



DETERMINATION

Case reference: ADA 2643

Objectors: A parent

Admission Authority: The Governing Body of Trull Church of England
Voluntary Aided Primary School, Somerset

Date of decision: 17 September 2014

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing body, which is the admission authority, for Trull Church of England Voluntary Aided Primary School, Somerset, for admissions in 2014 and 2015.

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 as quickly as possible.

The referral

1. Under section 88I(5) of the School Standards and Framework Act 1998, (the Act), the admission arrangements (the arrangements) for Trull Church of England Voluntary Aided Primary School (the school) Somerset, a voluntary aided primary school for 4-11 year olds for September 2014 have been brought to the attention of the adjudicator. The matter of concern is allocation of places against the school's published admission number (PAN) and whether the school is holding back four reception (YR) places for late applicants. I have looked at the arrangements as a whole and also the arrangements for admissions in September 2015.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. The parent made his "objection" to these determined arrangements on 16 May 2014 and in doing so brought the arrangements to the attention of the adjudicator. Objections to

the arrangements for admissions in 2014 had to be made on or before 30 June 2013. However, having looked at the arrangements I considered there may be matters that do not comply with requirements relating to admissions and therefore I have used my power under section 88I of the Act to consider the arrangements as a whole and also the arrangements for 2015.

Procedure

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

The documents I have considered in reaching my decision include:

- the email dated 16 May 2014 referring the arrangements to the Office of the School's Adjudicator (OSA) and supporting documents and subsequent correspondence;
- the school's response and subsequent correspondence;
- Somerset County Council's, (the council's) response and supporting documents;
- a copy of the determined arrangements for 2014 and 2015;
- admissions data for 2013 and 2014;
- map of the area identifying all infant, junior and primary schools;
- the council's 2014 composite prospectus for parents seeking admission to schools in the area;
- minutes of the governing body meeting at which the 2014 arrangements were determined and
- minutes of the school's admissions panel meetings held on 25 February 2014 and 19 May 2014.

4. I arranged a meeting on 9 July 2014 (the meeting) with the parent who referred the arrangements and representatives of the school, the diocese and the council. Correspondence was also submitted after the meeting as a result of my requests for further information and clarification, and this has been copied to the parties as appropriate. I have considered the representations made to me at the meeting and the documentation and correspondence submitted before and after the meeting. The diocese had the opportunity to comment on the matters raised by the referral and was represented at the meeting of 9 July 2014, but did not submit any separate documentation.

The matter of concern

5. The main matter of concern is the manner in which the school's decision to allocate reception (YR) places beyond the published PAN is implemented. The referrer argues that the arrangements do not comply with admissions law because they have "*not been correctly and impartially applied*", as required by paragraphs 3.2 and 3.5 of the School Admission Appeals Code (2012). The argument is that although the school has a PAN of 34 a decision was taken at an early stage in the

process that the school would allocate a further four places, but that these would be reserved for children who had moved into the area after the closing date for applications. The parent suggests that if the school knows it is going to allocate additional places these should be allocated in the 'normal' admissions allocation process and should not be held back and therefore reserved for children who had not applied by the closing date for applications. The referrer says that this contravenes paragraph 1.4 of the Code which notes "*if at any time following determination of the PAN, an admission authority decides that it is able to admit above its PAN, it **must** notify the local authority in good time to allow the local authority to deliver its co-ordination responsibilities effectively.*"

Background

6. The school is on the outskirts of Taunton and in its submission the governors say, "*the school faces high levels of oversubscription on an annual basis.*" In 2010 the PAN for the school was 30 which was increased in 2011 to 34 and remains the current PAN. The school has confirmed in an email of 21 May 2014, to the referrer that "*the school has no plans to increase its PAN or to further expand. This is against the governors' current outlook.*"

7. For admissions in 2012 there were 77 on time applications and 40 places were allocated on the offer day. The data provided by the school shows that it was not oversubscribed in 2013 and all first preferences were allocated a place in YR. For 2014, 110 applications were received and 34 places were allocated on the offer day. This information is summarised in the table below.

YR admissions

Year	PAN	On time applications	Places offered by the school to the council for allocation on offer day	Places allocated on offer day	Places allocated by the school after the offer day (excluding successful appeals)
2012	34	77	40	40	0
2013	34	73	38	34	0
2014	34	110	34	34	4

8. The admission arrangements for the school for 2014 show oversubscription criteria (in summary) as:

- a. Looked after children – children in the care of the local authority or have previously been in care and are now formally adopted;
- b. Children living within the parishes of All Saints, Trull and St Mary and St Andrew, Pitminster, who have been assessed as entitled to receive free school meals (as set out in the Trust deed);
- c. Children or their parents/carers who are practising members of All Saints' Church, Trull or St Mary and St Andrew Church, Pitminster and who live within these Church parishes. Practice is defined as 'attendance at least once a month over the period of a calendar year';
- d. Children living within the designated school catchment area with an older sibling on roll at the school;
- e. Children living in the parishes of All Saints' Church, Trull or St Mary and St Andrew, Pitminster or the designated school catchment area;
- f. Children living outside the designated school catchment area with an older sibling on roll at the school;
- g. Children or their parents/carers who are practising members of All Saints' Church, Trull or St Mary and St Andrew Church, Pitminster and who live outside these Church parishes;
- h. Children whose parent or guardian is a member of the school staff and
- i. Children who attend a service of Christian worship at a registered Church or place of worship.

Consideration of Factors

9. First I must consider and set out the limits of my jurisdiction. I have no jurisdiction to consider compliance with the School Admission Appeal Code, nor do I have jurisdiction to consider matters about the process of allocating places in relation to the scheme a local authority is required to have to co-ordinate admission arrangements for all publicly funded schools within their area. My jurisdiction is for admission arrangements determined under s88C of the Act and compliance of those arrangements with the admissions law and the Code. It is not for me to assess whether the school informed the council in good time of its decision to admit above PAN, thus enabling the council to fulfil its co-ordination responsibilities effectively. It is the responsibility of the school and the council to ensure that the requirements relating to how any additional places that can be made available are allocated are met.

10. The arrangements for 2014 were determined on 20 March 2013 and include the same PAN of 34 as applied the previous year. The PAN for 2015 is also 34. As

part of determining their arrangements the Code requires at paragraph 1.2 that all admission authorities to set a PAN for each “*relevant age group*” which is the age group at which pupils are normally admitted to the school. The school has one such age group and that is its YR age group. The school has decided to keep the same PAN of 34 and not increase its PAN in either the 2014 or 2015 arrangements, as it is entitled to do. Objections cannot be made, as stated in paragraph 3.3b) of the Code, to a PAN if the admission authority for a school that is its own admission authority determines the same or a higher PAN. The school has met the requirement concerning having a PAN and its decision to keep the same PAN cannot be the subject of an objection.

11. I note that paragraph 1.4 of the Code says, “...*If at any time following determination of the PAN, an admission authority decides that it is able to admit above its PAN, it **must** notify the local authority in good time to allow the local authority to deliver its co-ordination responsibilities effectively...*”. The Code therefore makes provision for an admission authority to admit above PAN if it meets the terms set by the Code. After careful consideration of all the information provided about the decision to make additional places available and the process to be followed, I have concluded that any judgement about the process followed by the school for deciding whether it could accommodate more children and then offering additional places through the council is beyond my jurisdiction.

12. The referrer also cited paragraph 14 of the Code which says, “*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and 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.*” These obligations are placed on all admission authorities. The remit of the adjudicator does not extend beyond looking at the arrangements, including the oversubscription criteria, determined by the admission authority that will be used to allocate places if the school is oversubscribed. I am unable to assess the practice followed by the school and council in allocating the additional places about which the referrer complains.

Other Matters

13. In reviewing the 2014 admission arrangements I noticed other matters that appeared not to comply with the requirements relating to admission arrangements so I used my powers under s88I of the Act to review the 2014 arrangements as a whole and the 2015 arrangements, for compliance with the Code. During the meeting on 9 July 2014 I raised matters which appeared to contravene the Code.

14. The 2014 arrangements say, “*the governing body will consider all applications received for the Reception year group in accordance with these published admission arrangements and places will be offered until the Published Admission Number is reached, at which point all further applications will **normally** be refused.*” I have added the bold emphasis and note that the word “normally” does not appear in this section of the 2015 arrangements, which states “*the governing body will consider all applications received for the Reception year group in accordance with these published admission arrangements and places will be offered until the Published*

*Admission Number is reached, at which point all further applications **may be refused.*** I have added the bold emphasis and believe these words introduce a degree of uncertainty and a lack of clarity. For both years the school correctly states that places up to the PAN will be allocated, which must happen if the school is oversubscribed and if undersubscribed all applicants must be admitted. Paragraph 1.8 of the Code requires, "*Oversubscription criteria **must be reasonable, clear, objective, procedurally fair and comply with all relevant legislation, including equalities legislation.....***". There are circumstances when the PAN may be exceeded, for example as a result of a successful appeal, but the words the school has included introduce uncertainty and thus lack the clarity required by paragraph 1.8 of the Code.

15. The first oversubscription criterion in the 2014 arrangements does not refer correctly to looked after and previously looked after children. Previously looked after children are not a subset of looked after children and the definition is greater than those now formally adopted. The arrangements need to be amended to comply fully with paragraph 1.7 of the Code as these arrangements apply to the waiting list required to be held by the school for at least the first term of the academic year, and according to the arrangements for the school, held until the end of the academic year. The 2015 arrangements are correctly worded.

16. The 2014 oversubscription criteria give priority to children who live within specific parishes and who have been assessed as entitled to receive free school meals. In their submission of 8 July 2014 the school said that once it realised that this criterion was unlawful, "*removal has been agreed.*" This criterion is a breach of paragraph 1.9(f) of the Code. However, although the criterion has been removed from the 2015 arrangements, the associated Supplementary Information Form (SIF1) requests confirmation of whether a child is in the care of the local authority and also asks if the child is entitled to free school meals. A SIF, as specified in paragraph 2.4 of the Code, can only ask for information that is not already provided by the common application form and is needed to apply the oversubscription criteria. SIF1 must not be used as it requests information already available in relation to a looked after child and information that is not required to apply any oversubscription criterion in the amended arrangements for 2015. This SIF1 should be removed from the arrangements.

Conclusion

17. For the reasons given above, I make no judgement in relation to the allocation of places above the determined PAN for admissions in 2014 as described by the referrer. Having used my power to look at the arrangements for admissions in 2014 and 2015 I find aspects of the arrangements that do not comply with the Code in the ways set out above.

Determination

18. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing

body, which is the admission authority, for Trull Church of England Voluntary Aided Primary School, Somerset, for admissions in 2014 and 2015.

19. I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

20. 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 as quickly as possible.

Date: 17 September 2014

Signed:

Schools Adjudicator: Dr Krutika Pau