



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3005

Objector: A parent

Admission Authority: The academy trust for Nishkam School West London

Date of decision: 17 September 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the academy trust for Nishkam School West London in the London Borough of Hounslow.

I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements 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.

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 parent, (the objector), about the admission arrangements, (the arrangements), determined by the Nishkham School Trust, (the trust) which is the admission authority for Nishkham School West London, (the school), for September 2016. The school is an academy free school in Hounslow with a Sikh religious character for pupils aged 4-19. The objection is that the arrangements do not contain any information about: the right of a child to full-time education from September following their fourth birthday; or about the admission of children below compulsory school age to part-time education; or about the fact that admission may be deferred until such children reach compulsory school age, or about the admission of children outside of their chronological year group. The arrangements are said to contravene paragraphs 2.16 and 2.17 of the School Admissions Code (the Code).

Jurisdiction

2. The terms of the academy agreement between the academy 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 on 20 March 2015 by the academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 30 June 2015. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

3. The trust revised the arrangements that were determined in March 2015 and determined a new set of arrangements on 10 July 2015 in line with the provisions of paragraph 3.6 of the Code. When I looked at these varied arrangements I considered that there were issues that might also not conform with the requirements relating to admissions in ways other than those set out in the objection. I have accordingly used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

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

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

- the objector's email of objection dated 30 June 2015;
- the trust's responses to the objection dated 1 and 26 August and 2015;
- a response from Hounslow Borough Council, the local authority (LA) dated 4 August 2015;
- annex 1 of the supplemental agreement to the master funding agreement between the trust and the Secretary of State dated 13 August 2013;
- a copy of the minutes of the meeting held on 20 March 2015 at which the trust determined the arrangements;
- a copy of the minutes of the meeting held on 10 July 2015 at which the trust determined revised arrangements for 2016;
- copies of both sets of determined arrangements for admissions in 2016;
- the comments from Guru Nanak Nishkham Sewak Jatha (GNNSJ) which is the school's faith body, dated 5 August; and
- the LA's composite prospectus, "*Starting School in Hounslow Primary School admissions September 2015*".

The Objection

6. The objector says that the arrangements do not contain certain information which is required by paragraph 2.16 of the Code. This is information about the right of a child to a full-time place in the September following their fourth birthday, information about the fact that in relation to a child under compulsory school age a parent can defer admission or that a child may attend part-time. The objector says that there is no mention in the arrangements of the possibility of admitting children outside of their normal year group or about the process for applying for such admission as detailed in paragraphs 2.17A and 2.17B and that these omissions mean that paragraph 2.17 is also contravened.

Other Matters

7. When I reviewed the revised arrangements for 2016 determined in July 2015, I considered that there were matters that may not conform with the requirements relating to admissions. These include the requirement for the arrangements for 2016, which include the supplementary information form, (the SIF), to be published on the school's website; the inclusion of inaccurate information about the admission of summer born children out of their chronological age group; and the requirement for both parents to sign the SIF.

Background

8. The school is one of four free schools in the Nishkam School Trust, a multi academy trust. It is an academy free school which opened in September 2013 and which will eventually have the capacity to admit 1400 students aged 4 to 19 years by 2020, including a sixth form of 200. At present it has a published admission number of 50 and only admits children into the reception year (Year R). In September 2017, the school plans to open admissions to students in Years 7 and 12 and to the nursery.

9. The school is designated by the Secretary of State as a school with a Sikh religious character. Annex 1 to the school's supplemental funding agreement specifies that the school's faith body is GNNSJ.

10. In May 2015, the arrangements of one of the four trust schools were subject to an objection and as a result the trust made changes to the arrangements of that school. The trust then reviewed the arrangements of the three remaining schools and for this school it revised the arrangements on 10 July 2015 and sent the varied arrangements to the LA on 21 July 2015.

11. On receipt of the objection on 30 June 2015 I looked for the arrangements for admission in 2016 but they were not published on the school's website. They had still not been published at the time of completing this determination.

Consideration of factors

12. Although the school has sent a copy of its varied arrangements to the LA, the objection is to the set of arrangements that were initially determined in March 2015 and I will therefore consider the objection against those arrangements. Where the varied arrangements include the requisite information I will acknowledge this and where further revision is still required I will point this out.

13. The faith body for the school, GNNSJ, says that the trust has been advised that the arrangements must adhere to the Code. Both GNNSJ and the trust say that have worked extensively with the Department for Education (DfE) and the LA on the arrangements and have taken account of advice and guidance given in the period before the original funding agreement was signed. The trust says that the DfE has therefore been fully aware of the content of the arrangements. This may be the case but it is also the case that a revised Code which makes different provisions in paragraphs 2.16 and 2.17 from those in the former Code came into force in December 2014 which was after the funding agreement was signed. It is the responsibility of the admission authority to ensure that its arrangements conform with the requirements relating to admissions including any changed requirements flowing from changes to the Code. With regard to the objection, changes had already been made during June 2015 and had been adopted by the trust in July 2015.

14. The first matter raised by the objector is that the arrangements do not contain any information about the right of a child to a full-time place in the September following their fourth birthday or tell parents that the admission of children below compulsory school age can be deferred until the child reaches compulsory school age or tell parents that such children may attend part-time. This is said to contravene paragraph 2.16 of the Code. When I reviewed the arrangements I found they contained none of the information required by paragraph 2.16 of the Code which says, "*Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that, where they have offered a child a place at a school:*

- a) that child is entitled to a full-time place in the September following their fourth birthday;*
- b) the child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and*
- c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age".*

15. As the arrangements did not meet the requirements set out in paragraph 2.16 of the Code, detailed above, I uphold this part of the objection.

16. In the second part the objector says that there is no mention of admitting children outside their normal year group or about the process that parents should follow. Paragraph 2.17 of the Code says, "*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.*" When I reviewed the arrangements I found that information about the admission of children out of their chronological age group has been omitted and the requirement of paragraph 2.17 has not been met and I therefore uphold this part of the objection.

Other matters

17. When I reviewed the revisions to the arrangements for 2016, determined in July 2015, I considered that there might still be matters that did not conform with the requirements relating to admissions. The first of these concerns the requirement for the arrangements for 2016, which must include the SIF, to be published on the school's website. Paragraph 1.47 of the Code says, "*Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the school year in which offers for places are made).*"

18. The second matter is the inclusion of inaccurate information for parents about admission out of chronological age group. In the section of the revised arrangements, "*Reception Year Deferred Entry*" it says, "*Applicants whose children have birthdays in the summer term should be aware that, if they wish to defer, they will need to apply for a Year 1 place for the following September and if the school is oversubscribed they are very unlikely to obtain a place.*" This information is not correct. The Code requires schools to consider requests from the parents of summer born children for admission to Year R after the child's fifth birthday and parents must be told about the process for making such a request. As cited above, paragraph 2.17 of the Code says, "*....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.*"

19. The second matter relates to the SIF and although only one parent is asked to sign the SIF (which is correct), the form refers to "Name/s of parent/s or guardian/s". Where the plural is used parents may feel obliged to provide this information in case this affects their priority for admission. Paragraph 1.9f of the Code says that, "*Admission authorities **must not** give priority to*

children according to the occupational, marital, financial or educational status of parents applying.” The trust has already amended the SIF.

Conclusion

20. The objector makes two assertions: first that the arrangements do not contain any information about the right of a child to a full-time place in the September following their fourth birthday, or that a parent can defer admission or that a child may attend part-time and this contravenes paragraph 2.16 of the Code; and second that there is no information about the admission of children out of their chronological age group or about the process involved in making an application and this contravenes paragraph 2.17. The school readily accepts that this information was omitted from the arrangements. As they did not meet the requirements set out in paragraphs 2.16 and 2.17 of the Code I uphold the objection.

21. The trust has revised its arrangements and having reviewed the arrangements as a whole for admission to the school in September 2016 I have concluded that there are matters that do not comply with the Code. These include the requirements for the arrangements including the SIF to be published on the school’s website; to include accurate information about the possibility of admission of a summer born child to Year R in the September after their fifth birthday and for the SIF to request the name and address of only one parent.

Determination

22. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the academy trust for Nishkam School in Hounslow.

23. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

24. 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

Date: 17 September 2015

Signed:

Schools Adjudicator: Mrs Carol Parsons