



Office of  
the Schools  
Adjudicator

## Determination

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| <b>Case reference:</b>      | <b>ADA4398</b>   |
| <b>Referrer:</b>            | <b>A parent</b>  |
| <b>Admission authority:</b> | <b>The Spire Church of England Learning Trust, on behalf of Witton Middle School, Worcestershire</b> |
| <b>Date of decision:</b>    | <b>9 June 2025</b>   |

## Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2026 determined by The Spire Church of England Learning Trust, on behalf of Witton Middle School, Worcestershire.**

**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 person (the Objector), about the admission arrangements (the Arrangements) for Witton Middle School (the School), an academy school for children aged nine to twelve, for September 2026.
2. The objection relates to the School's Arrangements pertaining to the admission of children outside of their normal age group.

3. The local authority (LA) for the area in which the school is located is Worcestershire County Council. The LA is a party to this objection. Other parties to the objection are The Spire Church of England Learning Trust (the Trust) and the School.

## **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. The Arrangements were determined under section 88C of the Act by the local governing board of the School on behalf of the admission authority, on 18 September 2024.

5. The Objector submitted their objection on the 12 March 2025. The Objector has asked to have their identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of their name and address to me.

6. The objection was originally made on the form objecting to School Admission Arrangements for September 2025. However, it was clarified with the Objector, who confirmed on the 30 April 2025, that the objection was in fact to the September 2026 arrangements and the form submitted should be treated as such.

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

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

- a. a copy of the minutes of the meeting of the local governing board at which the Arrangements were determined;
- b. a copy of the determined Arrangements;
- c. the Objector's form of objection dated 12 March 2025;
- d. the School's response to the objection and supporting documents;
- e. the LA's "Co-ordinated Admissions Scheme for First & Middle Schools in Worcestershire for 2026/27 Academic Year" as well as the LA's Policies and Guides on Delayed/Deferred and Accelerated Transfers;
- f. information on Department for Education (DfE) websites, particularly the "Get Information About Schools" (GIAS) site; and

- g. the non-statutory guidance published by the DfE entitled “Summer born children starting school: advice for admission authorities” last updated 28 November 2024, “Summer born children starting school: advice for parents” and “Making a request for admission out of the normal age group” both last updated 27 April 2023 (collectively the Guidance).

## The Objection

10. The Objector is concerned that the School’s Arrangements do not conform to the Code, specifically paragraphs 2.18 and 2.19, as follows:

- (i) they fail to provide for a request for admission of summer born children;
- (ii) it is unlawfully stated that the head teacher must complete an educational assessment prior to approving an out-of-cohort admissions request; and
- (iii) an unlawful blanket policy statement is incorporated that the school ordinarily would not approve such requests.

11. As mentioned above, in respect of these concerns, the Objector referenced the following paragraphs of the Code in the objection form:

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.”

## Other Matters

12. Having considered the Arrangements as a whole it would appear that there are aspects which I identified as not or possibly not conforming with the requirements of the Code. These matters are set out in detail below along with any comments given by the School and my decision as to whether there is conformity with the Code. In summary, they relate to a lack of clarity in the Arrangements such that parents would not be “able to look at

a set of arrangements and understand easily how places for that school will be allocated” in contravention of paragraph 14 of the Code.

## Background

13. The School is a co-educational middle deemed primary school for children aged nine to twelve which became an academy in 2020. It is situated in Droitwich Spa in the north of Worcestershire in the Droitwich planning area of the LA. GIAS reports that it has capacity for 450 pupils.

14. Pupils are admitted into the School at Year 5 and the School has a Year 5 PAN of 150 pupils. The School reports having been consistently below PAN for a number of years and has previously reduced PAN from 180 to 150 (as from September 2024). Current numbers in each year group are as follows:

| Year 5 | Year 6 | Year 7 | TOTAL |
|--------|--------|--------|-------|
| 130    | 101    | 144    | 375   |

15. There are both two-tier and three-tier education systems in operation in Worcestershire. In areas which operate a two-tier model, children enter primary school at reception before transferring to a secondary school at the start of year 7. In areas which operate a three-tier model, children enter first school at reception, transfer to a middle school at the start of year 5 or 6 depending on the age range of the middle school and then transfer again to high school at the start of year 8 or 9 depending on the age range of the high school.

16. The Droitwich planning area operates a three-tier model which involves first schools (with an age range of Reception Year to Year 4), middle schools (with an age range of Year 5 to Year 7) and high schools (with an age range of Year 8 to Year 13).

17. The oversubscription criteria for the School can be summarised as:

17.1. Looked after and previously looked after children;

17.2. Children with a sibling at the School;

17.3. Children living in the Droitwich Spa catchment area;

17.4. Children attending a named feeder school;

17.5. Children of staff; and

17.6. Children living nearest to the School.

18. If applicants live equidistant from the School, random selection supervised by someone independent of the School is employed as a final tiebreaker.

## Consideration of Case

19. The School's Arrangements in relation to admission for children outside of their normal age group, simply refers to them following "the procedures set out by [the] Worcestershire County Council as shown on p. 26 section 1.16 of the Admissions to Middle Schools Information for Parents booklet (link below)".

20. I have noted with the parties that the page reference given is incorrect and the link is to information relating to September 2025 admissions rather than September 2026. The School tells me that the 2026/27 guide has not yet been published. I am grateful to the School for confirming that the incorrect page reference will be corrected in the Arrangements and would also encourage the LA to publish the 2026/27 guide as soon as possible to assist parents in making properly informed choices.

21. There are also other documents on the LA website which deal with applications for places outside of normal year group including "Co-ordinated Admissions Scheme for First & Middle Schools in Worcestershire for 2026/27 Academic Year", Policy on Delayed and Accelerated Transfer" and "Deferred and Delayed Entry Guide 2025" (the 2025 Guide). I am told that the 2026/27 guide has also not yet been published by the LA.

22. In response to my further request for information, the School informed me that in the event of an application for admission by parents of a child outside of their normal age group, these documents provide the relevant guidance for parents and are used when considering any applications. Not all these documents are referenced in the Arrangements.

23. The Arrangements in the Notes section also include the following:

**"Admission of children outside of their normal age group** – 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 ill health, effectively in the year group below or above their chronological age group.

The Local Authority will request the Headteacher of the school to reach the final decision. This will involve the Headteacher completing an educational assessment to determine whether or not it is appropriate for the individual child to delay or accelerate their entry into school and be taught outside of the chronological age group. This would ordinarily not be agreed at Witton Middle School."

24. The admission of children outside their normal age group (i.e. the year group a child would have been in had they entered school in the September following their fourth birthday) is dealt with in paragraphs 2.18 to 2.20 of the Code. In addition, the DfE has issued the Guidance. This Guidance, which is non-statutory, provides support for admission authorities in implementing the provisions of the Code and help for parents seeking to ask an admission authority to admit their child out of their normal age group. Although the Guidance is non-statutory, admission authorities would need good reason to depart from it.

25. At this point, I would also mention that there has been a previous determination (case reference: ADA4203) in relation to the School's previous arrangements. Although the objection related to a PAN reduction, there was a concern expressed by the Adjudicator dealing with that matter as to the information available to parents where requesting admission outside of the normal age group and the School indicated that it was willing to amend its arrangements to "insert a paragraph explaining the process in more detail".

26. The Objector's first complaint is that the Arrangements fail to provide for a request for admission of summer born children. The Code defines the term summer born children as relating 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)" (see footnote 57 of paragraph 2.18 of the Code).

27. Paragraph 2.18 then provides that "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". The thrust of the provisions in paragraph 2.18 of the Code in connection with summer born children therefore is how those summer born children are treated when they first start their education upon reaching compulsory school age.

28. In this case, the School pointed out that this is a middle school with entry into the School in the normal admissions round at Year 5. A request by a parent to admit a summer born child out of their normal age group would therefore have already been made upon them reaching compulsory school age such that the child would have started school in the reception class in a different school in the September after their fifth birthday. The School stated:

"The 'summer-born element' of decision making is undoubtedly relevant upon a child's first admission into a school (usually in Reception year). However, the time of year of a child's birth is not ordinarily considered as part of the admissions process into Middle, Secondary or High Schools."

29. However, this is not entirely correct as if a summer born child were to be admitted outside their normal year of entry, then the provisions of the Code at paragraphs 2.18 and 2.19 as well as the Guidance would apply on their transfer to another school.

30. Although there is nothing in the Code specifically mentioning the transfer of a summer born child to another school following admission out of their normal age group, the Guidance does deal with this and clearly provides that if a parent wanted a child to remain out of their normal age group when they transfer to a new school, such as potentially in this case from a First School to a Middle School, they will need to make a further request to the admission authority for admission out of the normal age group at that point. This request is separate to but should be made alongside an application for a school place.

31. The admission authority of the new school is then to decide whether it is in the child's best interests to continue to be educated out of their normal age group taking into account that the child is currently being educated outside of the normal age group. The Guidance

goes on to say that unless there are good educational reasons for a child to join their normal year group (meaning they would miss a year of school), they should remain with their adopted year group.

32. The School told me in responses to my inquiries that they have not “received any applications for places outside the normal year group since 2019” however they have “...educated several children over the past 5 years who have been outside of their chronological age group. These have all been children who have been taught in their previous school as part of the year below their chronological age group. In these cases there has not been a formal application received; the children have been admitted into their First School on delayed entry, and been educated for those years as part of a cohort of children moving up to Middle School together and have continued to be kept within this cohort as there has been no compelling reason that it would be of benefit to the child to change this at the point of transition”.

33. This would not be immediately clear from the Arrangements to any parents of pupils who have previously been educated outside of their normal age group and is not the process envisaged by the Guidance, or indeed the LA’s 2025 Guide, which the School purports to follow.

34. The LA’s 2025 Guide provides that any request for admission to remain out of the normal age group upon transfer should be made alongside an application for a school place. In fact, the LA Policy on Delayed and Accelerated Transfer which the School has also referenced in responses to my requests for further information states that “Middle and Secondary schools are under no obligation to honour the delay when children transfer to their next school.”

35. Paragraph 2.18 requires admission authorities to “make clear in their admission arrangements the process for requesting admission out of the normal age range” and this would include any school transfer of summer born children. The Arrangements do not do this in relation to the process for the transfer of summer born children who wish to remain out of their normal age group upon transfer to another school and therefore need clarifying in this regard.

36. The Objector’s second and third complaint is that the Arrangements are “unlawful” in two areas: the head teacher must complete an educational assessment prior to approving an out-of-cohort admission and that there is a blanket policy statement which is incorporated that the School typically would not approve such requests.

37. Paragraph 2.19 of the Code sets out the parameters of how decisions should be made in relation to any requests for admission of children outside their normal age group. The Guidance also provides further help for admission authorities.

38. The Code is clear that admission authorities **must** make decisions on the circumstances of each case and in the best interests of the child concerned. There are a number of factors listed in paragraph 2.19 and further outlined in the Guidance which could be relevant to the decision. This includes taking account of parents’ views; information

about the child's academic, social, and emotional development; where relevant, a child's medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; whether they may naturally have fallen into a lower age group if it were not for being born prematurely. In addition, admission authorities **must** also take into account the views of the head teacher at the school concerned.

39. In circumstances, where an application is made to the School in relation to admission of children outside of their normal age group, the Arrangements provide that the LA will request the head teacher of the school to reach the final decision. However, the admission authority is the Trust. The LA is not the admission authority and neither is the head teacher of the School.

40. When I clarified with the School, which body or person makes the decision in relation to any application for admission of children outside of their normal age group, they told me that the LA's 2025 Guide is followed such that "if the school is an Academy....this will be the Governing Body/Academy Trust". Therefore, in the case of the School, this would be the local governing body, on behalf of the Trust, with reference to the opinion of the head teacher. This is not what the Arrangements currently say and are therefore misleading and as such, they do not meet the requirements of the Code.

41. In terms of the consideration of any application for a child outside of their normal age group, it is the responsibility of the admission authority to determine that application on the circumstances of each case and in the best interests of the child concerned taking into account the factors in paragraph 2.19 of the Code that I have listed above. An education assessment could be part of the information which is relevant but the other factors listed in paragraph 2.19 of the Code may also be relevant to the decision and should also be considered.

42. I asked the School to clarify what factors are considered when making any decision on any application made by parents. The School referred me to the LA's Information for Parents Admissions to Middle Schools 2025/26, as the 2026/27 document has not yet been published, and stated that the School follows this and the guidance as set out in the Policy on Delayed and Accelerated Transfer.

43. Although these do refer to the factors as set out in paragraph 2.19 of the Code, the Arrangements currently make no reference to any of those factors and could therefore lead parents to make the incorrect assumption that an educational assessment completed by the head teacher is the sole determining factor.

44. As mentioned above, paragraph 2.18 of the Code requires that admission authorities make clear the process for requesting admission outside of the normal age group. The Arrangements should be amended so that it is clear who is the decision-maker for any applications for admission outside of normal age range, the factors that will be considered, and the steps that need to be taken by parents.

45. In terms of the statement in the Arrangements to the effect that the School would not ordinarily agree to the admission of children outside of their normal age group, it is clear

from the Code and the Guidance that each application should be considered on its merits and in the best interests of the child with any decision-makers applying their judgment to each individual application. The wording in the Arrangements contravenes the provisions of the Code and is therefore unlawful.

46. The School has accepted that the Arrangements do not explain the process in detail and refers to LA processes. They have stated they would be happy to insert additional information into the Arrangements to clarify the Arrangements. This is welcomed.

## Consideration of other matters

47. I now turn my attention to considering the other matters which I thought may not comply with the requirements of the Code. Where I refer to parts of the arrangements not being clear for parents, that is in respect of paragraph 14 of the Code 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.”

Other parts of the Code are specified where relevant.

48. The matters in the Arrangements I raised are:

- a. The Arrangements do not make clear that the oversubscription criteria will only operate where there are more applications to the school for admission than places. Paragraph 15(d) [and 1.6] of the Code provides that “If a school is undersubscribed, any parent that applies **must** be offered a place.” The statement “The Governors will **initially** apply the following criteria to **all** applications” is therefore inaccurate and/or misleading.

The School responded that it would revise the appropriate sentences to clarify how and when the oversubscription criteria operate.

- b. Paragraph 15(d) of the Code also makes it clear that “When oversubscribed, a school’s admission authority **must** rank applications in order against its published oversubscription criteria”. The statement “They have agreed that the **aim** shall be to admit pupils, regardless of ability, in the following priority order:” does not make clear that it is a mandatory requirement that the school allocates places in accordance with its published admission criteria.

The School responded that it would revise the appropriate sentences to clarify the ranking of pupils and that it is mandatory for the school to allocate places in accordance with the published admission criteria.

- c. Oversubscription criteria 6 includes the words “by the shortest” which are unnecessary when it already says the nearest and cause this part of the Arrangements to be unclear.

The School responded that it would revise the appropriate sentences to remove the unnecessary wording to clarify distance criteria.

- d. Regarding the information to parents and links to LA resources in relation to applications for admission in the Arrangements:
- (i) the weblinks to the LA's website only go to the main page. This means that parents cannot easily find the resource they are being directed to and cannot easily understand the Arrangements.
  - (ii) the reference to the forms to be used for in-year applications do not accord with the information on the LA website. For example, the Education History Form needed to accompany the online application is not mentioned and this could mean that parents do not understand the in-year application process. In addition, both the School and the LA should be aware that paragraph 2.4 of the Code states that admission authorities “**must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability”. Insofar as the Education History Form seeks information outside those parameters it may not comply with the requirements of paragraphs 1.9 and 2.4 of the Code.
  - (iii) The page reference in the section entitled “Admission for children outside their normal age group” is incorrect.

The School responded that it would amend the hyperlinks to LA webpages where practicable and correct page links. It did however note that in some cases 2026/27 documentation has not yet been published by the LA and other cases, pages have moved since the Admission arrangements were determined. The School therefore proposed inclusion of the “umbrella” link to the admissions area of the LA as a catch-all for parents. The School will also amend the section relating to in-year applications to include explicit reference to the Education History Form.

- e. In the ‘Notes’ section of the Arrangements, it states “In accordance with legislation, children with an Educational Health and Care Plan (EHCP) will be allocated a place at school if it is the named provision”. The Arrangements do not make clear that children with EHCPs who name the school in the plan **must** be admitted first, before the oversubscription criteria are applied (see Paragraph 1.6 of the Code) or that the number of EHCPs admitted will then reduce the number of places left to be allocated up to the Published Admission Number.

The School responded that it would revise and improve the wording so that it is clearer for parents.

- f. In the 'Notes' section of the Arrangements in respect of Waiting lists, paragraph 2.15 of the Code states that admission authorities **must** state "in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria". The Arrangements do not make that clear for parents.

The School responded that it would revise and improve the wording so that it is clearer for parents and accurately reflects the Code.

49. The School has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. The Code requires that the arrangements be amended to address the points I have raised within the timescale set out in this determination.

50. I am also thankful to the LA who have indicated a willingness to work with the School to ensure compliance with the Code and make any necessary changes.

## Summary of Findings

51. The Objector raised concerns in respect of the Arrangements relating to applications for admission out of the normal age group. In particular, that the arrangements do not meet the requirements of paragraphs 2.18 and 2.19 of the Code.

52. There were three concerns, that the arrangements: fail to provide for a request for admission of summer born children; unlawfully state that the head teacher must complete an educational assessment prior to approving an out-of-cohort admissions request; and include an unlawful blanket policy statement that the school ordinarily would not approve such requests.

53. I have found that: although the provisions of the Code in relation to summer born children primarily relates to a pupil's first admission into a school, they are also relevant on a transfer to another school and that the Arrangements do not comply with the Code in that respect; the Arrangements do not correctly identify the decision maker for an application for admission outside of the normal age group and that although the head teacher must be consulted under the Code and an educational assessment may be one of the factors to be taken into account, the Arrangements may be misinterpreted and the process to follow when determining an application for admission outside of the normal age group is unclear and; a statement that the school ordinarily would not approve requests for applications for admission outside of the normal age group is unlawful. Finally, I find that the Arrangements do not include all the information necessary for parents to be able to understand how to make an application for a place out of the normal age group.

54. I, therefore, uphold the objection.

55. I have found other matters in respect of the Arrangements which I have detailed in the 'Other Matters' sections.

56. The admission authority must address the matters I have upheld from the objection, and the other matters that I have identified, within two months of the date of the determination to be ready for the application period for entry in 2026.

## **Determination**

57. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the Arrangements determined by the Trust for Witton Middle School, Worcestershire.

58. 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.

59. By virtue of section 88K(2), the adjudicator's decision is binding on the admission authority. The Code requires the admission authority to revise its Arrangements within two months of the date of the determination.

**Dated:** 9 June 2025

**Signed:**

**Schools Adjudicator:** David Holland