

## **DETERMINATION**

**Case reference:** ADA002326, 002336, 002337, 002338, 002339,  
002340,  
002341, 002353, 002368

**Objectors:** A number of parents

**Admission Authority:** Wokingham Borough Council

**Date of decision:** 28 August 2012

### **Determination**

**In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements determined by Wokingham Borough Council for Walter Infant School and Nursery and other maintained Wokingham schools for admissions in September 2013.**

### **The referral**

1. Under section 88H (2) of the School Standards and Framework Act 1998, the Act), nine objections have been referred to the Adjudicator by a number of parents (the objectors), about the admission arrangements (the arrangements) for Walter Infant School and Nursery, a community school for children aged 3 to 7 (the School) and for other primary schools for which Wokingham Borough Council (the LA) is the admission authority for September 2013. The objection is to changes in the oversubscription criteria regarding siblings.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the LA, which is the admission authority for the schools concerned. The objectors submitted their objections to these determined arrangements some on 28 June 2012 and others on 30 June 2012. One objection was submitted by two parents, the others by one. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

3. All the objectors mention Walter Infant School in their objections, although some specify the School and others object more widely to the impact of the changes on other schools in the Borough. The objection for each is the same and so I am satisfied that I can and should consider them together.

### **Procedure**

4. In considering this matter 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 objectors' forms of objection dated 28 and 30 June 2012 and further emails;
  - b. the LA's response to the objections dated 17 July 2012 and supporting documents;
  - c. the LA's determined arrangements for their community and voluntary controlled schools, which include Walter Infant School and Nursery, for September 2013;
  - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2012;
  - e. maps of the area identifying relevant schools;
  - f. confirmation of when consultation on the arrangements last took place together with details of that consultation; and
  - g. copies of the minutes of the meeting of the Borough Council at which the arrangements were determined.

### **The Objection**

6. The objection is that the oversubscription criteria for admissions in 2013/2014 to the School and to other maintained schools for which the LA is the admissions authority differentiate between children from out of the catchment area whose sibling gained a place by parental choice and those from out of area whose sibling was allocated a place by the LA at a school for which the parent had not expressed a preference. This it is argued is contrary to paragraph 1.8 of the Code which requires that "oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation".

### **Background**

7. In the determined admissions arrangements for 2012/2013 the over-subscription criteria distinguish between siblings resident in the school's designated area (criterion C) and siblings resident outside the school's designated area (criterion E)

8. The relevant note nuances this:

"Where a parent previously expressed a preference for their designated area school for an older child but the local authority, unable to meet this or any other preference, allocated the nearest school with available places, the parent may have a preference for the child's younger sibling to attend the same school. In such cases, this school may be regarded as if it were the designated area school and would be treated as meeting criterion C (sibling within designated area)."

9. For admissions in 2013/2014, the LA consulted on a change to the note extending sibling protection to include siblings of children who were allocated a lower ranked preference school when their designated area school was full.

“Occasionally a parent with more than one child can express a preference for their designated area school for the older child, but the local authority is unable to meet this preference. The local authority will then allocate a place at a lower ranked preferred school or the closest available school with places. In this case, the parent may then prefer to send younger sibling(s) to the same school as the older child attends. In such instances, the allocated school may be regarded as if it were the designated area school for subsequent siblings and would be treated as meeting criterion C (sibling resident within designated area).”

10. I have seen details of responses received to the consultation held between 22 December 2011 and 24 February 2012. Four responses were received supporting this change and one response asked for there to be no differentiation between any siblings’ applications to primary schools. These responses were presented to the Schools Admissions Forum of the LA at its meeting on 14 March 2012 and the change that had been consulted upon was agreed. The Borough Council’s Executive Committee determined these arrangements on 29 March 2012.

11. The objectors argue the fundamental importance of siblings being educated together at primary level. I was moved by the heartfelt pleas from several of the objectors. In particular all of them underlined

- a. the potential emotional and psychological cost to siblings at primary level who are not educated together;
- b. the impact on children’s education as a parent or carer struggles with the logistics of delivering and collecting children from different schools;
- c. the price that will be paid in terms of health and safety, finance, traffic, carbon footprint, and child care particularly if schools have different holidays; and
- d. the potential emotional, psychological and practical impact on parents and carers themselves.

12. The objectors maintain that the LA itself believes all of this to be true, which is why it gives priority to siblings at all, and why for 2013 it agreed to extend sibling protection further. They argue that it is unfair to distinguish in any way between sibling applications, and in particular that it is unfair to distinguish now between those older children attending a school applied for by parents and those allocated a place at a school by the LA.

13. The LA in its response reaffirms that it “recognised the importance of siblings within its criteria whilst balancing the needs of first born with younger siblings and single child families living in schools’ designated area”. However

it is struggling with a significant increasing demand for school places throughout the Borough, a matter to which I shall return later.

14. Paragraph 1.10 of the Code states that “it is for admission authorities to decide which criteria would be most suitable to the school according to local circumstances”. There is a long-established practice in the Borough of schools serving a defined or designated geographical area. In compliance with paragraph 1.14 of the Code, these areas are clearly defined and are considered regularly and amended where necessary after due consultation. As the Code requires, however, the LA does not prevent parents living outside its designated area from expressing a preference for a particular school.

15. The LA have noticed that in areas where the local school is particularly oversubscribed, parents who understandably apply for a place at the local school but due to pressure on places are unsuccessful may be allocated a place by the LA at an alternative school. Subsequently they might find it difficult for their siblings to be educated together and it is for this reason that the LA made particular provision (see above). This clause has been extended for 2013 to include those who were offered a place at a lower ranked preference.

16. The LA acknowledges the power of the objectors’ arguments. It has considered and continues to consider whether to prioritise all siblings ahead of children living in a school’s designated area. However it has concluded each time that it would not be reasonable to do so (see Code paragraph 1.8) and notes in particular the following issues.

17. To do so, the LA argues, would disadvantage first-born children, with or without younger siblings, who would benefit from being educated at the school that serves the community where they live. However, in their response to this, the objectors maintain that this argument can be turned on its head. “Children without siblings would have the opportunity to develop friendships at the local school they were allocated, it is irrelevant whether this is their designated school”. They acknowledge that the LA’s argument might have force in a village, but not in more urban Wokingham. Furthermore, several of the objectors’ children are actually attending their nearest school, albeit that they do not live in the designated area.

18. Wokingham is a small authority bordered by a number of unitary authorities and county councils. Already a number of Wokingham schools’ designated areas cross the Borough boundaries and already they educate more children from out of the Borough than they ‘export’. The LA says that to prioritise siblings as the objectors suggest would further exacerbate a difficult situation. Whilst the objectors do not deny this, they argue that it is a short-term problem. Given the rise in population, the number of children being offered places from out of the Borough will inevitably reduce, and with it the impact that the LA seeks to avoid.

19. Pressure on school places has meant that not only has the LA tried to make clear that it might not be able to offer places to children from outside a school’s designated area, it has also sometimes not been able even to allocate places to all who apply from within. The objectors acknowledge this,

but maintain that the growth in population will mean that current designated areas will have to change dramatically and, they believe, become increasingly irrelevant as a solution to the problem.

20. Most of the objectors name Walter Infant School and Nursery in their objection. This is an excellent school which is oversubscribed. These objectors applied for the school on behalf of an older child and were offered a place which they accepted. At that time they asked and were assured that in the past siblings had always been accepted. If there had not been so assured, they assert, they might have chosen differently. However the LA points out that it publishes historical data on three years allocation of places in the Parents' Guide, which is all that it can reasonably be expected to do. There can never be absolute guarantees and the past cannot always provide a guide to the future as arrangements are considered and sometimes revised annually.

21. The final main strand of the objection is to what the objectors see as the LA's failure adequately to plan for the increase in demand for places that it should have foreseen. This has resulted in some particularly popular schools becoming increasingly oversubscribed and, as one result among others, more children with older siblings at the school not being offered places.

22. The LA strongly refutes the accusation. It highlights work that it has been and is doing in the short medium and long term to address these challenges. After proper discussion and consultation new places are being provided by extending existing schools and building new schools as appropriate and where possible. Despite this, the LA argues, demand for places at particular schools can actually fluctuate year on year, especially with the number of families moving into the Borough. The LA stresses that it has continued to fulfil its duty by ensuring that every Wokingham parent who applied by the deadline was offered a school place.

### **Consideration of Factors**

23. I have no doubt that the objectors' arguments about the importance of siblings being educated together, particularly at primary school, are powerful and emotionally convincing. Indeed, the LA also agrees. It is particularly galling for parents who have applied for a place at a particular school for an older sibling having asked and been assured that in the past younger siblings have been readily offered places. No parent could fail to appreciate how painful it must be when the time comes for another application to be made and a younger sibling is not offered a place.

24. Yet there are areas such as this where population growth, due both to changes in the birth rate and to significant numbers of people moving into the Borough, present demanding challenges to local authority planners in all departments. The LA is working in partnership with others to provide the additional places required in order to be able to educate all its children. Inevitably admission authorities have to reassess their oversubscription criteria in the light of local need, as well as parental and other interests.

25. So an LA each year considers its arrangements, listens to local

opinions and, if necessary, consults about and then determines its new arrangements. I am satisfied that this LA followed the legal procedures in consulting and then determining the arrangements for 2013/2014. There is evidence from the consultation documents and from minutes of its meetings that the LA considered the needs of siblings to be educated together at primary school. But it is also clear that there were other competing claims from children living in the designated area of particular schools. I am satisfied that proper processes were followed, that a range of views were heard, that proper discussions were held, and that decisions were reached that comply with the Code, in a way that is itself compliant with the Code.

26. There are a few other matters raised by the objectors that should be mentioned for the sake of completeness.

- a. Some objectors argue that, had they understood that their child would not be offered a place this year, they would have objected more strongly. No LA can be expected proactively to provide such information as part of the consultation process. However, the LA does accept that it should continue to seek to improve the way it communicates with parents and others on such issues. It meets regularly with parents, and I have already seen some proposals to clarify the section in its 'Parents' Guide to School Admissions' booklet concerning the expression of preferences, including some specific examples;
- b. Some objectors focus their objection on the arrangements as they affect Walter Infant School and Nursery, while the others refer to that school in the body of their objection. This is a school that is popular, outstanding and already oversubscribed, so the challenges facing the LA strike particularly hard here. However, as the School is one among other community and voluntary controlled schools for which the LA is the admission authority, and as there is nothing in the objection that is particular or unique to the School, I have concluded I should not consider it in isolation from the arrangements as a whole;
- c. These objectors do not formally object to the designated area of the School, but they do argue that it is no longer appropriate and that the LA should be looking at this specific area afresh. A number of the objectors have already met with the LA and I am confident that matters such as this will be actively explored for future years;
- d. A number of objectors point both to the arrangements of some schools with a religious character (commonly known as faith schools) in the Borough, and to the determined arrangements of neighbouring Surrey County Council. These, they say, treat siblings in a way that they consider to be more appropriate, by simply putting all siblings together in a high oversubscription criterion. That is their view, but has no bearing either on the appropriateness or the legality of the arrangements for Wokingham schools; and

- e. Finally a few objectors mention that they have a younger child at the nursery of the School, and underline how especially difficult it will be for a child who does not make what must seem like a natural progression to the Reception class. The nursery website explains that “Holly nursery is part of Walter School and the children use the library to borrow books and the school hall for PE and dance. The nursery children share many activities with the foundation classes and are timetabled to use the ICT Suite each week. They also, on occasion, join other classes for assemblies and story time and take part in Celebration Assemblies where progress and achievement is praised communally.” However, it goes on to state unambiguously: “Admission to the nursery class does not automatically guarantee admission to Walter Infant School. Please refer to the school prospectus for details.” The arrangements are clear and those for the School must comply with the Code.

## **Conclusion**

27. All the objectors have raised their objections on the grounds that the arrangements determined by the LA for these schools are contrary to the Code.

28. I sympathise enormously with the predicament of those who have raised their objections, particularly as they grapple with the repercussions on their children and their families. Yet the Council has a responsibility to balance such factors against the need to ensure provision for all children. The evidence I have seen confirms that the Council has been diligent, has listened to a range of voices and opinions, and has endeavoured to resolve difficult issues over the supply of school places. Having done so it has sought to set its criteria out in a way nobody has suggested is not clear.

29. My conclusion is therefore that the Council has done its best and is committed to a continued dialogue with schools, parents and others. Its arrangements do comply with the Code. I am therefore not upholding any of the objections.

## **Determination**

30. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements determined by Wokingham Borough Council for Walter Infant School and Nursery and other maintained Wokingham schools for admissions in September 2013.

Dated: 28 August 2012

Signed:

Schools Adjudicator: Dr Stephen Venner