under the title,

“Admission of children out of cohort/outside their normal age group  
Delayed entry”.

17. The arrangements say under this title:

“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.”

18. The arrangements also explain the potential advantages of talking with the school, or schools, to discuss what provision is made and:

“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.”

19. The arrangements then say how the local authority will manage the process and say,

“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.”

20. The objector said, as above, “The arrangements state that the application “must” be made in the correct chronological year but this is contrary to government guidance.” The DfE guidance on this point says,

“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.”

21. If parents wish to know the outcome of a request in time to make a decision about whether their child will start school before compulsory school age, it would be appropriate to apply in the relevant admissions round as described in the arrangements. However, the DfE guidance also says, “Admission authorities must still consider requests that are made outside the timescales set out in the process.” This is clearly appropriate as a parent may make their decision that their child will start school when the child reaches compulsory school age without waiting on the admission authority’s decision; they have every right to do so.

22. The choice as to when their child starts school in these circumstances is that of the parent and there is no requirement in law for a parent to apply in advance as described by the arrangements. The use of the word “must” is therefore misleading and makes the arrangements unclear. I uphold this aspect of the objection.

23. The objection says,

“[The arrangements] should not insist that evidence from social or medical professionals is necessary because this gives the appearance that the local authority makes the decision about when the child starts school. It is also contrary to government guidance”.

24. The arrangements say,

“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.”

25. I therefore looked at what the supporting documentation required for criterion 3 was. Criterion 3 is, “Children with Exceptional Medical or Social Needs”. The information provided on criterion 3 says,

“Children with a professionally supported medical or social need, whose application identifies a particular school that is especially able to meet that need. This criterion

will also take into account where a parent/carer has a physical, mental or social need that is significant and demonstrable for their child to attend a specific school. This does not include childcare arrangements. The decision to prioritise on these grounds will be determined via MEDSOC panel, which is comprised of the council's senior management as well as senior school staff when necessary. 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. However, any supporting evidence does not automatically mean that children will gain priority in this criterion as the decision to prioritise under this criterion will solely rest with the MEDSOC panel."

26. The arrangements therefore say, when a parent wishes to request that their summer born child is admitted when the child reaches compulsory school age, the parent must provide, "Documents from an appropriate professional (e.g. GP, consultant or social worker letter or report, not including general information from a website)". The local authority said in its response to the objection that without this information, the local authority would be unable to make a decision in the best interests of the child (as required by paragraph 2.19 of the Code). I note that the DfE guidance for admission authorities says,

"Admission authorities can reasonably expect parents to provide information about why they think their child should be admitted out of their normal age group, to enable them to make a decision in the child's best interests.

In some cases, parents may have evidence from professionals involved in their child's care or treatment that it would be appropriate for them to submit, for example:

- a speech and language therapist
- an occupational therapist
- a social worker
- a paediatrician
- the child's nursery or childminder

Admission authorities should not expect parents to get evidence they do not already have, and must still consider requests that are not accompanied by evidence from professionals. Authorities should not refuse a request solely because it is not accompanied by professional evidence."

27. As explained above, admission authorities are expected to follow DfE guidance which applies to them unless they have a good reason to depart from it. The local authority has not followed the guidance. Its reason for not doing so is that it can't make the decision in the best interests of the child if it does not have information from professionals as listed.

28. However, paragraph 2.19 of the Code says that such information should only be provided where relevant. Such information is not relevant in all cases, and its absence should not prevent the local authority from making a decision in the best interests of the child, and so the arrangements do not comply with paragraph 2.19. I therefore uphold this part of the objection.

29. It is the decision of the parent if they want their child to reach compulsory school age or not before they start school. It is appropriate for the admission authority to recommend talking to school staff and for parents to be encouraged to apply, so that there is a response to a request to be admitted to YR rather than Y1, before the parent makes their decision. However, the arrangements say that a parent must make their request in the admission round for the September after the child's fourth birthday and this is not the case. Similarly the admission authority should not say that parents must provide professional evidence, but only ask that any evidence is provided if relevant. I therefore uphold the objection.

## Other matters

30. 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 local authority, and I have again used my power under section 88I of the Act to consider the arrangements as a whole. The other matters are as described below. Paragraph 14 of the Code, as above, requires the practices and criteria used to allocate places to be clear and so is relevant. Paragraph 1.8 requires that oversubscription criteria are clear.

### Looked after and previously looked after children

31. The arrangements say:

“The School Admissions Code 2021 states that: A 'looked after child' or a child who was previously looked after but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order \* including those who appear [to the admission authority] to have been in state care outside of England and ceased to be in state care as a result of being adopted.”

32. My concern is that the purported extract from the Code does not make sense. Paragraph 1.7 of the Code says, as far as relevant here,

“All schools **must** have oversubscription criteria for each 'relevant age group' and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children. Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order). Further references to previously looked after children in this Code means such children who were adopted (or subject to child arrangements orders or special guardianship orders) immediately following having been looked after.”



33. Footnote 15 to paragraph 1.7 of the Code says,

“A 'looked after child' is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989) at the time of making an application to a school.”

34. The arrangements have no definition of a looked after child. The paragraph quoted above in the arrangements is unclear and so does not meet the requirements of the Code.

35. Furthermore the asterisk (\*) following “special guardianship order” is followed up with a paragraph in italics which could imply that it is also a quote from the Code, but it is not a quote from the Code currently in effect. This makes the arrangements unclear. The arrangements are unclear in these matters and so do not meet the requirements of paragraphs 14 and 1.8 of the Code.

### **Children of staff at the school**

36. The Code permits in paragraphs 1.9f) and 1.39 that children of staff can, in particular circumstances, be given priority in oversubscription criteria. Paragraph 1.40 of the Code says, “Admissions authorities **must** specify in their admission arrangements how this priority [for children of staff] will be applied, for example, which groups of staff it will apply to.”

37. The arrangements say that to meet the criterion, the member of staff must have been employed at the school for at least three years at the time of submitting the application and so from September 2021. The deadline for applying for a place at a primary school will be 15 January 2025. It is possible that a member of staff began to work at a relevant school in January 2022 and so has worked there for three years but not from September 2021. This may cause some confusion and so makes the arrangements unclear and not meet the requirements of the Code to be clear.

### **Random allocation**

38. There are several references to the use of random allocation in the arrangements. Paragraph 1.34 of the Code says, “Admission authorities that decide to use random allocation when schools are oversubscribed **must** set out clearly how this will operate, ensuring that arrangements are transparent, and that looked after children and previously looked after children are prioritised.”

39. An example of a reference to random allocation is, “Where the determining factor is based on distance, and these children have the same home to school distance, Lambeth LA will randomly allocate places to determine the rank order.” There is not an explanation regarding how random allocation will operate. This does not meet the requirements of paragraph 1.34 of the Code.

## Admission of children below compulsory school age

40. The arrangements say,

“Starting reception class

All children entering a Lambeth community primary school and Oasis Academy Johanna are expected to be admitted in September 2025, 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 of summer-born children can arrange that the date their child is admitted to school is deferred until later in the academic year. Or that their child takes up the place part-time until the child reaches compulsory school age. This must be arranged between the parent/carer and the school for which a place has been accepted.”

41. Paragraph 2.17 of the School Admissions Code says,

“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.”

42. Compulsory school age is explained in footnote 56 to paragraph 2.17 which 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.”

43. By stating that the rights in paragraph 2.17b) and 2.17c) of the Code are only for summer born children, the arrangements are inaccurate which makes them unclear and therefore not meet the requirements of paragraphs 14 and 2.17 of the Code. I note that the arrangements provide a clearer explanation elsewhere, but this is not sufficient to mitigate the lack of accuracy in the earlier statements.

44. The Code says that professional views are only to be provided where relevant. The arrangements say that not only such information must be provided but it must state that the child should start school a year ahead. This does not meet the requirements of paragraph 2.19 of the Code.

45. I have raised these other matters that do not comply with the Code with the local authority, and the arrangements must be revised accordingly. Paragraph 3.6 of the Code explains that an admission authority can revise its arrangements “to give effect to a mandatory requirement of this Code, admissions law, a determination of the Schools Adjudicator or any misprint in the admission arrangements.”

46. This is the second time that some of these matters have been addressed in a determination by an adjudicator. Paragraph 3.1 of the Code says,

“The admission authority **must**, where necessary, revise their admission arrangements to give effect to the Schools Adjudicator’s decision within two months of the decision (or by 28 February following the decision, whichever is sooner), unless an alternative timescale is specified by the Schools Adjudicator. The Schools Adjudicator’s determination is binding and enforceable.”

47. The local authority has not amended its arrangements as required by the previous determination. I will consider referring this matter to the Secretary of State for enforcement if the local authority has not amended its arrangements as required within the timescale set out below.

## Determination

48. I have considered the admission arrangements for September 2025 for the community schools in the London Borough of Lambeth in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to information on the admission of children outside their normal age group, the arrangements do not conform with the requirements of the School Admissions Code. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

49. 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: 16 September 2024

Signed:

Schools Adjudicator: Deborah Pritchard