



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** REF4394

**Referrer:** A Parent

**Admission authority:** Leathersellers' Federation of Schools for Prendergast School

**Date of decision:** 19 March 2025

### Determination

I have considered the admission arrangements for September 2025 for Prendergast School in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to in-year applications for children of crown servants the arrangements do not conform with the requirements relating to admission arrangements.

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 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection was referred to the Office of Schools Adjudicator by a parent (the Referrer), about the admission arrangements (the Arrangements) for Prendergast School (the School), for September 2025.
2. The referral relates to concerns about a restriction within those arrangements for families of crown servants that is not permitted by The School Admissions Code (the Code). Specifically, that:
  - applications cannot be made more than four calendar months before a place in the school is required; and
  - the policy restricting these applications is not in the published admission arrangements and the arrangements are, therefore, unclear.

3. The parties to the case are the School, Leathersellers' Federation of Schools (the Admissions Authority, the Trust), Lewisham Council (the Local Authority) and the Referrer.

## **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 School are in accordance with admissions law as it applies to foundation and voluntary aided schools. These arrangements were determined under section 88C of the Act by the Trust which is the Admission Authority for the School on 20 December 2023.

5. The Referrer submitted an objection to these determined arrangements on 23 December 2024. The School Admissions Code (the Code) requires objections to admission arrangements for 2025/26 to be made to the Office of the Schools Adjudicator by 15 May 2024. As this deadline was missed, and the Arrangements have been brought to my attention, I have decided to use the power conferred 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.

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

- a) the Referrer's form of objection dated 23 December 2024 and subsequent correspondence;
- b) copies of the minutes of the meeting of the trust board at which the Arrangements were determined;
- c) a copy of the determined Arrangements;
- d) comments from the Trust on the matters raised and subsequent correspondence;
- e) comments from the Local Authority on the matters raised and subsequent correspondence;
- f) information available on the websites of the Local Authority, the School, the Trust and the Department for Education (DfE);

## **The Referral**

8. The Referrer raises concerns that the Trust, as the Admission Authority, has placed a restriction on the application for a school place for families of crown servants, specifically that in-year applications for a school place cannot be made more than four calendar months before that place is required, and that this restriction is not permitted by the Code, paragraph 2.21.

9. I reproduce paragraph 2.21 of the Code, which relates to children of UK service personnel and crown servants, here:

“2.21 For families of service personnel with a confirmed posting, or crown servants returning from overseas, admission authorities must:

a) allocate a place in advance of the family arriving in the area (as long as one is available), provided the application is accompanied by an official letter that declares a relocation date. Admission authorities **must not** refuse to process an application and **must not** refuse a place solely because the family do not yet have an intended address, or do not yet live in the area.

b) use the address at which the child will live when applying their oversubscription criteria, as long as the parents provide some evidence of their intended address. Admission authorities **must** use a Unit or quartering address as the child’s home address when considering the application against their oversubscription criteria, where a parent requests this.

c) not reserve blocks of places for these children.

d) ensure that arrangements in their area support the Government’s commitment to removing disadvantage for service children. Arrangements **must** be appropriate for the area and be described in the local authority’s composite prospectus.”

10. The DfE has also published an explanatory note in relation to the admission of children of crown servants. While this is not formally part of the Code, it is relevant to how paragraph 2.21 of the Code should be interpreted and, as academies are required to comply with the provisions in the Code by virtue of their funding agreements, it is relevant to this case.

11. The following extracts from the explanatory note are of particular relevance here:

**“Main points**

The School Admissions Code requires that for families of Crown servants returning from overseas, admission authorities must allocate a school place in advance of the family arriving in the area, provided the application is accompanied by an official letter declaring a relocation date.

Where vacancies exist at the school, we would expect places to be allocated to the family in advance of their move, even if they do not yet have a confirmed address.

Where a school is oversubscribed, the admission authority needs to be satisfied that places are allocated lawfully, in accordance with the oversubscription criteria. Admission authorities may expect to have some level of certainty about a family’s intended new address, so that they can make sure they allocate a place lawfully...

**Role of the admission authority**

Paragraph 2.21 of the School Admissions Code requires that for families of Crown servants returning from overseas, admission authorities must allocate a school place in advance of their move, provided the application is accompanied by an official letter declaring a relocation date.

Admission authorities must not refuse to process an application and must not refuse a place solely because the family do not yet have an intended address, or do not yet live in the area.”

12. Additionally, the Referrer is concerned that the policy restricting applications for a school place for families of crown servants is not included in the School’s published admission arrangements. As parents should be able to understand easily how places for a school will be allocated, this appears to be in breach of the Code, paragraph 14 which states:

“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.”

## Background

13. In January 2024, Prendergast School converted to academy status by joining Leathersellers’ Federation of Schools. The School is one of five schools within the Trust.

14. The School is a non-selective secondary school for pupils aged 11 to 18. It is a girls’ school from Years 7 to 11. The Sixth Form is co-educational. According to the DfE’s website ‘Get Information about Schools’, there are currently 945 pupils on the School’s roll.

15. At its most recent Ofsted inspection in November 2013, prior to converting to academy status, the predecessor school was judged as ‘outstanding’.

## Consideration of Case

16. I will firstly set out the main points raised by the Referrer, the Trust and the Local Authority. I will then set out my consideration of these points.

17. The Referrer’s concerns arise from an in-year admissions application to the School. The referral states, in part:

“The admission authority has introduced a restriction on applications from the children of crown servants that is not permitted by the Code. The admission authority states in an email of 10 December 2024 that: “an application can be made up to four calendar months ahead of a relocation. ...

The school’s unpublished policy of only accepting applications for the admission of the children of crown servants within four months of returning to the UK is not compliant with the Code.

The Code is clear that an available place should be allocated when a valid application is made, “provided the application is accompanied by an official letter that declares a relocation date.” (2.21a, Schools Admissions Code 2021)

There is no other proviso in the Code for such an application, and no provision for an admission authority to create one. The only threshold the Code requires for the allocation of a place to a child of a crown servant is the provision of an official letter.

Even in the event that an admission authority did have the power to introduce an additional requirement on applications from the children of crown servants, a policy restricting applications to a time period defined in calendar months is arbitrary and creates unfairness. This would be contrary to the principles of the Code: “admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective.” (Schools Admissions Code 2021, introductory paragraph 14).”

18. In response to these matters, the Trust is clear that, as the Admission Authority for the school, it has the statutory duty to determine the Arrangements for the School and that it is free to set any arrangements as long as they comply with the requirements of the Code. In relation to this aspect of the Arrangements, the Trust said:

“... the decision was taken to refer to the arrangements set by the London Borough of Lewisham in their capacity as the local authority for the area in which the school is located (not in the local authority's capacity as admission authority for their community schools.) Lewisham local authority have a full overview of pupil movements, admissions applications and sufficiency of places within the local area and therefore assess what arrangements are appropriate for the area. ... Lewisham have published the following regarding local arrangements for the admission of crown servants:

‘In-year applications from UK Crown servants or military families:

We will process applications from UK Crown servants or UK military families with evidence from their employers or commanding officers that they are returning to the area ahead of any move. We will accept any posting or quartering address as a 'home' address in the absence of any actual home address, An application can be made up to four calendar months ahead of a relocation. There is no guarantee that a place will be available at a preferred school. Each application will be considered in line with the school's admissions criteria.’

Prendergast School adopted the time limit published by Lewisham local authority to allow the Federation to ensure arrangements appropriate for the area; a decision made as a result of a commitment to complying with, and not breaching, the Code.”

19. The Trust goes on to outline the practical implications of not adopting policies that are the same as the Local Authority for the area, for example, outlining implications that could potentially lead to inconsistencies in outcomes for children from the same family

applying to different year groups or different schools. The Trust state on a number of occasions that they understand part of paragraph 2.21d of the Code (“Arrangements must be appropriate for the area and be described in the Local Authority’s composite prospectus”) to mean that, for this aspect of the Arrangements, the Trust must adopt the same arrangements as the Local Authority.

20. The Trust, however, are equally clear that they do not follow the Local Authority’s arrangements in all respects. For example, in relation to the use of the oversubscription criterion of exceptional social and/or medical need in relation to the children of UK service personnel, an aspect of the Arrangements raised by the Referrer. The Trust stated that it does not:

“... stipulate that crown servants or military service personnel will be considered under the oversubscription criterion of exceptional social and/or medical need, and the Federation therefore does not automatically consider applications from crown servants under this criterion.”

The Trust later stated:

“For the avoidance of doubt, we do not apply Lewisham’s admissions policy that they apply to their community schools.

With regard to Lewisham’s oversubscription criterion for exceptional social / medical needs, we draw your attention that this provision is for military families only.

Lewisham has a military covenant that enhances services offered by the Council to ex / serving military and their extended families, all applications for school places for the children of full-time service personnel are prioritised under the ‘exceptional medical or social’ criterion for Lewisham’s community schools.”

21. I think the Trust is clear that it follows the Local Authority’s approach in some aspects of its arrangements, for example to ensure consistency between schools, but differs in other areas. As the Admission Authority for the School, the Trust sets its own admission arrangements. However, I will consider whether the resulting arrangements are clear and easily understood later in the determination.

22. In responding to the matters raised by the Referrer, the Local Authority stated:

“Whilst the wording regarding Lewisham's processing of crown servant applications includes the 4 month deadline, the council has always reviewed and processed these applications as they have been submitted, in line with guidance from government [Admission of children of crown servants – explanatory note]

I am aware this may cause confusion and following legal advice, the previously stipulated four-month timeframe for crown servant applications will be removed from our communications.”

23. I am grateful to the Local Authority for undertaking to make this change to clarify its arrangements once this determination has been published.

24. The Trust believes that the rationale for the decision to advise the Referrer of a timeframe, was “compliant with both the content and principles of all relevant legislation”. In relation to the setting of a time limit, the Trust make it clear that in their view:

“...the Code does not forbid the introduction of a time restriction on applications from crown servants. The following is stated within the Code: "The Code has the force of the law, and where the words 'must' or 'must not' are used, these represent a mandatory requirement." It is therefore understood that the absence of an instruction either way means that there is no mandatory requirement to enforce, or not enforce, a time limit on applications, either in the Code or in law.

The implementation of a time restriction on applications from UK service personnel has been applied by numerous other local authorities and admission authorities across the country, and it is clear this is an established practice.”

The Trust provides examples of nine admission authorities (seven local authorities and two schools) whose admission arrangements include a time restriction on how far in advance applications from crown servants/UK service personnel may be made.

25. The Trust goes on to state:

“Further, the practice of implementing a time restriction on advance applications from UK service personnel is written into statutory government guidance currently published on the gov.uk website. While the guidance is specifically for military personnel, it is noted that the Code does not distinguish between military service personnel and crown servants for the purposes of applying admission arrangements. The government's statutory guidance for the Armed Forces Covenant gives examples of what type of school admissions support might be offered by specified bodies (such as schools), in line with the Code, to help remove the disadvantage experienced by service children. One of these examples cites Gloucestershire County Council's policy of allowing "Service families to apply two terms in advance of the date the school place is required." (Gloucestershire Council has since reduced this timeframe to one term, as shown in their published arrangements linked above). This demonstrates that applying a time restriction on when school applications for service children can be made is not only accepted by the UK government, but actively condoned in statutory guidance as good practice that supports schools to manage their admissions processes whilst also mitigating the disadvantage that may be experienced by children of UK service personnel.”

26. As set out earlier in the determination, the relevant section of the Code, paragraph 2.21, relates to children of UK service personnel and crown servants. The ‘Armed Forces Covenant Duty Statutory Guidance’ referred to by the Trust applies only to UK service personnel, not crown servants. In relation to the example of good practice quoted above, I

do not consider that to be directly relevant to this case. This is because it is placed in the context of paragraph 3.11 of that guidance which describes the requirements of the Code. Therefore, the Code remains the primary reference point on what is required, and my jurisdiction is limited to considering the Code rather than that guidance. And, as has already been stated, the guidance does not in any event apply to crown servants.

27. The Trust acknowledges that:

"... the information [given in the Code] aims to signpost the relevant law; it does not aim to provide definitive guidance on interpreting the law.

Our Federation is aware that admission authorities may interpret statutory guidance in different ways, and while a number of different interpretations may be correct and lawful, our Trust is committed to ensuring that all of our admissions practices serve applicants to our schools as fully as possible. Following the concerns raised by the objector, our Federation sought independent legal advice that confirmed the Trust's determined admissions policies are not in breach of the Code. The Federation is also of the understanding that, while imposing a time restriction on school applications from crown servants is not in breach of the Code, neither is the decision not to. In the interests of resolving the concerns raised by the objector in the immediate term, the Federation then took the decision to process the objector's applications, without any time limit. The objector was contacted on 17/01/25 to inform that their applications were being immediately processed, and the outcomes of the applications were sent on the same day, within the statutory deadline."

28. I am grateful to the Trust for the stance it has taken in relation to the applications made by the Referrer and that it processed those applications without any further delay.

29. Given my jurisdiction, the main question for me to consider is whether or not a rule that sets a timescale on when an application for a school place for a child of a crown servant can be made is in breach of the Code.

30. I consider two requirements of the Code are particularly relevant here. First, in relation to processing an application, the Code expressly states an authority "must not refuse to process an application". The requirement to process is without limitation and, therefore, a refusal to process an application before a particular time period would fall foul of this requirement.

31. For completeness, I do not consider there to be any distinction between restricting an application being made (which appears to be the School's policy) and a refusal to process an application (the terminology from the Code). Where an application cannot be made it is impossible for it to be processed.

32. Second, in relation to the allocation of a place (which is the possible outcome of processing an application), the Code includes a general requirement that an authority "must...allocate a place in advance of the family arriving in the area", and this is subject



only to specific express limitations. These limitations are that a place is available; that the application is accompanied by an official letter declaring a relocation date; and that if the parents seek to use a specific address then they must provide some evidence of that address; alternatively, the parents can request that a Unit or quartering address is used.

33. There is no limitation to the general requirement in relation to timing. There is an element of timing inherent in the requirement for an official letter with a relocation date, as that presumably would only be provided where the relocation date is confirmed. However, in my view a strict time limitation, as used by the School, would breach the general requirement “to allocate a place in advance of the family arriving in the area”.

34. I note here that there is an alternative argument. It might be argued the requirement an authority “must...allocate a place in advance” is not breached by a strict time requirement, because the place is still being allocated in advance, albeit within four months of the relocation. Further, the admission authority is not refusing “to process an application”, it is simply stating it will process it within the four month period. I do consider this interpretation to be arguable given that the issue of timing is not expressly dealt with in the Code, however, for the reasons set out above I think the better interpretation of the Code is that a time period is not permissible.

35. My view is based on a strict reading of the words of the Code. I note that the School has provided examples of other admission authorities including a time period in which an application has to be made (some shorter than four months). They may have a practical reason for such a time period and, if there is some very clear benefit of a time restriction, that may be relevant to a different interpretation of the Code. However, in this case, four months appears to be an arbitrary timescale that neither the Trust nor the Local Authority have provided any convincing reason for setting. Indeed, the Trust say that:

“The four-month time restriction was applied only as a result of the Trust complying with s.2.21.d, which stipulates “arrangements must be appropriate for the area”. The four-month restriction was, at that time, published on the local authority’s website as the arrangement appropriate for the area of the London Borough of Lewisham.”

36. The Trust also says that it did not discuss the setting of the timescale when determining the arrangements:

“ ... a time restriction was not considered by the Admissions Committee and Governing Board at the time in determining the admissions arrangements.

In accordance with DfE requirements for admission of children of crown servants, the Trust referred to the Code and the requirement to comply with s.2.21 when processing the objector’s school applications. The four-month time restriction was applied only as a result of the Trust complying with s.2.21.d, which stipulates “arrangements must be appropriate for the area”. The four-month restriction was, at that time, published on the local authority’s website as the arrangement appropriate for the area of the London Borough of Lewisham.”

37. Taking all the evidence into consideration, on balance, I find that setting a time restriction on applications for the children of crown servants in the case of the Arrangements for this School is in breach of the Code.

38. Following the Local Authority's undertaking to remove the four-month timescale from its published arrangements, the Trust has confirmed that it will adopt the arrangements set by Lewisham Council in relation to this matter:

"As Lewisham have indicated they have withdrawn the four-calendar month requirement that they had previously found to be appropriate for the area, the Trust would then intend to adopt the same approach as the local authority. If the local authority does not apply a time restriction, the Trust would not apply a time restriction to future applications received for children of crown servants and military service personnel."

39. I will now move to consider whether the arrangements are such that parents can understand easily how places for the School will be allocated, as required by paragraph 14 of the Code. Given my finding above that a time limit is not compliant with the Code, the question of whether or not any such time limit must be set out in admission arrangements is academic. However, for completeness I will address this issue below.

40. The School's arrangements make no specific mention of applications relating to the children of UK service personnel and crown servants. And the Trust is correct when it states that:

"The Code does not require admission authorities to stipulate the provision for crown servants and military service personnel in their admissions arrangements."

41. However, as previously set out, the Admission Authority must comply fully with the requirements of the Code. In this instance, the Trust had chosen to follow the Local Authority's stance of stipulating a four-month time restriction. By doing so the Trust had, in effect added an additional criterion to its arrangements. However, they have not made this clear in their arrangements. By reading the arrangements, or indeed reading the Code itself, an applicant would not know that there was a restriction in place. This is, therefore, in breach of paragraph 14 of the Code as the Arrangements do not clearly set out how the children of crown servants will be admitted and parents cannot easily understand how places for such applicants will be allocated.

## Summary of Findings

42. Taking all the evidence into consideration, I consider that, based upon the evidence of the circumstances in this case, setting a time restriction on when an application for a school place for the children of crown servants can be made is in breach of paragraph 2.21 of the Code.

43. Were any time limit to be permitted by the Code, I would also find that not including details of the time restriction in the Arrangements would render the Arrangements unclear.

The absence of such information would not allow a prospective applicant to know about the restriction ahead of making the application. The Arrangements, therefore, would not be clear or easily understandable and so are in breach of paragraph 14 of the Code.

## **Determination**

44. I have considered the admission arrangements for September 2025 for Prendergast School in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to in-year applications for children of crown servants the arrangements do not conform with the requirements relating to admission arrangements.

45. 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: 19 March 2025

Signed:

Schools Adjudicator: Catherine Crooks