



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** ADA4396

**Objector:** A member of the public

**Admission authority:** Kernow Learning Trust

**Date of decision:** 24 April 2025

## 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 2026 determined by Kernow Learning Trust on behalf of all 21 schools within the Trust.

I have also considered the arrangements in accordance with section 88I(5) and find 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 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 all the schools within Kernow Learning Trust (the Trust) for September 2026.
2. The Trust comprises 21 primary schools, all of which are co-educational and non-selective. All the schools admit children into Reception Year (YR).
3. The schools are all located within the area of Cornwall Council (the LA). The LA is a party to this objection. As three of the schools have a Church of England religious

character, the Diocese of Truro (the Diocese) is also a party to the case. The other parties to the objection are the Trust, and the Objector.

4. The objection is to the Trust's arrangements for the admission of children below compulsory school age<sup>1</sup> and outside their normal age group.

## Jurisdiction

5. 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 schools 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 24 January 2025.

6. The Objector submitted his objection to these determined arrangements on 3 March 2025.

7. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## Procedure

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

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

- a. a copy of the minutes of the meeting of the trustee board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the Objector's form of objection and supporting information;
- d. the Trust's, the LA's and the Diocese's responses to the objection and supporting information;

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<sup>1</sup> 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.

- e. Information available on the Department for Education (DfE) website including the document 'Guidance on handling admission requests for Summer Born Children<sup>2</sup>' (the DfE guidance) and the 'Get Information About Schools' (GIAS) website; and
- f. Information available on the Trust; individual schools within the Trust; the LA; and the Diocese websites.

10. I would like to extend my thanks to the Trust, the LA and the Diocese for their responses to my requests for further information. Although I may not directly refer to it in my determination, I have read and taken account of all the information provided to me.

## The Objection

11. The objection relates to the Trust's arrangements for deferred entry to school where children are below compulsory school age and to the admission of children outside their normal age group. Although not directly referred to within the Trust's Admissions Policy, the arrangements include a Trust document titled 'Delayed and Deferred Admission Policy' (the DDA policy). The content of the DDA policy is central to the matters raised by the Objector. The objection identifies a number of areas of concern. These are set out in detail below.

12. The Objector believes that the wording in the DDA policy suggests to parents that, once they have opted for their child to attend school full-time, it is not possible for this to be reviewed. This may be misleading for parents and in breach of paragraph 2.17 of the Code.

13. The Objector believes that the Trust is following outdated DfE guidance. He quotes examples from the DDA policy of wording attributed to the DfE but which is in neither the Code nor the DfE guidance. The Objector believes that this makes the arrangements unclear and in breach of paragraph 14 of the Code.

14. The DDA policy sets out when a panel will meet to consider any application for deferred or delayed entry. These meetings are scheduled to take place after the primary National Offer Day (16 April). The Objector believes that the information in the policy may be in breach of paragraph 2.20 of the Code.

15. The Objector believes that the DDA policy implies a higher bar to delayed entry than that set out in the Code. This could be misleading to parents and in breach of paragraphs 14 and 2.18 of the Code.

16. The DDA policy recommends that "decision-makers should satisfy themselves that they have gathered sufficient evidence" before making decisions about placement outside

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<sup>2</sup> 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).

the normal age group. The suggested examples of evidence to be collected are not in line with paragraph 2.19 of the Code or the DfE guidance.

17. The DDA policy refers to a 'Code of practice 2021' but it is unclear what document this is referring to. This may be in breach of paragraph 14 of the Code.

## Other Matters

18. Having considered the arrangements as a whole it would appear that the following matters also do not, or may not, conform with the requirements of the Code.

19. The arrangements refer to 'statements of special educational needs'. This terminology is no longer used and may be in breach of paragraph 14 of the Code.

20. Oversubscription criterion 5 refers to "Children of all staff who are in the paid employment of Kernow Learning for at least 2 years at the time of the application." This may be in breach of paragraphs 1.39-1.40 of the Code.

21. The arrangements states that late applications will be dealt with in accordance with that LA's coordinated admissions scheme. However, as no details of the scheme are provided this may be in breach of paragraph 14 of the Code.

22. Insufficient details are provided about the LA's 'Random Allocation protocol' to enable parents to understand easily how places at a school will be allocated. This may be in breach of paragraph 1.34 of the Code.

23. The 'Waiting List for entry to Foundation Year' section of the arrangements does not contain all the information required by paragraph 2.15 of the Code.

24. The arrangements refer to a separate policy document and an application form in relation to 'out of year admissions' that I have been unable to find on the schools' or the Trust's websites. The arrangements are, therefore, unclear and may be in breach of paragraph 14 of the Code.

25. The determined arrangements for 2026/27 do not appear to be available on the schools' or Trust's websites. This may be in breach of paragraph 1.50 of the Code.

## Background

26. The objection form specifically mentions the arrangements at Beacon Primary Academy; however, the Objector is clear that his objection applies equally to all 21 schools in the Trust as they share the same admission arrangements.

27. Table 1 provides details of the schools in the Trust, including type of academy, age range, number on roll and whether or not the school has a religious character or special classes.

**Table1: Details of the schools within the Trust (information taken from GIAS)**

| <b>School</b>                        | <b>Type of academy</b> | <b>Age Range</b> | <b>Number on roll</b> | <b>Religious character</b> | <b>Special classes</b> |
|--------------------------------------|------------------------|------------------|-----------------------|----------------------------|------------------------|
| Beacon ACE Academy                   | Academy Converter      | 3 - 11           | 421                   | no                         | yes - SEN unit         |
| Charlestown Primary School           | Academy Converter      | 4 - 11           | 410                   | no                         | no                     |
| Constantine Primary School           | Academy Converter      | 4 - 11           | 169                   | no                         | no                     |
| Falmouth Primary Academy             | Academy Sponsor Led    | 4 - 11           | 244                   | no                         | no                     |
| Foxhole Learning Academy             | Academy Sponsor Led    | 5 - 11           | 86                    | no                         | no                     |
| King Charles CofE Primary school     | Academy Converter      | 4 - 11           | 414                   | Church of England          | no                     |
| Leedstown Community Primary School   | Academy Converter      | 3 - 11           | 79                    | no                         | no                     |
| Mabe Community Primary School        | Academy Converter      | 3 - 11           | 175                   | no                         | no                     |
| St Agnes Academy                     | Academy Converter      | 5 - 11           | 363                   | no                         | no                     |
| St Columb Major Academy              | Academy Converter      | 4 - 11           | 359                   | no                         | no                     |
| St Columb Minor Academy              | Academy Converter      | 4 - 11           | 469                   | no                         | no                     |
| St Francis CofE Primary School       | Academy Converter      | 4 - 11           | 419                   | Church of England          | no                     |
| St Kew ACE Academy                   | Academy Converter      | 3 - 11           | 78                    | no                         | no                     |
| St Merryn School                     | Academy Converter      | 3 - 11           | 135                   | no                         | no                     |
| St Newlyn East Learning Academy      | Academy Sponsor Led    | 4 - 11           | 154                   | no                         | no                     |
| Sky Primary and Eden Project Nursery | Free School            | 3 - 11           | 53                    | no                         | no                     |
| The Bishops' CofE Learning Academy   | Academy Converter      | 3 - 11           | 353                   | Church of England          | no                     |
| Trenance Learning Academy            | Academy Converter      | 4 - 7            | 348                   | no                         | no                     |
| Trevisker Primary School             | Academy Converter      | 4 - 11           | 162                   | no                         | no                     |
| Upton Cross ACE Academy              | Academy Converter      | 3 - 11           | 93                    | no                         | no                     |
| Wendron CofE Primary School          | Academy Converter      | 4 - 11           | 103                   | no                         | no                     |

28. In summary, the arrangements set out the following oversubscription criteria.

Children with an Education, Health and Care Plan (EHCP) that names the school must be admitted. Where there are more applications for places than the number of places available, places will be offered in the following order of priority:

1. Children in care and previously looked after children.
2. Children living within the designated area of the school who have a sibling attending the school at the time of application and the intended date of admission.
3. Children living outside of the designated area of the school who have a sibling attending the school at the time of application and the intended date of admission.
4. Children with an unequivocal social / medical need for attending the school.
5. Children of all staff who are in the paid employment of Kernow Learning for at least two years at the time of the application.
6. Children living within the designated area of the school.
7. Any child who does not fit into one of the above categories.

28. In addition to the Code, which sets out the mandatory requirements and statutory guidance for admission authorities, the objection also refers to the DfE guidance on handling admission requests for summer born children. This 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 and fulfil the legal duties imposed by the Code. 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

29. The Trust's DDA policy states that:

"Parents must make their choice of part-time admission clear to the school as soon as possible after receiving the notification of a place and before September ..."

The Objector states that:

"There is nothing preventing a parent from changing to part time after the school year starts, if a child is finding full-time too much, as long as the child is not yet of Compulsory School Age. The document's use of "must" indicates that a decision on part time before September is mandatory and is, therefore, misleading to parents."

This may be in breach of paragraph 2.17 of the Code.

30. Paragraph 2.17 of the Code states:

“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”.

31. In response to this aspect of the objection, the Trust states;

“This allows for the school to make sure they have the most suitable provision in place for each pupil and are working with parents and children to plan and prepare to welcome them into reception.

It [the Trust] will never prevent a parent from working with the school to adapt provision if the parent chooses once the pupil has started.”

32. I am of the view that it is acceptable to ask parents to inform the school that they wish their child to attend school part-time as soon as possible after an offer of a place has been made and, certainly, before the child actually starts school. This is to enable the school to put the appropriate arrangements in place. Paragraph 2.17, and the Code more generally, does not refer to how arrangements may subsequently be changed after a child starts school, except to say that any part-time arrangements must cease when the child reaches compulsory school age. It is not, therefore, within my jurisdiction to comment on arrangements made after the child has started school. However, I note that the Trust says that it is willing to work with parents to adapt provision to meet a child’s needs.

33. I do not find it to be contrary to the Code that the Trust asks parents to inform the school that they wish their child to attend part-time as soon as possible after an offer of a place has been made and I do not uphold this aspect of the objection.

34. The Objector believes that the Trust is following outdated DfE guidance and that this results in the arrangements being unclear and in breach of paragraph 14 of the Code. The Objector states:

“Page 5 - the Trust are quoting older (2021) guidance, this was updated and revised in April 2023, and again in November 2024. In particular, the sentence in the arrangements says:

‘Department for Education guidance states that: ‘The government would agree that, in general, children should be educated in their normal age group, with the

curriculum differentiated as appropriate and that they should only be educated out of their normal age group in very limited circumstances’.

The sentence they quote here no longer exists in the relevant DfE guidance document.”

35. Paragraph 14 of the Code 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.”

36. The quote set out in the DDA policy, and attributed to the DfE, is not contained within the Code or the current version of the DfE guidance. Furthermore, the DDA policy also contains a section titled ‘Advice on the admission of summer born children December 2021’. As the DfE guidance has been updated at least twice since December 2021, the Trust’s DDA policy is potentially misleading to parents and is, therefore, unclear. I find that the arrangements are, therefore, in breach of paragraph 14 of the Code and I uphold this aspect of the objection. I am grateful to the Trust for indicating that they will amend their policy to remove these references.

37. The DDA policy sets out the procedure to be followed when an application for an ‘out of year’ admission is received, this includes the Trust forming a panel to consider the application. The Objector raises the following concerns about the process:

“ ‘Page 6 - The panel will meet to consider applications for delayed entry as part of the normal admissions cycle at the end of May and the end of June (late application).’ ...

This is well after National Offer Day (April 15th) [sic]. This is contrary to the Guidance, which specifies that parents should be informed before National Offer Day. The arrangements are not clear in this respect, and contrary to the Guidance.”

38. For primary school admissions, the DfE guidance recommends 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.”

39. As the panel meetings are scheduled to take place after the primary National Offer Day (16 April), this does not follow the DfE’s recommended process nor paragraph 2.20 of the Code which states, in part, that:



“...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...”

I, therefore, uphold this aspect of the objection. I am grateful to the Trust for its response to this matter. The Trust said:

“We offer two fixed opportunities for our panel to convene – we will amend this to ‘prior to National Offer Day’.”

40. The DDA policy states that:

“... apart from in the most exceptional circumstances, schools are able to meet all pupils’ personal, social and educational needs within their appropriate age group, and that this is a reasonable expectation.”

The Objector believes that the use of ‘most exceptional’ implies a higher bar to delayed entry than that set out in the Code. This could be misleading to parents and in breach of paragraphs 14 and 2.18 of the Code.

41. Paragraph 2.18 of the Code states;

“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<sup>3</sup> 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.”

42. In response to this aspect of the objection, the Trust said:

“In almost every case our schools are meeting all pupils personal, social and educational needs within their appropriate age group. We have fewer than 0.1% of our pupils taught outside of their appropriate age group.

Nb – all requests to educate children outside of their appropriate age group in 2022, 2023, 2024, 2025 were accepted.”

43. As stated in paragraph 2.18 of the Code, parents may seek a place for their child outside of their normal age group for a variety of reasons. There is nothing in the Code

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<sup>3</sup> 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.

which suggests that these reasons must be 'exceptional'. Indeed, the DfE guidance specifically states:

"There do not need to be exceptional circumstances, and a child does not need to have a medical need or SEND [special educational need or disability] for it to be in their best interests to be admitted out of their normal age group."

44. I find that including the phrase 'most exceptional' in the DDA policy is potentially misleading and unclear for parents. I, therefore, uphold this aspect of the objection.

45. The DDA policy suggests examples of evidence to be collected before decision-makers decide whether to place a child outside their normal age group. These are not in line with paragraph 2.19 of the Code. The DDA policy states:

"Kernow Learning makes the following recommendations for those making decisions about placement outside the normal age group – decision-makers should satisfy themselves that they have gathered sufficient evidence to show that:

- The child shows a significant delay, and little progress, in their personal and emotional development, and social skills appropriate for a younger peer group;
- The child shows significant delay and little progress in intellectual development/educational skills, to an extent that it is not reasonable to expect differentiation within their normal age group to be successful;
- The child's physical maturity is not likely, in the future, to make them developmentally different from their proposed peer group in such a way as to impact negatively on their self-esteem/self-awareness (including consideration of puberty)."

46. Paragraph 2.19 of the Code states:

"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."

47. The Code is clear that any decisions must be made in the best interests of the individual child. The arrangements, however, state that to place a child outside of their normal age group, the evidence should show that the child has significant delay in their development. While this may be the case for some children, it would not usually be the case for summer born children, for example. I find that the wording of the DDA policy

unnecessarily restricts the panel's decision-making discretion. I also find that it is potentially misleading for parents who are considering when their child should start school. I uphold this aspect of the objection.

48. The Trust indicated that the suggested list of considerations is taken directly from the LA's document 'Admission of pupils outside their normal age group'. While an admission authority is responsible for its own arrangements and should not rely on wording published by another authority, it is understandable that the Trust has looked to the LA for guidance. In its response to me, the LA said:

"... Cornwall Council has a separate guidance document relating to deferred and delayed entry to school which is available on the Council's website: Deferring or delaying admission to school and educating pupils out of their chronological year group - Cornwall Council. The Council will welcome the OSA's findings in this matter to inform a review of its guidance on delayed entry and also its guidance to schools/trusts on setting clear and lawful admission arrangements."

49. The DDA policy refers to a 'Code of practice 2021'. It is unclear what document this is referring to and I uphold this aspect of the objection as it is in breach of paragraph 14 of the Code. The Trust has confirmed that the wording in the DDA policy should read 'School Admissions Code 2021' and it will amend the policy accordingly.

## Consideration of Other Matters

50. I now turn my attention to considering the other matters that I thought may not comply with the requirements of the Code.

51. The arrangements refer to 'statements of special educational needs'. This terminology is no longer in use and is likely to be unclear for parents. This is in breach of paragraph 14 of the Code. I am grateful to the Trust for indicating that it will remove this wording from its arrangements.

52. Oversubscription criterion 5 refers to "Children of all staff who are in the paid employment of Kernow Learning for at least 2 years at the time of the application." Paragraph 1.39 of the Code states, in part, that:

"admission authorities may give priority in their oversubscription criteria to children of staff where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made."

This means that the member of staff should be working at the school to which the admission arrangements apply rather than the Trust as a whole.

Furthermore, arrangements must specify how this priority will be applied, for example, to which groups of staff it will apply. The arrangements for the Trust do not contain this level of detail. The arrangements are, therefore, in breach of paragraphs 1.39 -1.40 of the Code.

53. The arrangements state that:

“Late Applications ... are submitted after the closing date of the Local Authority’s coordinated admissions scheme and they will be dealt with in accordance with that scheme.”

However, as no details of the scheme are provided, the arrangements are unclear. This is in breach of paragraph 14 of the Code. The Trust has undertaken to add this information to its arrangements.

54. Insufficient details are provided within the arrangements about the LA’s ‘Random Allocation protocol’ to enable parents to understand easily how places at a school will be allocated when it is oversubscribed. This is in breach of paragraphs 1.34 and 1.35 of the Code which state, in part, that:

“... 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.

The random allocation process **must** be supervised by someone independent of the school, and a fresh round of random allocation must be used each time a child is to be offered a place from a waiting list.”

The Trust has again undertaken to add this additional information to its arrangements.

55. The ‘Waiting List for entry to Foundation Year’ section of the arrangements does not contain all the information required by paragraph 2.15 of the Code which states:

“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. Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol **must** take precedence over those on a waiting list.”

56. The arrangements include a section titled ‘Admission to a Year Group different to that determined by Date of Birth’. This section refers to ‘The Kernow Learning policy covering admission to a year group different to that determined by date of birth’ and the need to complete an ‘Out of Year Group Application Form’. I have been unable to find a policy with that title or a copy of such an application form on any of the schools’ or Trust’s websites. The arrangements are, therefore, unclear and in breach of paragraph 14 of the Code. The arrangements make no direct reference to the DDA policy referred to earlier in this determination. The Trust has agreed to amend its arrangements to bring greater clarity.

57. As of 15 April 2025, the arrangements for 2026/27 are not published on the schools' or the Trust's websites. This is in breach of paragraph 1.50 of the Code which states, in part:

"Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on the school's website or their own website (in the case of a local authority) by **15 March** in the determination year and continue displaying them for the whole offer year (the school year in which offers for places are made)."

## Determination

58. 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 2026 determined by Kernow Learning Trust on behalf of all 21 schools within the Trust.

59. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

60. 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: 24 April 2025

Signed:

Schools Adjudicator: Catherine Crooks