



Office of
the Schools
Adjudicator

Determination

Case reference: REF3623

Referrer: A member of the public

Admission authority: The Governing Board of the Rode and Norton St Philip School Federation for Norton St Philip First School, Somerset

Date of decision: 14 November 2019

Determination

I have considered the admission arrangements for September 2020 for Norton St Philip Church of England Primary School (the School), which is a voluntary aided school maintained by Somerset County Council (the local authority) in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in a number of areas the arrangements do not conform with the requirements of the School Admissions Code 2014 (the Code) and the law relating to school admissions.

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 this determination unless an alternative timescale is specified by the adjudicator. In this case I specify a deadline of 42 days of the date of the determination.

Jurisdiction

1. These arrangements were determined under section 88C of the Act by the school's governing board, which is the admission authority for the school, by email on 26 and 27 February 2019 and formally adopted at a meeting of the governing body on 17 September 2019. The referrer submitted an objection to these determined arrangements on 23 July 2019. The School Admissions Code (the Code) requires objections to admission arrangements for 2020 to be made to the Office of the Schools Adjudicator by 15 May 2019. As this deadline had passed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred 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.

2. The parties to the case are the governing board of the School, the local authority, the Diocese of Bath and Wells which is the religious authority for the school and the referrer.

3. The referrer has asked to have his/her identity kept from the other parties and this request has been agreed by the Chief Adjudicator.

Procedure

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

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

- a) the referrer's form of objection dated 23 July 2019;
- b) copies of the minutes of the meeting of the governing board at which the arrangements were determined;
- c) a copy of the determined arrangements;
- d) comments from the admission authority on the matters raised and supporting documents;
- e) comments from the local authority on the matters raised supporting documents;
- f) comments from the religious authority on the matters raised and supporting documents;
- g) the local authority's composite prospectus for parents seeking admission to schools in the area in September 2019/2020; and
- h) information about the most recent consultation on the arrangements.

Background

6. Rode and Norton St Philip First School Federation consists of the school and Rode Methodist Voluntary Controlled First School. The school is a small first school for boys and girls aged 5 to 9. The school's published admission number (PAN) is 12. For entry in 2019 the school admitted 11 pupils, one under PAN. As long as the school remains undersubscribed all those who apply will be offered places, regardless of the oversubscription criteria.

7. The determined oversubscription criteria for entry to the school in 2020 are as follows:

“Over Subscription Criteria – for Year of admission 2020/2021

- 1. Children in the care of a local authority at the time of application, or whose care has ceased because he/she has become adopted or the subject of a residence or special guardianship order.*
- 2. Children living in the catchment area, with an older sibling attending Rode and Norton St Philip School Federation at the time of admission, and who lives at the same address (see sections 6.6 Siblings, 6.8 home address and 6.13 Catchment areas)*
- 3. Children living within the designated school catchment area at the time of application (see 6.8 Home address and 6.13 Catchment areas)*
- 4. Children living within the Ecclesiastical Parish of Hardington Vale, with a sibling attending Rode and Norton St Philip School Federation at the time of admission, who lives at the same address. (see sections 6.6 Siblings, 6.8 Home address and 6.13 Catchment areas)*
- 5. Children living within the Ecclesiastical Parish of Hardington Vale, at the time of application (see sections 6.8 Home address and 6.13 Catchment areas)*
- 6. Children with a sibling attending Rode and Norton St Philip Federation at the time of admission (see section 6.6 siblings)*
- 7. Children living within the Ecclesiastical Parish of Hardington Vale, who themselves or their parents(s) are practising members of the founding religious body of the school, or other Christian Church (see section 6.8 Home address, 6.13 Catchment areas and 6.14 Supplementary information form)*
- 8. Children who themselves or their parent(s) are practising members of the founding religious body of the school, or other Christian Church (see sections 6.14 Supplementary Information Form)*
- 9. Children of staff employed at the school, for a period of more than two years at the time of application, or children of a new appointee where there is a demonstrable skills shortage for the vacant post.*
- 10. Children not satisfying a higher criterion”*

Consideration of Case

The provisions relating to deferred entry and admission of children outside their normal age group.

8. This was the issue of concern to the referrer who considered that the school’s arrangements in relation to deferred entry for children below school age and admission of children outside their normal age group did not conform with the Code. I began by noting

that these provisions can be hard to follow and it is worthwhile setting out how they operate in practice in some detail here. The School Admissions Code 2014 (the Code) sets out the position as follows:

“Admission of children below compulsory school age⁴⁹ and deferred entry to school

2.16 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.

⁴⁹ 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.

Admission of children outside their normal age group

2.17 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 child⁵⁰ 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.

2.17A Admission authorities **must** make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This will include taking account of the parent's views; information about the child's academic, social and emotional development; where relevant, their medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely. They **must** also take into account the views of the head teacher of the school concerned. When informing a parent of their decision on the year group the child should be admitted to, the admission authority **must** set out clearly the reasons for their decision.

2.17B Where an admission authority agrees to a parent's request for their child to be admitted out of their normal age group and, as a consequence of that decision, the child will be admitted to a relevant age group (i.e. the age group to which pupils are normally admitted to the school) the local authority and admission authority **must** process the application as part of the main admissions round, unless the parental request is made too late for this to be possible, and on the basis of their determined admission arrangements only, including the application of oversubscription criteria where applicable. They **must not** give the application lower priority on the basis that the child is being admitted out of their normal age group. Parents have a statutory right to appeal against the refusal of a place at a school for which they have applied. This right does not apply if they are offered a place at the school but it is not in their preferred age group.

⁵⁰ The term summer born children relates to all children born from 1 April to 31 August. These children reach compulsory school age on 31 August following their fifth birthday (or on their fifth birthday if it falls on 31 August). It is likely that most requests for summer born children to be admitted out of their normal age group will come from parents of children born in the later summer months or those born prematurely.”

9. This means that parents of summer born children (as defined in the footnote above) will have a number of choices. They can apply for a place for their child to start in Reception the school year commencing in the September after the child's fourth birthday. If they are offered a place then their child can start in September, or they can defer the place until the spring term or until the start of the summer term but “*not beyond the beginning of the final term of the school year for which it was made*” (paragraph 2.17 b) of the Code, set out above). The place cannot be “*deferred*” until the following September, being the September after the child's fifth birthday.

10. A summer born child will not be of compulsory school age until 31 August following his or her fifth birthday (or on his or her fifth birthday if that is 31 August) and so need not start school until the September after that fifth birthday. At that point the child will be 5 years old and so will fall chronologically into the cohort starting Year 1. It follows that most of the other children in Year 1 will have already been at school for up to a year. If parents want their child to start school in Year 1 in this way they will need to make an in-year application to the admission authority, preferably well in advance of their child's fifth birthday.

11. Alternatively the parents may want the child to start in Reception in the September following their fifth birthday. As the Code has it “*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*” (paragraph 2.17 as set out above). The Code states (in relation to all requests for admission out of the normal age group, not just for summer born children) “*Admission authorities must make clear in their admission arrangements the process for requesting admission out of the normal age group*”. The Code goes on to set out how the admission authority **must** approach deciding whether to allow the request for admission out of the normal age group (paragraph 2.17A set out above).

12. Where a parent is requesting that a summer born child is admitted to Reception in the September following his or her fifth birthday then the admission will be to a “*a relevant age group (i.e. the age group to which pupils are normally admitted to the school)*” (paragraph 2.17B, set out above). Paragraph 2.17B continues “*the local authority and admission authority **must** process the application as part of the main admissions round, unless the parental request is made too late for this to be possible, and on the basis of their determined admission arrangements only, including the application of oversubscription criteria where applicable*”. That will be the main admission round for starting school in Reception in the September following that child’s fifth birthday, **not** the normal admission round for the September following the child’s fourth birthday.

13. It may help to understand this by looking at an imaginary example. A child, Ann, is born on 20 August 2015. She will be four years old on 20 August 2019 and is thus entitled to a school place in September 2019. Her parents can apply for a school place in the main round of admissions for September 2019, the closing date being 15 January 2019. Assuming she is offered a school place her parents can, if they wish, defer her start at school up to the start of the summer term 2020, but not beyond that date. Under this scenario Ann would spend at least one term and up to three terms in Reception, even though she would not have reached compulsory school age.

14. However, Ann’s parents may not want her to start school until September 2020, when she will have reached compulsory school age. They may want her to start school in Reception in September 2020, although she will be five years old and chronologically fall within the age range of those moving into Year1. Ann’s parents have a right to ask the admission authority to allow Ann to enter Reception aged 5 years because she is summer born.

15. No timescale is set out in the Code for a request for admission out of the Ann’s normal age group. It is for each admission authority to specify the process for requesting admission out of the normal age group. The [DfE guidance](#) sets out a suggested process and gives guidance on the provisions for summer born children generally.

16. If the school agree to Ann’s parents’ request that will not mean that she is guaranteed a place in Reception for September 2020. Her parents will have to apply for a place in the main admissions round for September 2020 and her application will be considered against the school’s oversubscription criteria. An admission authority cannot offer Ann a place for 2020 in the 2019 admissions round. If the parents’ application for September 2020 is successful and the school have agreed the request for admission out of the Ann’s normal age group, she can start in Reception.

17. The admission authority may, where it is responsible for admissions in more than one school which Ann’s parents want to apply to, require a separate request for each school. It “**must** also take into account the views of the head teacher of the school concerned” paragraph 2.17A). This means that the head teacher of every relevant school will have to be consulted.

18. The school's admission arrangements say:

“6.2 Applications for children to enter a year group other than chronological age

The governors will consider applications on a case by case basis for ‘retained’ or ‘accelerated’ entry in circumstances where parents would like their child to be admitted to a year group either side of the chronological age year group. Children must be of statutory school age when applications are made. The reasons for the request must be fully explained in writing and included with the school place application form.”

19. There is some difficulty with this in relation to summer born children. If the child *“must be of statutory school age when applications are made”* then the earliest the parent of a summer born child could make the request would be 31 August after the child's fifth birthday. This provision would appear to prevent the parents of summer born children applying during the normal admissions round for admission out of the normal age group when this is expressly provided for in paragraph 2.17 of the Code. It is also contrary to the approach which is specifically endorsed in the DfE guidance which recommends that parents should be able to apply in the normal round relating to the child's chronological age group so that they can be informed whether or not the admission authority will allow deferred entry into Reception. It is also strange in the context of the wider system for applications as no child will actually be of compulsory school age when his or her parent applies in the normal round of admissions for a place in Reception following the child's fourth birthday.

20. This would appear to be the appropriate paragraph in which to set out *“the process for requesting admission out of the normal age group”* for summer born children whose parents wish them to start in Reception in the September after their fifth birthday. As they stand the admission arrangements do not set out clearly *“the process for requesting admission out of the normal age group”*.

“6.3 Deferred Entry

Parents of children who have not yet reached the age of five may defer their child's entry to school. In these circumstances, parents can request that their child start school in the Reception year group at a later stage in the academic year. However, he/she must be in full time education by the start of the term following his/her fifth birthday. Deferred entry children will join school in the class appropriate to their chronological year group, for example a child whose birthday falls in the summer term (1 April to 31 August) of the reception year and is deferred for the full Reception academic year will start school in Year 1. Any flexible start arrangements operated for children joining the school in September will also apply for deferred entry children.”

21. There also appears to be some difficulty with this paragraph. A child's start cannot be deferred for the *“full Reception academic year”*, only until the start of the summer term, as explained above. Where a summer born child wishes to start school in the September following his or her fifth birthday the parents can request admission out of the normal age group and, if that request is agreed (following a process which should be set out in the admission arrangements and which complies with the provisions of paragraph 2.17A of the

Code) the parents can apply for a place at the school in the main admissions round for that September. If no request is made, or if a request is refused, a child starting school in the September after his or her fifth birthday will usually start in Year 1.

22. I find that the provisions of the school's admission arrangements set out above do not comply with the provisions of the Code.

Other matters

23. I decided to exercise my powers under section 88I of the Act to consider the arrangements as a whole and find that the following matters do not conform with the requirements relating to admissions set out in the Code.

Catchment areas

24. Paragraph 1.1 of the admission arrangements for 2020 states "governors define the catchment area as Norton St Philip, the villages of Tellisford, Farleigh Hungerford and Laverton, plus surrounding hamlets in between". There is no reference to a map in this paragraph, although paragraph 6.13 refers to maps. The map titled "catchment area" has a black line enclosing an area which appears to exclude Tellisford.

25. The map titled "Ecclesiastical Parish" is small scale with a thick black line marking the boundary and some other lines drawn on. It may not be clear to someone looking at the map whether a given residence lying on the boundary is within the parish or not.

26. I find that the catchment areas are not "*clearly defined*" as required by paragraph 1.14 of the Code.

Oversubscription criteria

27. **Criterion 1.** This refers to "residence... order". These have been superseded by child arrangement orders, see paragraph 1.7 of the Code and footnote 18.

28. **Criteria 2 & 3.** Criterion 1 refers to "the catchment area" and criterion 3 refers to "the designated school catchment area". As each appears to mean the same it is not clear why different wording is used.

29. **Criteria 5 & 7.** Criterion 7 appears to be a sub-group of the higher criterion 5. Any child falling within criterion 7 would have already met the requirements of criterion 5. It does not make sense to have a more limited category of the same group as a lower criterion. The Adjudicator notes that the order of these criteria has been reversed from the position in the admission arrangements for 2019.

30. **Criteria 7 & 8.** These criteria apply to children "*who themselves or their parent(s) are practising members of the founding religious body of the school, or other Christian Church*". It will not be clear to parents what "*the founding religious body of the school*" is. If it is the Church of England it would be easier to understand if that were simply stated. Also "*other*

Christian Church” is not defined. It would not always be clear whether a particular church is “*another Christian Church*” or not.

31. I find that as set out above the oversubscription criteria are not “*clear*” as required by paragraph 1.8 of the Code.

Waiting Lists

32. Paragraph 2.14 of the Code 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.”*

33. Paragraph 6.1 of the admission arrangements does not explicitly set out “*that each added child will require the list to be ranked again in line with the published oversubscription criteria*” as required by the Code.

Supplementary Information Form

34. Paragraph 6.14 refers to “criteria 4 and 10” when the faith criteria for 2020 are in criteria 7 and 8 (and were previously in criteria 3 and 9).

35. The first page of Part A of the supplementary information form (SIF) refers to “criteria (sic) 8” but not to criterion 7.

36. The second page of Part A of the SIF, and the first page of Part B, refer to criteria 4 and 10 when the faith criteria are in criteria 7 and 8. In both parts of the SIF there are references to “*practising members of the founding religious body of the school - St Philip and St James, Norton St Philip*”, although the words “*St Philip and St James, Norton St Philip*” are no longer added in criteria 7 and 8. It is unclear what these words mean in this context and unclear what they meant when they were included in criteria 3 and 9 of the 2019 oversubscription criteria.”

37. Supplementary information forms are part of a school’s admission arrangements. I find that as set out above the school’s supplementary information form is not “*clear*” as required by Paragraph 14 of the Code.

Note of revision of the admission arrangements

38. As a result of this determination the admission authority are required to revise their admission arrangements. The governing board have already indicated their willingness to do so, which is welcome. The governing board have asked for my input into re-formulating their arrangements, particularly in relation to the provisions for summer born children discussed above. However, it is outside my remit to offer such advice so I am unable to assist.

Determination

39. I have considered the admission arrangements for September 2020 for the school in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the arrangements do not conform with the requirements in the ways set out above.

40. 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 this determination unless an alternative timescale is specified by the adjudicator. In this case, I specify a deadline of 42 days of the date of this determination.

Dated: 14 November 2019

Signed:

Schools Adjudicator: Tom Brooke