

DETERMINATION

Case reference: ADA2538

Objector: A group of parents who wish to remain anonymous

Admission Authority: Surrey County Council

Date of decision: 2 September 2013

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Surrey County Council for Wallace Fields Junior School.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Adjudicator by a group of parents, the objectors, about the admission arrangements (the arrangements) for Wallace Fields Junior School (the school), a maintained community school for pupils of age range 7-11 years for September 2014. The objection is in two parts, firstly that the arrangements were not subject to appropriate consultation as required by paragraphs 1.43 -1.45 of the School Admission Code (the Code) and secondly that that the oversubscription criteria are unfair and unreasonable with reference to paragraph 1.8 in that the tiered admissions arrangements should be introduced immediately rather than via a phased approach.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by Surrey County Council, the local authority (LA), which is the admission authority for the school. The objectors submitted their objection to these determined arrangements on 30 June 2013. The parents wish to remain anonymous; one parent acting on behalf of the group has met the terms of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012, which requires that any person or body making an objection who wishes to remain anonymous must provide their name and address so that they are known to the Office of the Schools Adjudicator.

3. The admission arrangements of the school were subject to an objection and determination last year and the previous year. Paragraph 3.3e) of the Code says: "Objections to arrangements which raise the same or substantially the same matters as the adjudicator has decided on for that school in the last

years may not be brought.” This objection is in two parts. I am of the view that the part of the objection that relates to the consultation on the arrangements for 2014 does not raise the same or substantially the same matters as were raised previously and, as such, is within my jurisdiction. However, the part of the objection that relates to the tiered arrangements in the oversubscription criteria, is in my view substantially the same as that raised in the last two years and is therefore outside of my jurisdiction, as are matters relating to the published admission number (PAN) for the school and the matter of automatic transition from Wallace Field Infant School to the school. Regulation 21 of the School Admissions (Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012 prohibits an objection being made to the adjudicator if the admission authority for a school retain the same or increase the PAN, except for an objection made by the governing body of a community or a voluntary controlled school. The only circumstances where there can be automatic entry to a school is for a child who has a statement of special educational need that names the school. I am satisfied that part of the objection as explained above has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the Code.
5. The documents I have considered in reaching my decision include:
 - a. the objectors’ email of objection dated 30 June 2013;
 - b. the LA’s response to the objection and supporting documents;
 - c. the LA’s composite prospectus for parents seeking admission to schools in the area in September 2013;
 - d. maps of the area identifying relevant schools;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. copies of the minutes of the meeting of the full Council meeting at which the arrangements were determined; and
 - g. a copy of the determined arrangements.

The Objection

6. The objectors argue that the consultation for admission arrangements for September 2014 did not comply with the Code. They say that the invitation for comments did not make it clear that responses were invited on schools for which no change was proposed and that the document Surrey County Council provides to schools, with suggested wording for

parents, does not include any reference to being able to comment where there is no change.

Background

7. The school is on a site shared with Wallace Fields Infant School in the Borough of Epsom and Ewell in Surrey. Both schools are, and have been in recent years, oversubscribed. The interim assessment by Ofsted in 2011 confirmed that the school continued to be 'outstanding', similarly the assessment of standards at the infant school in 2010 confirmed their findings as outstanding.

8. The LA, as the admission authority of the school, consulted within the required timescale about a change for the admission arrangements for September 2013 with the proposals for the introduction of tiered sibling criteria on a phased or immediate basis. Tiered oversubscription arrangements in this case give priority to siblings for whom the school is nearest their home, followed by children for whom the school is nearest their home, then other siblings.

9. Following consideration of the consultation, the recommendation by the LA's Cabinet was for a phased introduction of the tiered sibling criteria. However after that meeting, various parties expressed different views. At the full Council meeting a variation was tabled and the decision was taken to introduce the tiered sibling criteria with immediate rather than phased effect.

10. After this decision there was an objection to the Office of the Schools Adjudicator. The adjudicator partly upheld the objection (ADA2281) and decided that the process following the close of the consultation did not fully meet the requirements of the Code and that the retrospective impact of immediate introduction of tiered sibling priority made it unfair to families who made earlier preferences based on the original criteria when it appeared that the first conclusion of the Council was that there should be a phased introduction.

11. As a result of this determination, the LA was required to revise its admission arrangements and as such reverted back to the initial recommendation to introduce tiered sibling arrangements on a phased basis for September 2013.

12. The LA decided not to propose a further change for September 2014 as "this would prolong the uncertainty for parents and would also prolong the division that this matter appeared to be creating in both the school and the local community."

13. The LA consulted on its admission arrangements for community and voluntary controlled schools September 2014 between 28 November 2012 and 22 January 2013 and determined the arrangements on 19 March 2013. The LA's consultation had an introduction;

“Consultation on Surrey’s School Admission arrangements for Community and Voluntary Controlled schools and Coordinated Schemes for 2014

Surrey County Council is consulting with parents and schools on the proposed admission arrangements for Community and Voluntary Controlled schools and its Relevant Area for September 2014. Full details of the consultation and the changes being proposed are available

at:www.surreycc.gov.uk/schooladmissionconsultation2014”. Followed by a list of the proposed changes , naming specific schools and an item about increasing parent preferences. There was an explanation about how to respond, as follows;

“How can I respond to the consultation?”

The consultation on these proposals will run from Wednesday 28 November 2012 to Tuesday 22 January 2013. If you would like to take part please complete an online response form at www.surreycc.gov.uk/schooladmissionconsultation2014.

Alternatively if you would prefer to respond on a paper form, please telephone the Surrey Schools and Childcare Service on 0300 200 1004 to request a copy. Please note that only response forms which are fully completed with the respondents name and address will be accepted.”

Consideration of Factors

14. I have considered the factors relevant to the requirements for consultation.

15. The objectors raise three issues in relation to consultation. The first is that the explanation of the arrangements following the determination was not clearly made in that they believed the change was for 2013 only. They say that the statement by the LA following the adjudicator’s decision of 3 August 2012 did not adequately explain that the “amended” admission criteria were not just for 2013 but were to apply from September 2013 onwards.

16. The LA does not fully respond to this point but explains that it was obliged to respond to the determination (ADA2281), therefore adopted and published the arrangements that were originally recommended, that is for phased introduction and decided not to propose further changes for September 2014.

17. I can see that the initial announcement could be misunderstood by parents who might think a decision taken by the Council which had the support of the great majority of responses and had been overturned by an objection partially upheld may well be for that year only. My view is that more explanation might have been helpful but as arrangements have to be determined every year and there is no requirement to consult unless the admission authority proposes a change to the arrangements, there may have been some misunderstanding, but there has been no contravention of the Code.

18. Secondly the objectors argue that the consultation for 2014 did not make clear to them that they could respond about arrangements for any

school for which the LA was the admission authority.

19. The LA can be seen, in the email trail between parents and the LA which was sent to me within the supporting documents, to suggest to parents that although no change was suggested for the school “ the admission arrangements for Wallace Fields Junior School were included within the annual consultation paperwork for Community and Voluntary Controlled schools”.

20. The response of LA is that they were required to revise the arrangements following the adjudicator’s determination, and having done so they did not propose changing them for 2014 so were not required to include them in the list of schools for which they were specifically inviting comment.

21. I agree with the parents that the documents sent to me do not clearly invite comments on arrangements for schools other than those named schools where specific changes were proposed. However, as there was no proposal to change the arrangements there was no obligation to consult.

22. The parents argue then that that having been told by the LA that they could have responded to the consultation, the LA’s position is now that there was no need for them to consult. They argue that these matters are not clear and unfair.

23. The LA’s response is that they did not specifically consult on the admission arrangements for 2014 because they proposed no change and had consulted fully on the admission arrangements for 2013.

24. The question before me is does the consultation or lack of it comply with or breach the Code. I find that the determined arrangements for September 2013 were revised as required by the Code. Such a change has to be made and there is no provision or requirements in the Code for consultation in these circumstances

25. While I accept it is not clear as it might be, the arrangements finally determined for 2013 were not the subject of a proposal to change for September 2014 so the school did not feature in the published list. The LA was not required to consult on the admission arrangements for the school and my view, did not do so. For that reason, I do not find the LA has breached the requirements of the Code at paragraphs 1.43-1.45 in relation to consultation.

Conclusion

26. The school is oversubscribed, parents and prospective parents are clearly very anxious about future admission of their children. Both parties report there is ill feeling in the community. In these circumstances, the LA was not as clear as it might have been in explaining the consequences of the

previous determination and the consultation on the admission arrangements for 2014. However, according to the Code, the arrangements did not require consultation and therefore there was no breach of the Code paragraph 1.43-1.45.

Determination

127. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Surrey County Council for Wallace Fields Junior School.

Dated: 2 September 2013

Signed:

Schools Adjudicator: Miss Jill Pullen