

DETERMINATION

Case reference: ADA/002435

Objectors: A parent

Admission Authority: The Governing Body of Halsall St Cuthbert's Church of England Primary School, Lancashire

Date of decision: 29 August 2013

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body of Halsall St Cuthbert's Church of England Primary School for admissions in September 2014.

I have also considered the 2013 arrangements in accordance with section 88I(5) of the Act and have found aspects which do not conform with the requirements relating to admission arrangements in the ways set out in paragraph 24 of this adjudication.

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 make any remaining revisions to their 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 a parent about the 2014 admission arrangements (the arrangements) for Halsall St Cuthbert's Church of England Primary School (the school), a voluntary aided school for children aged 4 -11 years. The objection relates to the lack of clarity about the wording of the oversubscription criteria. In addition, the objector brought to my attention to other matters relating to the 2013 admission arrangements which, though raised well out of time, I decided should consider them as they still apply to any waiting list held by the school, and for completeness.

Jurisdiction

2. The 2014 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 the objection to these determined arrangements on 10 May 2013. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction.

3. The objector brought to my attention other matters relating to the 2013 admission arrangements which, although raised well out of time, are considered as they apply to any waiting list held by the school and for completeness. Under section 88(5) of the Act, an adjudicator has the power to consider admission arrangements that come to his attention by any means, other than by way of referral by the Secretary of State. I am satisfied that I have jurisdiction to consider the other matters about the 2013 admission arrangements .

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:

- the objector's form of objection, emails and attachments dated 10 May 2013 including:
 - several versions of the school brochure downloaded from the school's website in the period 19 to 30 April 2013;
 - a copy of an email from the headteacher of the school to the objector, dated 25 April 2013; and
 - the council's on-line brochure for parents '*Primary Admissions in South Lancashire 2013-14*', which includes the relevant school page;
- the 2014 determined arrangements downloaded from the council's website by the objector on 14 May 2013;
- the email responses by the council dated 23 May, 6 and 21 June 2013, **which included a copy of a previous adjudication ADA/001482;**
- **the email response by the school dated 8 June 2013, with the following** attachments:
 - the school's letter clarifying misunderstandings about the allocation of places for 2013;
 - a copy of the admission arrangements for 2013/14;
- screen saves of the school's website accessed by me on 20 May 2013;
- the objector's further email responses dated 13, 14 and 27 June 2013 including attached emails, screen saves of the school's website and a copy of the diocesan booklet '*Guidance to schools on the application of the School Admission Code of 2012*'; and
- a copy of the minutes of the governing body meeting held on 19 March 2013 at which the arrangements were determined, emailed by the school on 16 August 2013.

The Objection

6. The objection about the 2014 arrangements includes:
- that the determined arrangements were not available on the school's website, nor on the council's website (at the time the objection was made);
 - the wording of the fourth oversubscription criterion and explanatory note relating to church worship (what the objector describes as the "*faith test*") is unclear; and
 - lack of a signature box on the supplementary information form (SIF).
7. The objector also brought to my attention the following issues about the 2013 arrangements (which were the only arrangements on the school's website at the time the objection was made), and the school brochure
- that what would happen in the event of equal cases was not clear in the arrangements available on the school's website, and was different from the version published on the council's website;
 - the numbering within the admission policy on the school's website was not consistent with the 2013/2014 admission policy on the council's website; and
 - the school brochure includes information about the nursery which states that '*Due to the effective links between the school and the nursery, children are able to make a very smooth transition into the reception class.*' The objector expressed concern that there is no statement on the same page to inform nursery parents that a place at the primary school cannot be guaranteed for their child nor does it refer nursery parents to the admission policy for admission to reception.

Background information

8. The school is a voluntary aided primary school in Halsall, near Ormskirk in Lancashire, and has a published admission number of 20. The school is designated as having a religious character and so is permitted to give priority for admission to pupils on grounds of faith. In the response of 6 June 2013, the council describes the school as '*a rural school which serves a small but tightly defined local community and which also draws in some admissions from the wider rural area to fill to its published admission number*'.

9. I have been conscious of the potential for overlap between the matters raised by the objector to be considered in this determination, and the objector's concerns as a parent awaiting an admission appeal because his child was not allocated a reception place at the school for September 2013. I have no role in any aspect of the appeals process.

10. I also note a previous determination, ADA/001428, drawn to my attention by the council in the response dated 6 June 2013. The governing body had wanted to give priority to children who attended an onsite fee paying nursery and the council had objected on the grounds that giving priority to

nursery children would be detrimental to locally resident families who would then have to seek school places some distance from their home addresses. The adjudicator at the time upheld the objection, supporting the view that because of the limited primary school options for families living very near to the school, there must be a focus on ensuring sufficiency of places for locally-based children.

11. The school was asked on 20 May 2013 for a copy of the minutes at which the governing body determined the arrangements for 2014. As I only have jurisdiction to consider an objection an objection to determined arrangements I need to have evidence that the arrangements were properly determined. This information was eventually provided on 16 August 2013 and thus the determination was delayed until the information was received.

Consideration of Factors

12. At the time the objection was made the 2014 determined arrangements were not available on the school's website, nor on the council's website; only the 2013 arrangements were available. As regards the 2014 arrangements, the council advised that the school did not consult as no changes were being proposed, and that the governing body had determined the arrangements, *'albeit slightly later than required by the Code, in early May 2013'*. The Code at paragraph 1.46 requires that the admissions authority, in this case the governing body, **'must determine admission arrangements by 15 April every year, even if they have not changed from previous years and a consultation has not been required'**. However, the school stated that the arrangements were determined by the governing body at the meeting on 19 March 2013, and this was confirmed by the minutes of that meeting sent to me on 16 August.

13. However, there does appear to have been some delay in the publication of the 2014 arrangements as the objector reports that the 2014 arrangements (dated 3 May 2013) did not appear on the council's website until 14 May 2013. The arrangements were published in the school's on-line brochure which was updated in June 2013. Paragraph 1.47 of the Code states that *'Once admission authorities have determined their admission arrangements, they must publish a copy of the determined arrangements on their website displaying them for the whole offer year (the academic year in which offers for places are made)....'* As the school has provided evidence that the admission arrangements were determined on 19 March 2013, the arrangements should have been available on the school's website without undue delay. Paragraph 1.47 states further that *'...Admission authorities must send a copy of their full, determined arrangements to the local authority as soon as possible before 1 May'* and it appears that the council did not receive the arrangements by this date. I consider that, in the circumstances of this case, I can see no reason why the 2014 arrangements could not have been posted on the school's website before 15 April 2013, nor can I see why the arrangements were not available to the council by 1 May 2013. I note that the school is all too aware that the deadline for objections to admission arrangements is 30 June, and so it is important that the school publish arrangements without undue delay after the determination date.

14. The objector expressed concern about the lack of clarity about the wording of the fourth oversubscription criterion and associated explanatory note relating to what the objector describes as the “*faith test*”. The Code at paragraph 1.37 states that ‘*Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.*’ In the 2014 arrangements, criterion 4 gives priority based on ‘*Parental involvement in the worship and mission of The United Benefice of Ss. Cuthbert’s and Thomas Halsall, Lydiate and Downholland*’ and explanatory note 4 explains further that: ‘*...Twice monthly church attendance over a period of at least the last six months is regarded as the minimum standard of genuine parental Church involvement.*’ The objector questions when, precisely, does ‘*the last six months*’ start and end. From the minutes of the governing body meeting on 19 March 2013, I discovered that two governors thought the wording specified that the twice monthly attendance was for at least six months ‘*prior to application for a place*’. Yet none of the 2014 arrangements currently available on the council’s website, and on the school’s website within the school’s online brochure, and also in the “About us” policy section, mention the words ‘*prior to application for a place*’. Furthermore, I also note from the governing body minutes that the admissions committee was tasked with clarifying the meaning of the term ‘mission’, but the 2014 arrangements on the school’s and council’s websites do not show any such clarification. Given the importance of the six month time period in assessing whether parents have met the faith commitment within the fourth criterion, I agree that the wording needs to be tighter, so that there is no doubt about when the six months begins and ends.

15. The objector was concerned about the lack of a signature box on the SIF and provided a copy of the diocesan guidance booklet which includes an exemplar form with space for a parental signature. However, in the response dated 6 June 2013, the council explains that the official legal entry into the admissions process is via the home local authority’s on-line or paper application process (the common application form). Schools designated as having religious character may produce their own SIF to gather information in addition to the common application form which is signed or e-mail verified, and the clergy would verify information on the SIF relating to the faith criterion. As the Code makes no requirement for a signature on the SIF, I am not persuaded that there has to be a signature box on the school’s SIF.

16. The objector also brought to my attention a number of concerns about the 2013 arrangements that were still on the school’s website at the time the objection was made. The council expressed concern that the complaints about the 2013 admissions arrangements were out of time and, in any case, related to the objector’s impending admission appeal as his child had not been allocated a reception place at the school for September 2013. Furthermore, the school advised that the 2013 arrangements had been available for consultation, and that the objector had not offered any challenge before the deadline in June 2012, and that it was only after his child had not been offered a place at the school that his objection was lodged. The objector has since confirmed that he knew that his appeal for a reception place would not be taken into account in this adjudication. Accordingly, I have not

considered those matters that are more appropriate for an independent appeals panel, and as such, are beyond the scope of this determination. However, in accordance with section 88I(5) of the Act, as the objector did bring a number of relevant matters to my attention, I have decided to consider them as the arrangements apply to any waiting list held by the school that has to be kept for at least the autumn term, and because the arrangements for 2014 are the same as those for 2013.

17. In the version of the admissions arrangements available in the school's online brochure at the time of the objection, the distance between home and school was to be the determining factor in prioritising between two or more otherwise equal applications. However, the school's policy included two different distance measures: the method quoted after criterion 7 was '*the distance between the Ordnance Survey address points for the school and the home measured in a straight line*' but immediately after, at note 1, the measure was given as '*the shortest safe walking distance from home to school*'. In the response dated 11 June 2013, the school did acknowledge that the policy on its website was out-of-date, and showed incorrectly the tie-breaking distance measurement was the "safest walking" rather than "straight line" but the school maintained that '*as both measurements were the same, it made no material difference, and so the objector had not been disadvantaged in any way*'. However, the Code at paragraph 1.8 states: '*Admission arrangements must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.*' I therefore agree with the objector that having two different measures of distance was confusing, and that for applications generally, there could be a considerable difference between the safest walking routes between home and school and the straight line measure.

18. I note that the school's arrangements published by the council on its website showed only the '*straight line*' measure. The council commented in its response of 6 June 2013 that the lack of clarity about distance measurement was an administrative oversight by the school rather than an issue about the fairness of the school's admission arrangements. Nevertheless, given that the distance measure would be crucial in prioritising (within any criterion) between two applications that are otherwise equal, I agree with the objector that it was confusing to include two different distance determining measures and that parents may have found it difficult to understand the likelihood of their child gaining a place at the school, depending on which distance measure took priority. The Code at paragraph 1.13 requires that the admission authority (the governing body) **must** set out clearly set out how distance from home to the school will be measured and I note that this issue has now been addressed in the 2014 arrangements which show only the '*straight line*' measure.

19. The objector expressed concern that the numbering of the additional information notes on the school web site was not consistent with the numbering of the school's policy published on the council's website, and supplied screen saves of the school brochure as follows:

- the version copied on 19 April 2013 was marked on the front cover as '*revised December 2011*' and contained the 2011 admissions policy which clearly was well out-of-date;
- the version printed on 23 April was marked '*revised March 2013*' and contained an undated admissions policy with eight oversubscription criteria and four additional information notes; and
- a third version printed on 30 April also '*revised March 2013*' which included an undated admissions policy with seven criteria and four additional information notes.

Whereas

- the version printed on 10 May 2013 from the council's website has nine notes of additional information notes, as does the version emailed by the school on 11 June 2013.

I consider that the publication of so many different versions of the arrangements is likely to have caused confusion, and so I would suggest that the school strengthens its quality assurance procedures to ensure that only the appropriate admissions policies are published on the website so that the information provided by the school is always current and accurate.

20. The objector evidenced that the nursery section in the school brochure stated that: '*Due to the effective links between the school and the nursery, children are able to make a very smooth transition into the reception class*'. However, the objector pointed out that there should have been a statement on the same page to let the parents of children attending the nursery know that '*no place can be guaranteed at this primary school for their child, nor does it refer parents to the admission policy*'. Given that some years ago the governing body had wanted to give priority to children who attended an onsite fee paying nursery, which had been the subject of a previous adjudication, it would be important to avoid confusion, and I was pleased to note that since this objection was submitted, the school reviewed its online brochure in June 2013 and has now addressed this problem. The relevant page for the Nursery now displays the message '*Children attending [the nursery] gain no advantage regarding admission to school. Such attendance is not part of the school's Admissions Criteria*'.

Conclusion

21. I consider there to have been undue delay in the publication of the 2014 determined arrangements which should have been available on the school's website as soon as they were determined and made available to the Council at the same time so that they could be published on the council's website by 1 May 2013, or a notice as to where the arrangements could be seen. However, during the same period, the school published at least three versions of the 2013 arrangements. It is reported by the objector that the 2014 arrangements were not published until appearing on the council's website on 14 May 2013. The admissions authority therefore did not comply with paragraph 1.47 of the Code, and I therefore uphold this part of the objection.

22. Oversubscription criteria must be clear so that they are easily understood by parents and anyone with an interest in the school's arrangements. As oversubscription criteria must be applied carefully in order to prioritise applications, I agree with the objector that the wording of the fourth criterion is vague with respect to the qualifying time period for parental Church involvement. Although some governors said the wording specified that the twice monthly attendance was for at least six months '*prior to application for a place*', none of the versions of the 2013 or 2014 arrangements made available to me actually include the words '*prior to application for a place*'. Accordingly, the fourth criterion does not comply with the Code at paragraph 1.37 and so I also uphold this part of the objection.

23. The objector was also concerned about the lack of a signature box on the SIF but as the Code makes no requirement for a signature on the SIF, I am not persuaded that a signature box on the school's SIF is essential, and so I do not uphold this part of the objection.

24. On the other matters I have considered, the objector also expressed concerns about the 2013 arrangements. Although these concerns should have been made by 30 June 2012, and therefore were raised out of time, I decided to consider the 2013 arrangements under section 88I(5) of the Act as they still have relevance for admissions to the school. I conclude that:

- The inclusion of two different methods of measuring the distance between home and school in the 2013 arrangements was confusing but I note that the straight line measure has now been clarified in the 2014 arrangements;
- The publication of so many versions of the 2013 admission arrangements is likely to have caused confusion for at least some parents. It is the responsibility of the admissions authority to ensure that only the appropriate admissions policies are published on the website so that the information provided by the school is always current and accurate;
- The reference to the nursery within the school brochure did not make clear to parents that a place at the primary school cannot be guaranteed for their child, but I acknowledge that this has been amended appropriately in the online brochure updated in June 2013.

Determination

25. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body of Halsall St Cuthbert's Church of England Primary School for admissions in September 2014.

26. I have also considered other concerns, raised out of time, regarding the 2013 arrangements in accordance with section 88I(5) of the Act and have found aspects which did not conform with the requirements relating to admission arrangements in the ways set out in paragraph 24 of this adjudication.

27. 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 make any remaining revisions to their admission arrangements as quickly as possible.

Dated: 29 August 2013

Signed:

Schools Adjudicator: Cecilia Galloway