



DETERMINATION

Case reference:	ADA 2696, 2698 and 2701
Objectors:	Corfe Parish Council, a parent and Somerset County Council
Admission Authority:	The governing body of Thurlbear Church of England Voluntary Aided Primary School, Somerset
Date of decision:	18 November 2014

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 governing body of Thurlbear Church of England Voluntary Aided Primary School for admissions in September 2015.

I have also considered the arrangements for 2014 in accordance with section 88I(5) of the Act and have found 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 make the revisions to its admission arrangements as quickly as possible.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), three objections have been referred to the Adjudicator first by Corfe Parish Council (the parish council), then from a parent, and lastly from the Somerset County Council (the local authority), together the objectors, about the 2015 determined admission arrangements (the arrangements) for Thurlbear Church of England Voluntary Aided Primary School (the school).

2. All three objections relate to changes to the catchment area and the oversubscription criteria, the consultation process before those changes were introduced, and the impact of those changes on children living in Corfe. In addition, the local authority has also objected to the eighth criterion in the oversubscription criteria which prioritises children on the basis of their eligibility to receive free school meals and may be in breach of the Code at paragraph 1.9(f).

Jurisdiction

3. The objections from the parish council, a parent, and the local authority were submitted to the Office of the Schools Adjudicator (the OSA) on 25, 29 and 30 June 2014 respectively. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider the objections. I have also used my power under section 88I of the Act to consider the 2015 arrangements as a whole, and also the 2014 arrangements as a whole, as these were confirmed unchanged as the 2015 arrangements and then determined as such.

Procedure

4. In considering the objections 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 objection from the parish council in an email dated 25 June 2014;
 - b. the second objection received from a parent on 29 June 2014 with supporting evidence and subsequent correspondence;
 - c. the third objection which was from the local authority in an email dated 30 June 2014 with supporting evidence and subsequent correspondence;
 - d. the school's response of 11 July 2014 and subsequent correspondence, with supporting evidence including information about the consultation process before changes were introduced to the 2014 arrangements, and minutes of a number of meetings of the governing body;
 - e. the determined arrangements for both 2014 and 2015;
 - f. a response from the Diocese of Bath and Wells (the diocese) and its website guidance;
 - g. information about the school downloaded from its website;
 - h. maps of the catchment area and the parish, a copy of the 1873 trust deed for the school, and related correspondence from the school and the objectors;
 - i. information about allocations to the school downloaded from the school's website, the local authority's website, and from the Somerset Learning Platform; and
 - j. copies of the composite prospectus "Starting School" for 2014 and for 2015, both downloaded from the local authority's website.

The Objection

6. In the first objection sent on 25 June 2014, the parish council raises two particular concerns. First it *"would like to ascertain how the consultation process ... was conducted and how as a parish council and an interested party [it] would have been informed of the imminent changes.* Second the parish council is concerned that the oversubscription criteria now handicap Corfe children as geographically they are

further from the school *“than those children living in a more densely populated suburb such as Holway, and who have a wider choice of local primary schools.”*

7. Also objecting to the alterations to the oversubscription criteria and changes to the catchment area which came into effect for the 2014 intake, the parent objector states in the second objection emailed on 29 June 2014 that *“the combined impact of these factors is to have created an educational vacuum in the rural community ... specifically affecting the Parish of Corfe.”*

8. In the third objection sent to the OSA on 30 June 2014, the local authority is concerned that the change to the catchment area is in breach of the Code at paragraph 1.14 which states that *“catchment areas **must** be designed so that they are reasonable and clearly defined.”* The local authority considers that the change to the catchment area has not *“been clear and transparent which has disadvantaged children in a certain area of the catchment...”* The local authority is also concerned that the oversubscription criterion which prioritises *‘children assessed as eligible to receive free school meals at the time of application’* does not comply with the Code at paragraph 1.9(f). Furthermore, the local authority considers that the school failed to consult effectively before the changes were introduced, in breach of paragraph 1.45 of the Code.

Background

9. The school is a voluntary aided Church of England rural primary school near Taunton in Somerset for boys and girls aged 4 to 11 years, with a published admission number (PAN) of 30 for admissions to Year R (reception). On its website, the school describes itself as *“fortunate enough to benefit from a beautiful rural setting surrounded by fields and countryside. Situated next to Thurlbear Woods the children are able to use the natural environment for ... activities and learning about the world around them.”*

10. As the status of the school is voluntary aided, the governing body is the admission authority. The school is designated by the Secretary of State under section 69(3) of the Act as having a Church of England religious character, and as such, is exempted by Schedule 11 to the Equality Act 2010 (the Equality Act) from the requirement in section 85 of the Equality Act not to discriminate on the grounds of religion in terms of the admission of pupils to the school. The school is therefore permitted by Schedule 11 of the Equality Act to prioritise applicants for a place at the school on the basis of faith. On its website, the school states *“we embrace the Christian ethos which teaches the importance of respect, forgiveness and the ability to relate to others with care and sensitivity. We believe that true education must encourage the mental, physical and spiritual development of each child. Thurlbear School maintains regular links with local parishes and communities ensuring the children are at the heart of everything we do.”* The school is in the Diocese of Bath and Wells.

11. From the minutes of meetings of the governing body provided by the school, and from minutes published on the school’s website, there was some doubt that the 2015 arrangements had actually been determined by the governing body before the deadline of 15 April specified in the Code at paragraph 1.46. The chairman of

governors provided written assurance in two emails of 13 October 2014 that the 2015 arrangements were approved by the governing body at the meeting on 21 January 2014, although no formal minute was taken.

12. The 2015 arrangements available on the school's website, and in the local authority's composite prospectus for 2015, show that if there are more applications than the 30 places available, after places have been allocated to any children with a statement of special educational needs that names the school have been admitted, applications will be prioritised according to the oversubscription criteria which I have summarised below:

1. Looked after or previously looked after children;
2. Children with an older sibling at the school at the time of admission;
3. Children living in the ecclesiastical parishes of Stoke St Mary, Thurlbear, Staple Fitzpaine, Orchard Portman and Curland;
4. Children of school staff employed at the school for a period of more than two years at the time of application, or with a demonstrable skills shortage;
5. Children living within the catchment area;
6. Children living outside the parishes specified above who attend, or their parents attend, one of the churches within these parishes on at least one day each month, consecutively, for the six months prior to application;
7. Children who live in an adjoining parish who attend, or their parents attend, a Christian church recognised by Somerset Churches Together on at least one day each month, consecutively, for the six months prior to application;
8. Children assessed as eligible to receive free school meals at the time of application;
9. Children not satisfying a higher criterion.

Where the PAN is reached part way through any criterion, the remaining places will be allocated to children living nearest to the school. Distance is calculated as the straight-line measurement between the front door of the child's home and the main gate of the school using a Geographic Information System method, and in the case of multi-level dwellings such as flats, the length of the staircase will be included in the distance measurement. If two or more applications cannot otherwise be separated, the final tie-breaker is random allocation independently verified.

13. To apply for a Year R place for admission in September 2015 all applicants must complete and return the common application form (CAF) to the local authority by the national closing date for primary school applications. To be considered for a place under criterion 6 or 7, families also have to complete and return a supplementary information form (SIF) by the same date.

Consideration of Factors

14. The objectors have raised concerns about changes to the catchment area and the oversubscription criteria, the consultation process before those changes were introduced, and the impact of those changes on children living in Corfe. I will consider the objections under the following subheadings: the consultation process

before the changes were introduced; the changes to the oversubscription criteria and catchment area; and the impact of the changes on applicants living in Corfe.

The consultation process before the changes were introduced

15. With the response of 11 July 2014, the school supplied a copy of the admission arrangements for 2014 and for 2015, and it is clear that, apart from an update to the wording of the first criterion relating to looked after children, both sets of arrangements are effectively the same. The governing body says that the changes to the catchment area and to the oversubscription criteria were actually the subject of a consultation process before the 2014 arrangements were determined. I note that the minutes of the governing body meeting of 19 March 2013 confirm that, as no comments had been received during the consultation period, the 2014 proposed admission arrangements were formally adopted unchanged and were therefore determined at this meeting.

16. I accept that there is no evidence of any responses at all being received by the school during the consultation period, nor evidence of any issues being raised about the 2014 arrangements by any of the objectors at the time. However, in accordance with section 88I(5) of the Act, as the objectors have brought a relevant matter to my attention, I have decided to consider this concern about the consultation process before changes were introduced to the 2014 arrangements as these arrangements apply to any waiting list held by the school that has to be kept for at least the autumn term, and because the arrangements for 2014 were confirmed unchanged as the 2015 arrangements and then determined as such.

17. The parish council has questioned how the consultation process was conducted and how, as an interested party, it should have been consulted about the changes proposed. Furthermore, the local authority considers that the admission authority failed to consult effectively before the changes were introduced, in breach of paragraph 1.45 of the Code. Therefore, it is important to consider whether the consultation process before the changes were introduced to the 2014 arrangements complied with the requirements of the Code.

18. I am aware of the school's concerns that for the local authority *"to object 18 months after the consultation has closed and arrangements have been published is less than helpful."* The school suggests that the local authority may *"have skimmed the consultation material ... did not consider the detail and did not refer to the altered catchment area until the 2014 admissions process was underway [which is] disappointing, on the grounds that the [local authority] ... is required ...to object where admission arrangements appear non-compliant."* It is the case that paragraph 3.2 of the Code requires that *"local authorities must refer an objection to the Schools Adjudicator if they are of the view or suspect that the admission arrangements that have been determined by other admission authorities are unlawful."* However, whether or not the local authority met the requirements of the Code in this matter is beyond the scope of this determination concerning the 2014 and 2015 admission arrangements for the school.

19. I am also aware that the local authority regards as unreasonable the school's expectation that the local authority should search for changes when it is the

responsibility of the governing body to make the changes clear *“not only for the local authority but for all other parties including parents.”* I note that the Code makes clear at paragraph 5 that *“it is the responsibility of admission authorities [in this case, the governing body] to ensure that admission arrangements are compliant with this Code.”*

20. The Code at paragraph 15(b) indicates that the purpose of the consultation process is to enable parents, the local community and other interested parties to understand the changes being proposed and then to have time to be able to raise any concerns they might have about the proposed changes. Paragraph 1.43 of the Code states that the consultation **must** be for a minimum of eight weeks and **must** take place between **1 November** and **1 March** of the year before the arrangements are to apply, so before the 2014 arrangements were determined, a consultation process for at least eight weeks must have taken place in the period between 1 November 2012 and 1 March 2013. As the school has provided a copy of the consultation launch notice posted on the school’s website which shows that the consultation period ran from 21 December 2012 to 15 February 2013, I am satisfied that the length of the consultation period complied with paragraph 1.43 of the Code.

21. The Code at paragraph 1.44 also specifies that the admissions authority **must** consult the following parties about any proposed changes: the parents of children between the ages of two and eighteen; other persons in the area with an interest; all other admission authorities in the area; the local authority; adjoining neighbouring local authorities; and the diocese. In the response of 11 July 2014, the school states that the consultation was run from the school’s website and that an alert notice on the homepage would have drawn the attention of interested parties to the existence of the consultation document (the launch notice). In addition, the school confirms that relevant parties were specifically notified of the consultation as follows:

- the launch notice was displayed in public community places such as the Neroche Villages web site, and the parish notice board outside the school;
- the launch notice was sent by email to the local authority, the diocese, and other admission authorities in the area; and
- parents of children between the ages of two and eighteen were targeted by the school newsletter sent home to parents of children at the school, and also displayed on the school’s website.

22. In the response dated 11 July 2014, the school provided a copy of the consultation launch notice which showed clearly the dates of the consultation period, but the changes proposed were not identified in the notice, nor shown on the school’s website. Instead, the notice invited the reader to view the 2014 proposed arrangements on the school’s website, together with the 2013 arrangements *“by way of comparison”*. The school suggests that *“the invitation to compare the 2013/14 and 2014/15 admission arrangements was made clear and this was facilitated via the website or upon request to the School Office.”* However, I consider that the governing body should have provided a summary of all the changes proposed, and the reasons for those changes, rather than expect interested persons to compare and contrast two sets of arrangements in order to work out the changes for themselves. It may be that some parents would not have identified the changes proposed or understood their effect on how places at the school might be allocated,

contrary to paragraph 14 of the Code which requires that *“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.”*

23. I note that the school included a copy of the launch notice in its newsletter of 21 December 2012 (which was still available as an archived document on the internet). I accept that by reading the newsletter the families of children attending the school would have been informed about the consultation, but the newsletter would only have reached families with children already at the school. The Code requires that the admission authority must consult the parents of children between the ages of two and eighteen in the relevant area, and no evidence has been provided of how parents with children at other schools would have been consulted. I accept that the school sent the launch notice to the local authority and to other (unspecified) admission authorities, but I have not seen any request for these admission authorities then to inform parents about the consultation. In my opinion, it is not sufficient for the governing body to assume that by sending a launch notice to other admission authorities, parents of children attending other schools would then have been informed about the consultation, as it was for the governing body, not other schools, to fulfil the duty to consult about proposed changes to the admission arrangements. However, even if the families of children attending other schools had, perchance, been notified, I cannot see how the parents of pre-school children from the age of two years would have been informed about the consultation, and I note that a letter from Trull Pre-School which is within a catchment parish and is therefore an interested party in the local area, confirms that it was not consulted. I am not persuaded that the parents of the potential applicants most likely to be initially affected by the proposed changes, namely the parents of children from the ages of two to five years, were informed about the consultation, unless they had access to the newsletter because they have an older child already attending the school.

24. Furthermore, I cannot see how other interested persons in the local community had been notified. For example, Corfe was in the catchment area at the time of the proposed changes, and therefore families in Corfe would have been interested persons particularly as the proposed change excludes Corfe from the catchment area, but it is apparent from the first objection that the parish council for Corfe had not been notified. The school says it displayed the launch notice on the parish noticeboard outside the school, but this notice board appears to relate to the parish council of Neroche, rather than Corfe which is several miles away from the school. I also accept that the school published the launch notice on the Neroche Villages website, but this relates to the villages of Bickenhall, Curland, Orchard Portman, Thurlbear and Staple Fitzpaine, and does not include the village of Corfe. I consider it would have been prudent to send information about proposed changes to all the parish councils and pre-school providers within the catchment area in order to attempt to reach parents who might be affected but who do not already have children attending the school to try to meet the requirements of the Code.

25. I note the diocese has provided guidance on setting arrangements within the admissions section on its website. Whilst some aspects may need to be updated, the diocese states that *“the governing body must ensure that consultation takes*

place ... with all statutory consultees” and that *“an advert is placed in the local papers to notify the public that the consultation is taking place.”* It is unfortunate that the school does not appear to have followed this helpful guidance. Accordingly, I am not persuaded that the school consulted effectively with the parents of children between the ages of two and eighteen, nor with other persons in the relevant area, which contravenes the Code at paragraphs 1.44(a) and (b).

26. The local authority suggests that the school failed to consult effectively in breach of paragraph 1.45 of the Code. However, the proposed arrangements were on the school’s website, and the consultation launch notice made clear the deadlines for comments to be received and to whom they should be sent. It is not clear to me why the local authority identified a breach of paragraph 1.45 when other aspects of the Code have been breached more clearly. However, it may be that the local authority was concerned that the launch notice stated that a *“paper copy can be made available for viewing at the school office”* rather than complying with the requirement in paragraph 1.45 of the Code that *“admission authorities **must** also send upon request a copy of the proposed admission arrangements to any of the persons or bodies listed”* in paragraph 1.44. It is therefore arguable whether the school breached the requirements of paragraph 1.45 of the Code.

27. In addition, the school proposed changes to the catchment area, and the parent objector supplied a copy of the catchment map which I note is still available on the school’s website. As the map does not show clearly the changes proposed, it is unlikely that families or other interested parties would have been able to assess the changes to the catchment area and their effect on how places at the school might be allocated. The Code makes clear at paragraph 14 that *“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.”*

28. I consider that the consultation information should have included a map showing clearly the areas that the school proposed to extend and those to be removed so that parents would be in a position to assess the chances of their child being allocated a place at the school. In the response of 11 July 2014, the school suggests that *“in hindsight, the announcement could have been more specific in terms of drawing attention to the catchment area change... [although] “the adjusted catchment area map was clearly displayed.”* I accept that the school may have displayed the map clearly on its website, but I am not persuaded that the changes proposed were discernible from the map. I have also seen the exchange of views between the school and the local authority about how the school’s catchment area was displayed on the local authority’s website, but whether or not the local authority met the requirements of the Code in this matter is also beyond the scope of this determination about the 2014 and 2015 admission arrangements for the school. However, as the Glossary to the Code explains, the *“catchment area is part of a school’s admission arrangements and must therefore be consulted upon, determined and published in the same way as other admission arrangements.”* Accordingly, I consider that it is the responsibility of the governing body, and not the local authority, to clearly define and then publish the school’s catchment area as part of the consultation process.

29. As no feedback had been received during the consultation period, it seems that the governing body did not question the lack of response, and adopted unchanged the 2014 proposed arrangements, which were determined at the meeting on 19 March 2013. Furthermore, it appears that the 2014 arrangements were then adopted unchanged and determined the following year as the 2015 arrangements. However, rather than an indication of widespread acceptance of the changes proposed, I consider that the lack of feedback may, instead, reflect the inadequacies of the consultation process. I accept that the length of the consultation period was appropriate, but the changes proposed were not made explicit, and were not communicated effectively to all the relevant parties during the consultation, and therefore I am not persuaded that the consultation process was effective.

30. Although I do not consider that the governing body met the requirements for consultation for the 2014 arrangements, the governing body did lawfully determine the 2014 arrangements, and in the following year adopted unchanged and then determined the same arrangements for admissions to the school in September 2015. Therefore it is important to consider the changes to the oversubscription criteria and catchment area that were introduced to the 2014 arrangements.

The changes to the oversubscription criteria and catchment area

31. The governing body introduced changes to the 2014 admission arrangements which affected both the oversubscription criteria and the catchment area. The school did not specify the changes proposed in the consultation documentation, but invited interested persons to compare and contrast the proposed 2014 arrangements with the arrangements that had applied to admissions in September 2013. I have been able to access the 2013 arrangements from a strategic planning document available on the local authority's website. The 2013 criteria may be summarised as follows:

- a) Children who are in care or have been previously and are now adopted;
- b) Children without a statement of special educational needs whose school placement has been identified by a multi-agency professional team;
- c) Children who live within the catchment area and/or the ecclesiastical parishes; and the villages of West Hatch and Lower Henlade;
- d) Siblings of those attending the school at the time of admission;
- e) Children whose parents are practising members of one of the churches within the ecclesiastical parishes but who live outside the parish;
- f) Children whose parents reside in an adjoining parish and are practising members of a Christian churches recognised by Somerset Churches Together; and
- g) Children outside the above parishes but nearest to the school by distance.

32. As discussed above, the 2015 arrangements are the same as the 2014 arrangements apart from an update to the wording relating to looked after children in the first criterion, but it is the changes introduced to the 2014 oversubscription criteria which are the subject of the objections. When the oversubscription criteria in the 2013 arrangements are compared with the 2014 criteria, several changes

become evident. I note that the third criterion in the 2013 criteria prioritised children living in the catchment area or the parishes, and that the villages of West Hatch and Lower Henlade were included. Whereas for 2014, the third criterion prioritises parish children only, so that children living in the catchment area now have a lower priority at criterion 5, and it appears that the villages of West Hatch and Lower Henlade no longer have any priority at all. In the 2013 criteria, catchment children had a higher priority than siblings, but in the 2014 arrangements, siblings at criterion 2 have a much higher priority than catchment children at criterion 5. I also note two new priorities in the 2014 criteria: at criterion 4 for the children of staff and at criterion 8 for children assessed as being eligible for free school meals (which is discussed in detail below). Furthermore, the seventh and last of the 2013 criteria prioritised children living outside the specified parishes on proximity to the school, whereas in the 2014 arrangements, the final priority in the list of nine criteria refers to children not satisfying a higher criterion.

33. The local authority has objected to oversubscription criterion 8 which prioritises children assessed as eligible to receive free school meals on the grounds that it does not comply with the Code at paragraph 1.9(f). Footnote 22 to paragraph 1.9(f) of the Code states that *“only free schools and academies may, where their funding agreements permit, give priority in admission arrangements to children eligible for free school meals (in future, the pupil premium).”* As the school is neither an academy nor a free school, it is not permitted to include a priority in the oversubscription criteria for children assessed as eligible to receive free school meals as the Code at paragraph 1.9(f) prohibits any *“priority to children according to the ... financial ... status of parents applying.”* I therefore uphold this part of the objection.

34. The objectors have also expressed concern that changes have been made to the catchment area, but the map provided by the school does not show the changes clearly. The objectors are particularly concerned that Corfe is no longer included in the catchment, but this is not clear from the catchment map. I note that the Code is clear at paragraph 1.14 that *“catchment areas must be designed so that they are reasonable and clearly defined.”* As the admissions authority for the school, it is the responsibility of the governing body, to clearly define the school’s catchment area, and to make explicit any changes proposed to the catchment area as part of the consultation process.

35. Corfe appears to have been in the catchment area since 2009. In the email dated 17 July 2014, the local authority explained that it had conducted a full public consultation in 2009 on the closure of Blagdon Hill Primary, including consideration of how its catchment area would be reallocated. As a result, the Corfe area became part of the school’s catchment area with the agreement of the governing body. The local authority says the governing body should continue to honour the agreement to give Corfe children a priority within the oversubscription criteria. There has been an exchange of views regarding the detail of the agreement, possibly because the negotiations involved personnel who have since left the school and the local authority. The school has confirmed that the governing body accepted the catchment change but there is no recollection or record of any agreement *“to prioritise Corfe children.”* However, I consider this appears to be a misunderstanding because in-catchment children had been prioritised at criterion 3 of the 2013 arrangements, and

the catchment area in 2013 included Corfe, so it follows that Corfe children did have a high priority in the oversubscription criteria within the 2013 arrangements. However, the changes made to the catchment area in the 2014 arrangements means that Corfe children are no longer regarded as living within the catchment area. As the objectors have expressed concern about the impact of the changes on children living in Corfe, I consider it is important to consider the reasons for the changes and the impact of those changes on applicants living in Corfe.

The impact of the changes on applicants living in Corfe

36. The governing body says that the change to the catchment area *“was implemented in the interests of the majority.”* The school *“is very popular, oversubscribed annually and the governors have previously faced a number of ‘tough’ appeals from parents living on the outskirts of Taunton and relatively close to the school... The alteration made to the school catchment area for 2014/15 admissions was a genuine attempt to support more families and avoid some facing the trauma and upset of being turned down at appeal.”*

37. However, the objectors have expressed concerns in a variety of ways about the impact of the changes to the catchment area and oversubscription criteria on applicants living in Corfe. The parish council states that Corfe *“village does not have its own local school and since Blagdon Hill Primary school closed, children from Corfe have historically attended either”* Trull Church of England Voluntary Aided Primary School or the school, but changes to the school’s catchment area disadvantage children living in Corfe. The parish council adds that the oversubscription criteria also handicap Corfe children *“as geographically they are further from the school than those children living in a more densely populated suburb such as Holway, and who have a wider choice of local primary schools.”*

38. The local authority comments that the school catchment area has been extended into the catchment area of other neighbouring schools in more urban areas with denser housing. *“As these children in the new catchment area are nearer to the school and the tie-break within each criteria is distance, these children are securing places under criterion 4 before the children in the [pre-2014] catchment area.”* The local authority also suggests that as most of the pre-2014 catchment area falls within the specified ecclesiastical parishes, most families are unlikely to have been affected by the changes to the catchment area. *“However, for children from Corfe, a village ... not within these parishes, these children are now highly unlikely to be able to secure a place... [and] are also extremely unlikely to be able secure a place under religious grounds from now on as the catchment area is so large it is likely that the school which is historically popular and over-subscribed will continue to cut off in this criterion.”* The local authority therefore questions whether the catchment is reasonable as *“it now covers such a large area that there are always likely to be a high number of refusals within the catchment criterion and is this giving parents unrealistic expectations as well as disadvantaging children from the original catchment area”*

39. The parent objector is concerned further that if children from the Corfe area are highly unlikely to be allocated a place at their “catchment” school, they are unlikely to be allocated a place at any other school local to their home because,

being out of catchment, they will have a very low priority for other schools. These children would then have to be allocated to a school which has unfilled places, some distance from their home, and *“away from friends and support networks.”* In the email dated 20 July 2014, the parent objector suggests that the school is *“denying local children in a rural area a local education and in turn are favouring prioritising children from the County Town of Taunton [which] because of the location of Corfe [will] result in children being schooled away from both their social and geographical context.”*

40. As a result of the concerns expressed by all the objectors, I have reviewed the admissions data for the school to investigate whether any impact of the changes is evident from the data. In the table below I have summarised the allocations to the school for the last three years, which encompasses the period before and after the changes were made to the 2014 arrangements.

Year	Total applications	Number of first preferences	PAN	Previously/looked after (pre-2015 was in care/adopted)	With an older sibling	In the parishes (pre-2014 was in parish or catchment)	Children of staff	In the catchment area	Attend the parishes but live outside	Next to parishes but other Christian church	FSM	Other	Distance from school (miles) of last (30 th) place allocated
2012	50	n/a	30	0	9	7	-	-	1	0	-	13	2.370
2013	55	36	30	0	13	3	-	-	0	1	-	13	2.105
2014	80	41	30	1	15	2	0	12	0	0	n/a	0	1.984

41. From the table, it is clear that the school is oversubscribed and that there are more families expressing the school as their first preference than the 30 places available in Year R. Furthermore, it can be seen from the 2012 and 2013 data, before the changes were made, that after children with siblings, in-catchment children, and children worshipping (but not resident) in a specified parishes, there were still 13 reception places available to be allocated to “other” children with the lowest priority, and at this point the distance tie-breaker was activated.

42. However, in 2014 after the changes had been made to the catchment area and oversubscription criteria, the picture contrasts significantly with that of 2012 and 2013. In 2014, reception places were allocated to: a previously/looked after child, 15 children with older siblings, two children living in the specified parishes, and 12 children living in the altered catchment area. It appears that there were no places left for any children worshipping (but not resident) in any of the specified parishes, nor children worshipping at another Christian church in an adjacent parish, nor “other” children not satisfying a higher criterion. As the data shows that the final place was allocated to a catchment child living less than two miles from the school, it appears that the distance tie-breaker had to be utilised for a much higher priority

43. I am puzzled by the rationale for the change to the catchment area (summarised in paragraph 32 above). It appears to me that the school changed the catchment area so as to include families living on the outskirts of Taunton. It seems that some applicants from this locality had not been able to secure a place at the school even though their home was relatively close to the school, and that the subsequent appeals process had been traumatic for these families (and for the governing body). However, it is inevitable that when there are more applications than places available, the operation of the oversubscription criteria will result in some applicants not being allocated a place at their chosen school, which is upsetting for the unsuccessful families. There is no easy way to resolve this matter.

44. While the governing body's desire to minimise the upset for families living on the outskirts of Taunton is laudable, it appears to have triggered a decision to expand the catchment area with consequences which I suspect may not have been foreseen by the governing body. It seems to me that the families living on the outskirts of Taunton were unsuccessful because they did not live in the pre-2014 catchment area, and therefore had a low priority for a place at the school. However, these families would presumably have had a high priority for a place at their local catchment school. It appears that in extending the catchment area to include families living on the outskirts of Taunton, the catchment area is now so large that in 2014 the distance tie-breaker had to be utilised at a much higher priority than previously, as illustrated by the data table in paragraph 36 above. It seems to me that by extending the catchment into new areas, children who would have been outside the pre-2014 catchment with a low priority for a place will now be prioritised as in-catchment, and living closer to the school on straight line measurement, are likely to displace other children who have always been in the catchment area but live further from the school. Furthermore, these displaced catchment children would then have a very low priority for a reception place at any other school because they would live outside the other school's catchment area, and further away than in-catchment children. In addition, families who regularly worship in one of the specified parishes but live outside the parish boundary would have a reasonable expectation of a place at the school, but as a result of the catchment area enlargement, these worshipping families now have little chance of a reception place for their child.

45. I am persuaded that it was unreasonable to extend the catchment area because the impact on the availability of reception places is likely to disadvantage other catchment children living further from the school, and families who regularly worship in one of the specified parishes but live elsewhere. As the catchment area does not comply with the requirement in the Code at paragraph 1.14 that "*catchment areas must be designed so that they are reasonable*" I uphold this part of the objection.

46. However, it seems to me that the impact of the decision to change the catchment area will have greater consequences for children living in the village of Corfe. I accept that there may only be a very small number of applications from families in this small village but I have not seen any evidence that the governing body considered the impact of the change on children living in this rural part of the pre-2014 catchment area before removing Corfe from the catchment area. To exclude Corfe from the catchment area has had a twofold impact: families who would previously have been prioritised because they lived in the pre-2014 catchment area

no longer have a high priority for a place in the school, but they also have a low priority for a place in any other school in the locality. These families had been in the catchment area since 2009, when their local school closed, and pre-2014 they would have been prioritised for a place at criterion 3 because they were in-catchment. Since the change to the oversubscription criteria, catchment children are prioritised at criterion 5, but Corfe children are no longer in-catchment, and if not regular worshippers in one of the specified parishes, they now have the lowest priority for a place at the school. Furthermore, due to the expansion to the catchment area, the 2014 data in paragraph 36 above shows that no places were available any children outside the catchment area, so Corfe children had no chance of being allocated a place at their local school. The disadvantage to Corfe children would be compounded as being out of catchment for other schools in the area, they would have a very low priority for a place at another school, and living further away than other applicants, would be further disadvantaged by any distance criterion that may operate.

47. It does appear to me that Corfe children have been particularly disadvantaged by the change to exclude the village from the catchment area which results in these children having a much lower priority for a place than they would have had before the change was made, and therefore little chance of a reception place at their local school. The disadvantage to Corfe children is compounded by the expansion of the catchment area which has resulted in applicants from new areas, such as the outskirts of Taunton, being additional in-catchment children and therefore prioritised for a place under criterion 5, so that there are unlikely to be any places remaining for Corfe children to be considered under any of the lower priorities.

48. The school also says that the changes were made to support the principles of the 1873 trust deed, and explains that Corfe is not included because *"it is not within the Benefice and therefore is not within our interpretation of the geographical constraints of the deed."* I have examined the 1873 trust deed provided by the parent objector on 20 July and by the school on 29 October 2014, which relates to the conveyance of land on which the school was built. The land was appropriated for the school in order to educate the children of the parishes of Thurlbear and Stoke St Mary in accordance with the principles of the Church of England. Corfe is not mentioned in the trust deed, but there is also no reference to the parishes of Staple Fitzpaine, Orchard Portman and Curland which are prioritised in the oversubscription criteria, so it seems to me that a parish map from the relevant era may be required to interpret the *"geographical constraints"* of the trust deed. The school says that maps of the ecclesiastical parishes are not easily obtainable, and that it will do its best to clarify these as soon as possible, but cautions that it is difficult to include every hamlet within the description. However, I consider that the rationale related to what is, and what is not, included in the catchment area as a result of the 1873 deed requires further explanation from the school, and it may be helpful to parents for this rationale to be included within the introductory paragraphs of the admissions arrangements.

49. I acknowledge the governing body's willingness to review and improve the admission arrangements, and am aware that the school submitted draft 2016 arrangements to the OSA in an effort to address some of the concerns raised by the objectors, and to simplify the documentation and the oversubscription criteria.

Although any consideration of these draft arrangements is beyond the scope of this determination about the 2014 and 2015 admission arrangements for the school, the governing body must review its procedures before considering further changes to the arrangements. In particular, the governing body must ensure that consultation documentation makes clear any changes that are proposed, the rationale for those changes, that all the relevant parties are included in the consultation process, and that there is full consideration of the impact of any further changes before they are ratified. The consultation process must comply with the requirements of the Code outlined in paragraph 15(b) and detailed further in paragraphs 1.42 to 1.45.

50. The changes to the catchment area were made to include families living on the outskirts of Taunton who had been outside the original, pre-2014 catchment area, but I consider that the impact of those changes, compounded by the changes to the oversubscription criteria, has significantly disadvantaged children living in Corfe who had been in the original, pre-2014 catchment area. There is no clear rationale for removing Corfe from the catchment area, as there have been very few applications from this small, rural village in any admissions round, and as this seems unlikely to change for the foreseeable future, very little impact on applications as a whole. I consider that the disadvantage to Corfe children from being excluded from the catchment area greatly outweighs the advantage to applicants in the new areas of the expanded catchment area who would already have had priority for a reception place in their local catchment area school. The changes to the catchment area and to the oversubscription criteria in the 2014 arrangements, and which have been retained in the 2015 arrangements, have disadvantaged Corfe children, and are therefore unfair. Accordingly, I am persuaded that the 2014 and the 2015 arrangements are unfair and therefore contrary to paragraph 14 of the Code which requires that *“admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair.”*

Conclusion

51. The objections related to the 2015 arrangements, the changes made in the 2014 arrangements to the catchment area and the oversubscription criteria retained in the 2015 arrangements, and the impact of those changes particularly on children living in Corfe.

52. While the length of the consultation period before the changes to the 2014 arrangements were introduced did comply with the Code at paragraph 1.43, and it is arguable whether or not the school met the requirements of paragraph 1.45 of the Code, it is clear that the consultation process as a whole did not comply with the Code. The catchment area map did not show clearly the changes proposed, and the consultation documentation did not identify the changes to the oversubscription criteria, so that interested parties would have had to compare and contrast the arrangements for 2013 with those of 2014 in order to work out the changes for themselves. It is therefore likely that some parents would not have identified the changes proposed or understood their effect on how places at the school might be allocated, contrary to paragraph 14 of the Code which requires that *“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.”

53. Furthermore, the governing body did not consult the parents of children between the ages of two and eighteen, nor other persons in the relevant area, which contravenes the Code at paragraphs 1.44(a) and (b). It seems to me that the lack of effective consultation is the reason why there were no responses to the consultation, rather than an indication of widespread acceptance of the changes proposed. Therefore, the consultation process as a whole did not comply with the Code.

54. The new priority in the 2014 oversubscription criteria for children assessed as eligible to receive free school meals does not comply with the Code at paragraph 1.9(f) of the Code which prohibits prioritising children on the basis of the financial status of their parents. Only free schools and academies may include this priority providing their funding agreement allows them to do so.

55. The catchment area was changed in the 2014 arrangements to include new areas and to exclude the rural village of Corfe, but overall, the catchment area is now much bigger than it was pre-2014. I am persuaded that the enlargement of the catchment area is unreasonable because of the likelihood of disadvantage to other catchment children living further from the school, and to families who regularly worship in one of the specified parishes but live elsewhere. Therefore, the catchment area does not comply with the requirement in the Code at paragraph 1.14 that *“catchment areas **must** be designed so that they are reasonable.”*

56. Furthermore, the removal of Corfe from the catchment area, compounded by the changes to the oversubscription criteria, disadvantages Corfe families considerably. As a result of the changes, Corfe children now have virtually no chance of being allocated a place at the school, and being out-of-catchment for other schools in the area, they would have a low priority and therefore little chance of being allocated a place at another school. The changes to the catchment area and to the oversubscription criteria introduced in the 2014 arrangements, and then retained in the 2015 arrangements, have disadvantaged Corfe children, and are therefore unfair. Accordingly, the 2014 and the 2015 arrangements are unfair and therefore contrary to paragraph 14 of the Code which requires that *“admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair.”*

57. For the reasons explained in the paragraphs above, I uphold these objections to the 2015 admission arrangements.

Determination

58. 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 governing body of Thurlbear Church of England Voluntary Aided Primary School for admissions in September 2015.

59. I have also considered the arrangements for 2014 in accordance with section 88I(5) of the Act and have found 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 make the revisions to its admission arrangements as quickly as possible.

Dated: 18 November 2014

Signed:

Schools Adjudicator: Ms Cecilia Galloway