

DETERMINATION

Case references: ADA/002238

Admission Authority: The governing body of St Louis Catholic Middle School, Bury St Edmunds

Date of decision: 20 March 2012

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 St Louis Catholic Middle School, Bury St Edmunds for admissions in September 2012. I find the concern that gave rise to my consideration to be justified, in that the 2011 admission arrangements were published on the School's website. However the 2012 Policy was correctly available on the Council's website. I have found the arrangements not to be compliant with the requirements of the legislation and the School Admissions Code 2010 in the ways set out in paragraph 14 of this adjudication.

The referral

1. The admission arrangements for September 2012 of St Louis Catholic Middle School, Bury St Edmunds (the School), a voluntary aided school, have been brought to the attention of the Schools Adjudicator by the parent (the complainant) of a child at one of the feeder schools. Although the complainant's intention was to refer an objection to the Adjudicator, the final date for the receipt of such objections, 31 July 2011, had clearly passed. However, the issues that had been raised warranted investigation under the provision described in the following paragraph.

Jurisdiction

2. The 2012 admission arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing body, which is 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. I am satisfied that I have the power to consider these arrangements.

Procedure

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code 2010 (the 2010 Code), which I am satisfied is applicable to the Arrangements, even though a new Code (the 2012 Code) came into force on 1 February 2012. This latter Code does not apply to admission arrangements for September 2012.

4. The documents I have considered in reaching my decision include:

the Admissions Policy as downloaded from the School's website on 2 February 2012, on 5 February 2012 and on 21 February 2012;

the Overview of the process for Year 5 Admissions in September 2012 as downloaded from the School's website on 2 February 2012 and on 21 February 2012;

the Arrangements for 2012, as downloaded from the website of Suffolk County Council (the Council) on 2 February 2012;

hard copies of the 2011, 2012, and 2013 Admissions Policies supplied by the School;

an extract regarding St Louis Middle School from the Council's Admissions policies booklet as supplied by the School;

the supplementary information form (the SIF) as downloaded from the Council's website;

the objection in an email from the complainant of 23 January 2012;

the Net Capacity Assessment of the School as supplied by the Council;

a copy of the School Newsletter dated 10 January 2011;

the minutes of a meeting of the School's Governing Body held on 8 February 2011;

a letter from the Council to all schools dated 14 September 2010 advising on admissions requirements; and

an email from the School to the Council dated 16 December 2010 attaching the proposed 2012 Admission Arrangements for inclusion in the Council's consultation process and other email communications.

5. I held a meeting with representatives of the School, the Diocese of East Anglia (the Diocese) and the Council at the School on 24 February 2012, and have taken account of information received and views expressed during that meeting and subsequent correspondence.

Key Issues

6. The School is one of six forming the pyramid of schools providing Catholic education for children in the St Edmunds Deanery, which covers West Suffolk and the Norfolk parishes of Thetford and Diss. The Diocese made the decision to move from a three tier to a two tier system in September 2013, in line with reorganisation by the Council. In the last few months an appeal to the Schools Adjudicator was upheld against the Council's intention to discontinue the School from 31 August 2013.

7. The complainant has alleged that the 2011 arrangements were published as the Admission Policy on the school's and Council's websites, with an undertaking that these arrangements would be in place until the period of transition to the two-tier system is concluded. The complainant also alleged that the 2012 Policy had not gone through the statutory period of consultation to parents; and that the 2012 arrangements had displayed a Diocesan desire to remove competition between schools and to restrict the choices of parents.

Consideration of Factors

8. Paragraphs 1.5 and 1.71 of the 2010 Code explain that a fair system is one that provides parents with clear information about admissions to enable them to make informed decisions when applying for school places for their children, and in particular how oversubscription criteria will be applied. I discussed with representatives of the School, the Diocese and the Council at the meeting I held the fact that in the period up to early February the arrangements published on the School's website were for 2011. The 2011 policy clearly states that it will be in place throughout the transition period. Although the 2012 arrangements were available on the Council's website at the time the complainant's concerns were raised, they were not published on the School's website until several days after my investigation had begun. In addition, the draft 2013 admission arrangements for consultation were also published on the School's website at the time the concerns were raised.

9. At the meeting I held, the School accepted that it is therefore possible that some parents set their preferences (including preferences for other schools) on the basis of the 2011 arrangements published on the School's website, and other parents on the basis of the 2012 arrangements. Paragraph 1.34 of the 2010 Code states that all admission authorities must allocate school places in accordance with their published arrangements. Paragraph 1.35 requires that if a school is oversubscribed then the admission authority must consider all applicants against its published

oversubscription criteria. The School acknowledged that trying to decide applications based on two different sets of published criteria would be inherently unfair. Although it is not within my jurisdiction to direct a solution, I encouraged those present at the meeting to consider options that might go some way to resolving the problem and was assured that the School and the Council would continue to plan an immediate course of action to rectify matters as far as is possible. It was agreed that only one version of the Arrangements would in future be provided, and that out of date policies would be removed promptly from the website.

10. Since the meeting, the School and the Council have informed me that the Council sent a letter by first class post on 5 March 2012 to every parent who had expressed any preference for the School, explaining how the 2012 policy could be accessed and asking whether they would like to amend their preferences, with replies being received by 9th March 2012. The letter explains that the 2012 policy gives a lower priority to children who have attended some of the Deanery schools.

11. The School acknowledged during the meeting that a newsletter to the parents of children already at the School was not sufficient in terms of the School's duty to consult parents about the proposed change to admissions arrangements. However the Council representative assured me that the School's arrangements had been part of the county-wide consultation process, which included press notices, but that no responses regarding the School had been received. Despite the wrong policy being published on the Schools' website, it is clear the School did send the 2012 Arrangements in time for inclusion in the Council's consultation process.

12. The diocesan representative gave assurances that there was no desire on the part of the Diocese to remove competition between schools or to restrict parents' choices. She explained that the Diocese had always maintained that in the pyramid of schools it is desirable for schools to collaborate rather than to compete, and to maintain a route for all children through Catholic education. She explained that the circumstances of the School had been complicated and that the Schools had tried to balance the concerns of different groups.

13. I observed during the meeting that the 2011 arrangements named all four Deanery primary schools as feeder schools. The Diocese and School explained that the reason for selecting these schools was that they shared the same Catholic ethos as the School and provided continuity for the Catholic journey. However the Diocese and School did not have any objective and consistent reasons why only two of the Deanery schools were subsequently named in the 2012 arrangements, which indicates an inconsistency of approach which should be resolved in the 2013 arrangements. If the governors choose to name feeder schools in the 2013 arrangements they must ensure that the reasons for identifying these schools comply with the 2012 Code. By not including the other two Deanery schools as named feeder schools in the 2012 arrangements, the governors have changed the priority position for children attending these schools from the second highest of 15 oversubscription criteria to the second lowest. This is irrespective of whether they have older siblings at the School, even though many parents will want the children in their family to attend the same school. In considering the outcomes of the consultation for the 2013 arrangements, the governors will wish to take into account paragraph 1.15 of the 2012 Code which explains that the reasons for selecting schools as named feeder schools must be transparent and made on reasonable grounds.

Other Matters

14. In reviewing the 2012 arrangements, I noticed other breaches of paragraphs 1.71 of the 2010 Code which requires clarity, fairness and objectivity. It is essential that the governors bear all these matters in mind in terms of paragraph 1.8 of the 2012 Code when determining their 2013 arrangements before 15 April 2012. The breaches that I have detected are as follows:

- a. Several admission numbers have been published by the School. Admission numbers should be published for those age groups in which pupils are or will normally be admitted, in this case, for Years 5 and 7 only. Paragraph 1.17 of the 2010 Code states that admission numbers must be set with regard to the capacity assessment for the school. During the meeting the School explained that some places were being held vacant in order to cope with the possible outcome of a forthcoming consultation regarding another local school. The School should not plan to keep places vacant to cope with possible changes to another school but should set admission numbers with regard to their capacity assessment.

- b. The School has acknowledged that 'Section 1: The Principles of prioritisation' serves no useful purpose, lacks clarity and should be removed from future arrangements.
- c. The references to public care should be removed from 'Section 2'. The indication that children in public care will be given special consideration implies that governors may exercise an element of discretion in allocating places whereas paragraph 2.9 of the 2010 Code makes clear that looked after children must be allocated the highest priority in oversubscription criteria. For the 2013 arrangements the governors will wish to note that paragraph 1.7 of the 2012 Code extends the definition to include previously looked after children.
- d. In 'Section 3(a)' the governors cannot insist on parents supplying a certificate of baptism, nor a completed SIF. The Arrangements should not do other than advise the completion of the SIF and the production of baptism certificates in relation to specific oversubscription criteria.
- e. Under 'Section 3(b) iii' the statement that the child's parents are willing for the child to participate in the religious education and life of the school could be understood as limiting parents' entitlement to apply for places at the School or as purporting to override parents' entitlement to withdraw their children from these activities. As a contribution to a statement of the School's ethos, it could appear as part of a general preamble to the admission arrangements, without being part of the arrangements themselves.
- f. In view of the use of the SIF box to be completed by a minister or church representative, there is no need for a letter of support from the clergy referred to under 'Section 3(b)' of the 2012 arrangements as this could lead to the exercise of discretion by the clergy or the governors, contrary to paragraph 1.71(b) of the 2010 Code, or to the suspicion of such discretion.
- g. As the SIF box has to be completed by a minister or church representative, the requirement on the SIF to provide other supporting evidence from a church representative should be removed to avoid the possibility of the exercise of discretion.
- h. It is unclear who should sign at the end of the SIF. Where a signature and date is required, the party expected to sign should be indicated to avoid the possibility of confusion.
- i. Overall, the 2012 Arrangements are very complex and it was clear at the meeting that the diocesan representative had already advised the School of this. In drawing up their 2013 admission arrangements, the governors have the opportunity to simplify their policy so that parents understand easily how places will be allocated. The governors have a duty to ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.

Conclusions

15. I am satisfied, on the basis of the evidence available to me, that the 2011 document was published as the Admission Policy on the school's website, however the 2012 Admission Policy was correctly available on the Council's website.

16. The governors, with the support of the Council, have taken action to address the possibility that some parents set their preferences (including preferences for other schools) on the basis of the published 2011 arrangements, and other parents on the basis of the 2012 arrangements. Some parents may feel disadvantaged by the confusion over published policies with significantly different oversubscription priorities for children at Deanery primary schools.

17. I have been assured that the School's 2012 arrangements had been part of the county-wide consultation process, which included press notices, but that no responses regarding the School had been received. However the School's newsletter to the parents of children already at the School was not sufficient in terms of the School's duty to consult parents about the proposed change to admissions arrangements.

18. I have received the assurances that the Diocese has not attempted to fetter competition between schools, but instead has encouraged the pyramid of Catholic schools to work together. However I have not been convinced that there are objective and consistent reasons why only two Deanery schools have been named as feeder schools in the 2012 Policy, as compared with all four being named in the 2011 Policy. I recognise, however, that it is not practicable for the governors now to do anything to address this issue for 2012 admissions.

19. I have outlined above the ways in which the Arrangements are in breach of the 2010 Code. The governors should enlist the support of the Diocese and the Council in ensuring that the requirements of the 2012 Code are met in determining the admission arrangements for 2013. I recognise, however, that it is not practicable for the governors now to do anything to address this issue for 2012 admissions.

Determination

20. 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 St Louis Catholic Middle School, Bury St Edmunds for admissions in September 2012. I find the concern that gave rise to my consideration to be justified, in that the 2011 admission arrangements were published on the School's website. However the 2012 Policy was correctly available on the Council's website. I have found the arrangements not to be compliant with the requirements of the legislation and the School Admissions Code 2010 in the ways set out in paragraph 14 of this adjudication.

Dated: 20 March 2012

Signed:
Cecilia Galloway
Schools Adjudicator