

DETERMINATION

Case reference: ADA/0002515

Objector: Lancashire County Council

Admission Authority: The governing body of Parbold Douglas Church of England Academy

Date of decision: 19 July 2013

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 Parbold Douglas Church of England Academy for 2014.

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 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Adjudicator by Lancashire County Council, (the council) the objector, about the admission arrangements (the arrangements), for Parbold Douglas Church of England Academy (the school), a primary school for children aged 4 to 11 years, for September 2014. The objection is to the wording of the first oversubscription criterion which refers to 'Children in Public Care' and is insufficiently clear.

Jurisdiction

2. The terms of the academy agreement between the proprietor and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the proprietor, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 28 June 2013. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - the objector's form of objection dated 28 June 2013;
 - the response to the objection and supporting documents from the Diocese of Blackburn, (the diocese) dated 4 July 2013;
 - a copy of the council's booklet, 'School Admissions 2013/14 : Information for Parents';
 - the school's response dated 9 July 2013;
 - documents that confirm when consultation on the arrangements last took place;
 - a copy of the determined arrangements for 2014; and
 - a copy of the minutes of the meeting at which the proprietor of the school determined the arrangements.

Background

5. Parbold Douglas Church of England Primary School, a voluntary aided school, converted to become an academy, Parbold Douglas Church of England Academy on 1 August 2011.

Consideration of Factors

6. The council has referred an objection to the arrangements determined by the governing body of the school, for 2014, under section 88H(2) of the Act. As the adjudicator appointed to investigate this objection I **must**, as required by section 88(4) of the same Act, decide whether, and (if so) to what extent the objection should be upheld. I emphasise this point because at the time the objection was referred, the school might well argue that the wording of the first oversubscription was compliant with the Code, in that it included reference to both looked after and previously looked after children.
7. In the school's view a case of a breakdown in communication has resulted in the council objecting to the wording of a draft policy. The school says that it wishes to strongly defend itself against any suggestion of deliberate wrongdoing in this matter and that the admissions policy is compliant and fair.

8. Diocesan officers have helpfully provided a set of emails that record a number of exchanges between the diocese, the council and the school. The trail of communications provides evidence about the efforts made by the council and the diocese to assist the school and to obtain 'the latest version' of arrangements for 2014.

9. The diocese sent a 'high priority' reminder, dated 29 May to all voluntary aided Church of England schools in its area, which stated that, 'All schools should have their admission arrangements for 2014 on their website (as well as the 2013 ones, which must remain until the end of term)'. The message also advised schools that the first oversubscription criterion must include the full statement about Children in Public Care and should refer to 'looked after' and 'previously looked after children'; and a precise form of words that schools could adopt was suggested.

10. I have jurisdiction for arrangements determined for 2014, but nonetheless, so that I might appreciate any changes to the arrangements in 2014, I looked first for the arrangements for the current year, which I could not locate on the school website. I did eventually find a copy of the arrangements for 2013 on the council's website and these refer to 'Children in public care', and go on to explain to parents that, 'This includes any looked after child and any child who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order'. Unfortunately, this statement is not quite as accurate as it ought to be.

11. The Code explains that 'looked after children' are those children in the care of local authorities as defined by section 22 of the Children Act 1989. In relation to school admissions legislation, a 'looked after child' is a child in public care at the time of application to a school. The term 'children in public care' therefore only refers to looked after children and not to children who have in the past been looked after but have ceased to be so.

12. The Code that came into force on 1 February 2012 changed the composition of the group of children who were to receive first priority within the oversubscription criteria of arrangements for all maintained schools and academies that were determined after that date. It became mandatory for schools to include children who had been looked after previously, but had ceased to be so, into the first oversubscription criterion and to give them equal priority for admission, with looked after children. The Code says in paragraph 1.7, 'All schools **must** have oversubscription criteria for each 'relevant age group' and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and previously looked after children.' It goes on to explain that, 'Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a residence order or special guardianship order)....'

13. In an email to the council on 2 July 2013, the school explained that it had changed the wording of the first oversubscription criterion, following receipt of advice issued by the diocese. Clearly then, this was after the arrangements for 2014 had been determined by the school. The school asked whether the council had seen the most recent policy that had been sent (by email), after the diocese had checked it on 13 June.

14. The record of communications shows that it was not the case. Indeed, the diocesan officer who was copied into this email to the council, responded within the hour saying that she had not received an email on 13 June from the school and therefore 'could not have checked the policy'. The school responded with an immediate apology saying that this was the date when the policy had been sent to the council. However, the council then responded on the same date to all parties, quoting from the final message it had received from the school on 14 June which said, 'Thanks. I believe (the headteacher) is getting this across to you today.' The school states that when the council wrote asking for a copy the policy (which had already been sent); there was an assumption that the emails had simply crossed paths.

15. The council made a final effort to clarify what was happening on 24 June, advising the school that officers had been unable to see an amended policy and offering to help, but it had not received a response. The council had advised the school that in order to comply with the Code the policy should have been published on the school's and the council's website between 15 April and 1 May. A 'friendly reminder' message was also sent to all schools which said, 'Please remember to amend all publicity and school websites when making changes to the admission arrangements.'

16. All admission authorities have a responsibility to ensure that they meet the deadline of 1 May each year, to send a copy of their full determined arrangements to their local authority. This is the date by which local authorities must publish details on their website about where the determined arrangements of all schools in their area can be viewed. Arrangements should also be available on schools' websites by 1 May each year.

17. In this case after the arrangements had been determined, the diocesan authorities issued advice about how to frame the first oversubscription criterion giving priority to looked after and previously looked after children. The school then acted promptly and willingly to make the necessary changes to its arrangements and says that it published the amended arrangements for 2014 on the school website, so that they were available to parents.

18. If an admission authority subsequently amends its determined arrangements, as in this case in order to give effect to a mandatory requirement of the Code, it must again take responsibility for ensuring that both the local authority and parents are aware of the changes that have been made.

19. Paragraph 3.6 of the Code says that once arrangements for a particular academic year; they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of

the Code. All admission authorities are required to give first priority in their over subscription criteria to looked after and previously looked after children and therefore the governing body was entitled to make this change to their determined arrangements.

20. The council was correct in bringing this objection to the arrangements of the school. Diocesan officers have been proactive in supporting schools and by sending high priority reminders to schools about the need to frame the text that relates to both looked after children and previously looked after children fully and accurately.

21. The arrangements for 2014, the year for which I have jurisdiction now state, ' (a) Children in public care and previously looked after children. This includes any "looked after child", "previously looked after children" and any child who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order.

22. Diocesan advice suggested that schools referred instead to, 'Looked after children and previously looked after children. This includes any "looked after child", "previously looked after children" and any child who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order'.

23. If the school were to follow the this advice from the diocese and remove any reference to Children in Public Care, a term that is no longer used in the Code and one that can be confusing, this would provide even greater clarity for parents. Paragraph 14 of the Code, says that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.

Conclusion

24. The school says there has been a breakdown of communication and that it assumes that the council objected to a 'draft' policy, but there is compelling evidence that the school has not taken steps to ensure that either the diocese or the council had received a copy of its final (amended) arrangements.

25. It is the responsibility of the admissions authority to ensure that its arrangements are sent to the council by the due date, to enable it to provide information to parents in a timely was, as required by the Code, and this was not done by the school.

26. However, an objection has been referred and although credit must be given to the diocese and to the school for their prompt responses, the fact remains arrangements that at the time the objection was referred, the arrangements that were available to the council and to the diocese did not specify this oversubscription criterion quite as precisely as they should. Therefore the arrangements did not comply with a mandatory aspect of the Code and for this reason I uphold the objection.

Determination

27. 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 Parbold Douglas Church of England Academy for 2014.

28. 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.

Dated: 19 July 2013

Signed:

Schools Adjudicator: Carol Parsons