

DETERMINATION

Case references: ADA/002139

Admission Authority: The governing body of John Betts Primary School, Hammersmith and Fulham

Date of decision: 17 February 2011

Determination

In accordance with section 88I (5) of the School Standards and Framework Act 1998, I have considered the admissions arrangements determined by the governing body of John Betts Primary School for admissions in September 2011. I find the arrangements not to be compliant with the requirements of the School Admissions Code in a number of respects. However, for practical reasons, I am making no changes to the 2011 arrangements.

The referral

1. The admission arrangements (“the Arrangements”) of John Betts Primary School (“the School”), a non-denominational voluntary aided school, for September 2011, were brought to the attention of the Schools Adjudicator by a late objection by an eligible parent in a letter dated 25th December 2010. I was not prepared to accept this objection due to a lack of adequate reason for the lateness of the objection. However, in examining the Arrangements, I discovered what I considered to be a number of breaches of the requirements of the School Admissions Code (“the Code”).

Jurisdiction

2. The Arrangements were determined under section 88C of the School Standards and Framework Act 1998 (“the Act”) by the governing body as the admissions authority for the school. Under section 88I(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 or local authority report under section 88P. I am satisfied that I have the power to consider these Arrangements and that it is within my jurisdiction under section 88J(2) to make any necessary changes.

Procedure

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code ("the Code").
4. The documents I have considered in reaching my decision include:
 - the Arrangements, as downloaded from the School's website on 21st January 2011;
 - a response to my observations on the Arrangements from the School in January 2011; and
 - a response from the School to my further enquiry, received on 14th February 2011 and accompanied by maps of the area.

Consideration of Factors

5. The breaches of the Code that I have discovered are as follows, together with notes about the responses from the School, and my observations.
 - a. The Arrangements fail to make clear, in accordance with paragraph 2.65 of the Code: that children below the statutory school age may be admitted in the September following their fourth birthdays; that parents may request that their children's admission may be deferred until later in the school year or until the compulsory school age is reached; and that parents may request their children attend on a part-time basis until compulsory school age is reached. The School has agreed that these provisions should be stated.
 - b. For the sake of clarity, in accordance with paragraph 1.71 of the Code, the word 'regulations' should be corrected to 'oversubscription criteria'. More important, the statement that 'Places have to be offered according to the criteria in force at the time of admission, not the time of application' is incorrect and misleading. The criteria in force are those previously determined by the governing body, following consultation, which then normally remain in force for the following school year. The statement must therefore be removed.
 - c. For the sake of clarity, in accordance with paragraph 1.71 of the Code, the legal reference in connection with looked after children should be omitted or corrected to 'the School Admissions (Admission Arrangements) (England) Regulations 2008.
 - d. The oversubscription criterion relating to siblings breaches paragraph 2.23 of the Code: in that it requires the existing pupil in each case to remain on the school roll at the time of admission, rather than being expected so to remain; in that it

provides in the first footnote for places to be withdrawn if the existing pupil leaves the school between the offer of a place to the sibling and the sibling's admission; and in that this is reinforced by the second footnote (which excepts from the terms of the first footnote cases of special educational needs).

The School has responded by describing a common phenomenon of parents planning to withdraw their children, often in order to attend independent schools, after they have accepted places for younger siblings, which the School has argued is not therefore a case of 'the older sibling unexpectedly leav[ing] the school', as mentioned in paragraph 2.23 of the Code. The School has, however, agreed that such an event is unexpected so far as the School is concerned, and indeed it is clear to me that this is the meaning intended by the Code.

This criterion should therefore be reworded along the lines of: 'Children who have a sibling who is expected to be on the school roll when the younger child starts at the school'; and both footnotes should be removed.

- e. The School has accepted that it has not, as required by paragraph 2.45 of the Code, provided a map showing the area of the School and indicating, in terms of the final, distance-based criterion, from where applications in the past have been successful and whether this pattern is likely to be a reliable guide for the future. Indeed, the School had difficulty in providing such a map for my consideration. This should be rectified, and a note included in the admission arrangements as to how the map may be obtained.
- f. The School has failed to provide an effective tie-breaker, as required by paragraph 2.11 of the Code. On the assumption that the School uses distance as a tie-breaker when the admission number is reached within one of the foregoing criteria, a note should be added to the present distance criterion to the effect that it will also be used as a tie-breaker when the admission number is reached within one of the previous criteria.

6. The original objector complained that the distance criterion caused the School to be in breach of paragraphs 1.72 and 2.39 by unfairly disadvantaging certain social groups, and 2.39 by failing to ensure that families less able to afford property nearest to the School are not excluded. The School has refuted any suggestion of social, racial or religious discrimination. It stands, it has said, 'adjacent to housing association flats and a council housing estate from which children are drawn. Close to the school there are also areas of significant wealth'.

7. The School has asserted that the School population reflects the 'multi-cultural, multi-ethnic, and economically and educationally diverse' local population, and that the distance criterion 'was not constructed in any way to

weight our intake in favour of any social, religious or cultural group'. A table provided by the School shows it to have a much higher percentage, 89.8%, of children with English as a first language, compared with a local authority area average of 51.1% in January 2010. A further table of potential relevance, showing pupils' religion, may be unreliable (in view of some apparent confusion of Christian and denominational Christian categories), but gives a higher percentage of 61.2% Christian pupils at the School, compared with an average local authority percentage of 26.4% (which would probably be higher, if the local authority figure was aggregated in the way the School's seems to be). I note from this that the School population is not as diverse in linguistic terms, and probably not as diverse in religious terms, as that of the schools of the local authority as a whole. However, I do not conclude from this that the School population does not reflect the population of its more local community, or that the admission arrangements are such as to skew the School's intake unfairly.

8. In response to a request for further evidence, the School has provided me with maps showing the residence by postcode of children admitted in 2008, 2009 and 2009 and indicating the areas of relative prosperity and deprivation in the area. From the residential location of the last child admitted each year under the distance criterion, I have been able to assess whether the use of the distance criterion is unfairly disadvantaging any particular social groups. On the basis of the maps provided, I find this quite clearly not to be the case, with a diversity of housing and relative deprivation occurring within circles that can drawn, on all three maps, from the School with a radius that reaches the residence of the last children admitted. On the basis this evidence, I do not find there to be substance to the concern that the original objector raised over possible unfair disadvantage to particular social groups.

Conclusions

9. With the very late stage in the admissions process that has been reached, I have decided against imposing changes in the Arrangements.

10. For 2012 admissions, I recommend that the School, with the help of the local authority, should carry out a thorough review of the present Arrangements and undertake a process of clarification and amendment to arrive at arrangements for 2012 that are fully compliant with the Code. The School could decide to use a focus group of parents to 'road-test' their draft arrangements for 2012 before they are determined by the governors.

11. The School will be compiling its arrangements for 2012 in the knowledge that the Council or another party is likely to refer an objection to the Adjudicator if the observations contained within this adjudication are not heeded.

Determination

12. In accordance with section 88I (5) of the School Standards and Framework Act 1998, I have considered the admissions arrangements determined by the governing body of John Betts Primary School for admissions in September 2011. I find the arrangements not to be compliant

with the requirements of the School Admissions Code in a number of respects. However, for practical reasons, I am making no changes to the 2011 arrangements.

Dated: 17 February 2011

Signed:

Schools Adjudicator: Canon Richard Lindley