



DETERMINATION

Case reference:	ADA 2927
Objector:	A parent
Admission Authority:	The governing body for St Mary and St Giles Church of England Junior School, Stony Stratford, Milton Keynes
Date of decision:	28 August 2015

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 for St Mary and St Giles Church of England Junior School.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters that do not conform with the requirements relating to admission arrangements.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.

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 parent (the objector), about the admission arrangements for September 2016 (the arrangements) for St Mary and St Giles Church of England Junior School (the school). The objection is that the oversubscription criteria in the arrangements include a priority for siblings of children who previously attended the school. The objector says that this is unfair.

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 objector submitted her objection to these determined arrangements on 22 June 2015. 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:
 - a. the objector's email of objection dated 22 June 2015 and subsequent communications;
 - b. the school's response to the objection and supporting documents;
 - c. the response of Milton Keynes Council (the local authority) to the objection and further information requested by the adjudicator;
 - d. the response of the Diocese of Oxford (the diocese), which is the relevant faith body, to the objection, its correspondence with the school and information on the advice and training offered;
 - e. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - f. confirmation of when consultation on the arrangements last took place and information on the consultation;
 - g. extracts from the minutes of the meetings of the governing body at which the arrangements were discussed and determined; and
 - h. a copy of the determined arrangements.

The Objection

5. The objection is that the over-subscription criteria give higher priority to a sibling of a child who has previously attended the school and lives out of the catchment area than to a child who lives outside the catchment area without a sibling who once attended the school. The objector says that this is unfair as it reduces the number of places available to those who may live closer to the school.

Other Matters

6. In considering the admission arrangements for the school the following matters came to my attention which may contravene the Code. These are:
 - a. The consultation may not have met the requirements of paragraph 1.44 of the Code.
 - b. The information on waiting lists does not make it clear that the list will be held until 31 December and ranked again in line with the published over-subscription criteria so may not conform with paragraph 2.14 of the Code.

Background

7. St Mary and St Giles Church of England Junior School provides education for children between the ages of seven and 11 years. The school is one of very few junior schools in an area where most of the other schools are primary schools. The school has a published admission number (PAN) of 60 and about 240 children attending the school. The school was oversubscribed for places in 2014 and 2015.

The last inspection by Ofsted was in 2009 when it was judged to be outstanding.

8. The school receives advice on admission matters from the diocese as a voluntary aided Church of England school. This included a draft policy. The diocese also offers training annually for schools on the consultation process for admission arrangements. The diocese commented on the draft arrangements and adjustments were made accordingly before they were determined.

Consideration of Factors

9. The objection is to the over-subscription criterion related to siblings. The relevant oversubscription criterion is: *“iv) Out area with sibling. A child with a normal home address (see Note 3) outside the catchment area and with a sibling (see note 4) who is, or has been, attending St Mary & St Giles Church of England Aided Junior School.”*
10. The objection is specifically that a higher priority is given to a child whose sibling has, at some time in the past, attended the school, than to a child who may live closer to the school. The main reference to siblings is in paragraph 1.11 of the Code which says, *“Admission authorities **must** state clearly in their arrangements what they mean by ‘sibling’ (e.g. whether this includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address or siblings who are former pupils of the school). If an admission authority wishes to give some priority to siblings of former pupils, it must set out a clear and simple definition of such former pupils and how their siblings will be treated in the oversubscription criteria.”*
11. My first consideration is whether the definition of sibling meets this requirement. I will then consider whether the application of the over-subscription criterion is fair so as to comply with paragraphs 14 and 1.8 of the Code. The arrangements define sibling as, *“Sibling refers to brother or sister, adopted brother or sister, step brother or sister, or the child of the parent/carer’s partner where the child for whom the school place is sought is living in the same family unit at the same address as that sibling.”* This is a clear definition of sibling. The school does not give a separate definition of “former sibling” so it could be assumed that this includes all those who fulfil the definition of sibling and who once attended the school.
12. I will now consider whether the over-subscription criterion is fair with regard to the priority given to children with siblings who have attended the school in the past. The school explained that the rationale for this definition came from the difference in being a junior school where children only attend for four years of their school life. The governing body recognised that as a result there would be less opportunity for siblings to continue the connection than at a primary school if the priority was limited to siblings currently attending the school. The school described how during the most recent consultation for the 2016 arrangements *“Russell Street School (the feeder infant school nearest*

us, from which the majority of our pupils come)”) also queried the sibling definition. Their concern was that the majority of their children went onto the school but these children would have a lower priority than a child who had a sibling who had, at some time in the past, attended the school.

13. *The school responded, “They were concerned about other Stony Stratford families who might have a child at Russell Street and want to follow big brother or sister through to St Mary & St Giles but would fall foul of the sibling rule if the big brother or sister was currently in Year 6 - and therefore would have left before admission of the younger one into year 3 - and consequently we changed last year to 'is or has been' rather than just 'is expected to be at the school at the time of admission' as we felt this disadvantaged parents because we were two separate schools. In the scenario governors were contemplating, if there was a four-year gap in siblings, once the oldest got into a combined school the youngest would count under the sibling rule - but because we are two separate schools a four-year gap means that the younger child is not considered a sibling! Indeed two of yours got in to us this year on the sibling rule 'is or was' who would otherwise have been rejected and presumably would have ended up going to appeal.”*
14. *I asked if there was any time limitation on this as, theoretically at least, there could be, for example, a 20 year gap between siblings. The school’s response was, “I can confirm that at the moment there is no anticipated time-limit on the time that a sibling left the school. This did not form part of the consideration that Governors made at the time of the decision. Whilst the adjudicator is correct that as the rule is currently expressed, there could indeed be a gap of 20 years. That is not, I am sure, what was in the minds of Governors at the time of the rule change, and I would welcome advice from the adjudicator as to how best to re-phrase the rule. The three children it has impacted on this year have all had siblings who left the school with a single year gap.” It is therefore not the intention of the governors to have a completely open ended priority for siblings of those who once attended the school in terms of time; their experience is that it is usually used by those who are reasonably close in age.*
15. *The objector also pointed out that there is no restriction on how far away a child might live whose sibling once attended the school; they will always have priority over any other children without a sibling who once attended the school. I have noted that the furthest distance for a child allocated a place at the school under criterion nine, which is simply out of catchment, is 0.646 miles and that for the intake in September 2015 all siblings allocated places currently have siblings attending the school.*
16. *It may not have been the school’s intention to give priority to a child whose sibling may have left the school 20 years before, but this is a possible outcome of the arrangements. Nor was it necessarily the intention of the school to give a priority to a child who lived a*

considerable distance away. This is, however, another potential unintended outcome. This is not reasonable or fair as, unlikely as it might be, a child from wherever in the country with a sibling who once attended the school and still lived with them, would have priority over a child within a reasonable distance of the school without a sibling who once attended the school.

17. The arrangements meet the requirements of the Code in terms of definition of a sibling but the school's responses illustrate that a definition of former sibling is needed as the current one is unclear and could result in unintended consequences. This makes the arrangements unreasonable and unfair in terms of priority for former siblings. I therefore uphold the objection.

Other matters

18. The school has undertaken a form of consultation each year even though it is only obliged to consult every seven years unless a change to the admission arrangements is proposed (paragraph 15b). The school describes its consultation as "*On 20th November 2014 we consulted on the 2016 admission arrangements, again with an email to the Local Authority, Milton Keynes Schools and the Diocese.*" I asked what consultation took place with parents of children between the ages of two and eighteen as required by paragraph 1.44a of the Code. The school explained that "*Consultation with parents of children aged 2 – 18 is an area of difficulty in that we do not have ready access to know who they are. We therefore publish a newsletter regularly and the fact that we had a consultation of draft changes to our admission procedure was mentioned in that newsletter. This is primarily addressed to current parents and sent to them, it is on the school noticeboard, it is sent to our feeder infant school – Russell Street, and displayed in our parish church. The main way in which we communicate with the wider public is through our website. The proposed changes to the policy are put on the website under Admissions, as the vast majority of potential parents find out about our school and its admission arrangements through the website.*"
19. For a consultation to be valid the school must find ways of communicating with the parents whose children may still be using early years' settings or attending other schools, such as the infant school. The present practice does not fully conform with the requirements of the Code in this regard.
20. The arrangements state, "*The law requires that the school must hold a waiting list for the first term of the academic year for Year 3 children. No waiting list will be held for a place for any child declined a place at our school at any other point. This does not preclude a parent from submitting a further 'in year' application.*" The arrangements **must** state that, as required by paragraph 2.14 of the Code, a waiting list will be held until at least 31 December and "*each added child will require the list to be ranked again in line with the published oversubscription*

criteria. Priority must not be given to children based on the date their application was received or their name was added to the list.” The arrangements do not conform with the Code in this regard.

Conclusion

21. The arrangements include a priority for children whose siblings once attended the school as permitted by the Code but are unclear in their definition. This is unfair and unreasonable as there is no restriction on how far away the family may now live or time since the sibling left the school.
22. I have also considered the arrangements as a whole for admission to the school in September 2016 and have concluded that several aspects of the arrangements detailed above do not comply with the Code. With regard to these other issues of non-compliance the Code requires the admission authority to revise its admission arrangements within two months.

Determination

23. 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 for St Mary and St Giles Church of England Junior School.
24. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters that do not conform with the requirements relating to admission arrangements.
25. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.

Dated: 28 August 2015

Signed:

Schools Adjudicator: Deborah Pritchard