



Determination

Case reference:	REF4391
Referrer:	A member of the public
Admission authority:	Ladygrove Primary School Trust for Ladygrove Primary School in Didcot
Date of decision:	04 December 2024

Determination

I have considered the admission arrangements for September 2025 for Ladygrove Primary School 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 relating to admissions. 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. Under section 88I(5) 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 2025 (the arrangements) for Ladygrove Primary School (the school). The school is for children aged three to eleven.
2. The referral relates to information provided on admission of children outside of their normal age group and lack of clarity regarding the admission authority for the school.
3. The parties to the case are Ladygrove Primary School Trust, which is the admission authority for the school (the trust), the referrer and Oxfordshire County Council, which is the local authority for the area in which the school is situated (the local authority).

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 academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined under section 88C of the Act by the trust on 23 November 2023 on that basis.

5. The referrer submitted an objection to these determined arrangements on 2 October 2024. The School Admissions Code (the Code) requires objections to admission arrangements for 2025 to be made to the adjudicator by 15 May 2024. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred on me under section 88I(5) of the Act to consider whether the arrangements conform with the requirements relating to admission arrangements and I am treating the objection as a referral.

Procedure

6. In considering this matter I have had regard to all relevant legislation and the Code. The documents I have considered in reaching my 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 and a copy of the determined arrangements; and
- c) the Department for Education (DfE), 'Guidance on handling admission requests for summer born children' (the DfE guidance) published 27 April 2023.

The Referral

7. The referrer said, "This school's admissions policy does not comply with sections 2.18 to 2.20 of the School Admissions Code. Also, it states that Oxfordshire County Council is the admission authority for the school, when in reality it is its own single academy trust." This latter point raises a matter of accuracy and, therefore, clarity. Paragraph 14 is concerned with clarity 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."

8. The referrer said that the arrangements were brought to her attention by a mother considering delaying the admission of her prematurely and summer born children until they

reached compulsory school age and requesting that, when admitted, they were admitted to reception year (YR) rather than year 1 (Y1), which would have been their year group if they were to start school with their normal age group. 'Normal age group' in this instance is for the academic year following the child's fourth birthday.

9. Paragraphs 2.18 to 2.20 of the Code are concerned with the admission of children outside their normal age group 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."

10. Footnote 57 to paragraph 2.18 of the Code explains,

"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.”

Consideration of the arrangements

11. The arrangements say, in relation to the matter raised in the referral,

“Admission of Children Outside their Normal Age Group

On rare occasions, a parent may wish to request that their child is admitted outside of his/her year group (i.e. that the child starts in reception instead of year 1). A request for admission outside their normal age group is different to a deferral request, and admissions authorities (in this case OCC Oxfordshire County Council) do not have to comply with parental wishes. Instead, the admissions authority will decide whether to admit outside of normal age group, on a case-by-case basis, keeping the best interests of the child in mind. There is no set criteria for ‘outside-of-normal-age-group’ admission but cases will most likely involve a child with severe special educational needs or disability. If a request to be admitted outside of normal age group is not granted, parents do not have the right to appeal. They can only appeal if the child is not offered a place within his/her normal age group.”

12. The admission authority for the school is the trust. It is inaccurate, and therefore unclear, to refer to the local authority as the admission authority. The arrangements do not comply with paragraph 14 in this regard.

13. The arrangements do not make clear the process for requesting admission out of the normal age group, which is a mandatory requirement of paragraph 2.18 of the Code. The arrangements do not comply with the Code in this respect.

14. It is the parents’ decision to decide if their child will have reached compulsory school age before the child starts school or if their child will start school at the earliest opportunity; it is not a decision that an admission authority can overrule. However, where such a child would be of an age to enter Y1 rather than YR then admission of that child to YR would be an admission out of normal age group. This is the position referred to in the paragraphs of the Code set out above.

15. It is for the admission authority to decide whether or not to comply with a request for such admission outside the normal age group of the child. However, that decision must be made on the basis laid out in the Code and set out in the paragraphs above.

16. The arrangements say that the decision will be made, “keeping the best interests of the child in mind.” This does not have the same meaning as the requirement of paragraph 2.19 of the Code that “Admission authorities **must** make decisions...in the best interests of the child concerned.” The arrangements also say, “cases will most likely involve a child with severe special educational needs or disability.” This would not usually be the case for summer born children and I find that this unnecessarily restricts the admission authority’s

decision making. It also appears to seek to constrain parents considering when their summer born child starts school.

16. I will now turn to the place of the DfE guidance. 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.

17. My function under the Act is to determine the referral before me. In so doing, I must determine whether the admission arrangements comply with the Code, as I have above. My role is confined to ensuring that whatever is said in a set of admission arrangements complies with the Code. Having said that, there is a general requirement that admission arrangements must be reasonable. In my view, arrangements describing a process for requesting admission out of the normal age group, which is contrary to DfE guidance without good reason, are unreasonable.

18. The DfE guidance for admission authorities says, in relation to admission out of the normal year group,

- “• The admission authority of each school must make a decision based on the circumstances of the case and in the child’s best interests. It should be rare for an authority to refuse a parent’s request.
- An admission authority may not decide that a child should start school before compulsory school age - that is the parent’s decision.
- The government believes it is rarely in a child’s best interests to miss a year of their education, for example, by beginning primary school in year 1 rather than reception, or secondary school in year 8 rather than year 7.”

19. I am given the impression by the arrangements that the trust has a blanket policy of not agreeing admissions to YR rather than Y1 when a summer born child reaches compulsory school age. Indeed, the tone of the paragraph in the arrangements is negative to admissions other than to the normal age group and there is no recognition of the rights of parents in these matters. This impression of a blanket approach is reinforced by the trust’s response to a request for admission outside the normal year group which was,

“We do not accommodate requests for deferred applications as this has a longer impact on their whole school life until they leave full time education. In our experience, we have had premature children in the past and our staff are very experienced in supporting children and their developmental needs, working collaboratively with parents when they start in our early years setting.”

20. My jurisdiction is only for the arrangements, but the response given to a parent in this case supports my view that the trust is not making decisions in the best interest of the child but rather is refusing all such requests except in the circumstances described in the arrangements. This is unreasonable. As I find above, the matters the trust states it will take

into account do not comply with paragraph 2.19 of the Code. In summary, the trust is not complying with the Code or following the DfE guidance. The trust is required to amend its arrangements so that they do comply with the Code.

Other Matters

21. When I read the arrangements, there were other matters that I thought may not comply with the requirements of the Code and brought them to the attention of the parties for comments. I will consider these matters below.

Unclear references

22. Section B 2.1 of the arrangements refers to “the Admissions Code of Practice, 2014”. No such document exists. The School Admissions Code in force, which is not a “Code of Practice”, is dated 2021. Section C 7.1 of the arrangements refers to “the School Admissions Code (December 2014) published by the Department for Education.” Referring to non-existent and out of date documents makes the arrangements unclear and, therefore, not compliant with paragraph 14 of the Code.

Definition of home address and use of tenancy agreement

23. Section C 1.5 of the arrangements is concerned with evidence of the home address where there is a change of address. One piece of evidence referred to is, “A copy of a tenancy agreement (if the property is to be rented). If this tenancy agreement comes to an end before September 2025 we may not accept the address for admissions purposes.” Many tenancy agreements are for a maximum of six months and so will come to an end before September 2025 as applications need to be made by 15 January 2025. This is more likely to adversely affect less prosperous families who may have little choice in their housing arrangements. This provision is not fair to children of such families and so the arrangements do not comply with paragraph 14 of the Code, which requires that “admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair”.

Waiting lists

24. Section C 3.2 of the arrangements is concerned with waiting lists. It says,

“Waiting lists for each year group will be maintained until 30th June when they will be cancelled. Applicants who wish a child to go on the waiting list for the 2025/26 academic year must reapply for in-year admission through Oxfordshire County [Council]. Fully completed applications received from 1st June 2025 will be used to reform the waiting list.”

25. Paragraph 2.15 of the Code says,

“Each admission authority **must** maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements

that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not** be given to children based on the date their application was received, or their name was added to the list.”

26. The Code is, therefore, only concerned with a waiting list for the year of admission (YR in this case) and it is up to the trust if it wishes to have waiting lists for other years. However, the arrangements do not state that the waiting list will be ranked again in line with the oversubscription criteria with each added child or that the waiting list will be held until 31 December. The arrangements do not meet the requirements of the Code, as described in paragraph 2.15, for those applying for a school place in the normal year of admission.

Oversubscription within a criterion

27. Section C 4.3 in the arrangements says, “Where there are more applications than places available, each application will be ranked in accordance with the oversubscription criteria in Section 6.” There are no oversubscription criteria in section 6 so this makes the arrangements unclear.

Reference to catchment area

28. Section C 7.1 of the arrangements refers to a catchment area and a map, which is described as a map of the catchment area, is provided in the admissions section of the school’s website. The oversubscription criteria in the arrangements make no use of a catchment area and so this makes the arrangements unclear.

Determination

29. I have considered the admission arrangements for September 2025 for Ladygrove Primary School 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 relating to admissions. 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.

30. 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: 04 December 2024

Signed:

Schools Adjudicator: Deborah Pritchard