

DETERMINATION

Case reference: ADA 2505-2514, 2512-2519 and 2541-2542.

Objector: A group of parents of children attending St Mary's Voluntary Controlled Infants School, Shackleford.

Admission Authority: The governing body of Waverley Abbey Church of England Junior School, Surrey.

Date of decision: 13 September 2013

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 of Waverley Abbey Church of England Junior School.

I have also considered the arrangements in accordance with section 88I(5). I determine that the school's supplementary information form does 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 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 group of parents (the objectors), about the admission arrangements (the arrangements) for Waverley Abbey Church of England Junior School (the school) a voluntary aided junior school for pupils aged 7-11, for September 2013 and September 2014. The objection is to the consultation arrangements which are said to have been inadequate and to the oversubscription criteria which are said not to be "reasonable, clear, objective and procedurally fair" as required by the Code.

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 objectors submitted their objections to these determined arrangements on

30 June 2013. The objection is to the arrangements for 2013 and 2014. Although an objection to the arrangements for 2013 should have been made by 30 June 2012, they have been brought to my attention and are still applicable to the waiting list and in-year applications, I will consider them under sections 88I(5) of the Act. I will consider the arrangements for 2014 under s88H of the Act. I am satisfied the arrangements have been properly referred to me in accordance with sections 88H and 88I of the Act and they are 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 objectors' email of objection of 30 June and subsequent letters of objection dated 3 July and 5 July 2013;
 - b. the school's response to the objection and supporting documents;
 - c. Surrey County Council's, the local authority (the LA), response to the objection and supporting documents;
 - d. the Church of England Diocese of Guildford's (the diocese) response to the objection and supporting documents;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2013;
 - f. a map of the area identifying relevant schools;
 - g. confirmation of when consultation on the arrangements last took place;
 - h. copies of the minutes of the meeting of the governing body at which the arrangements were determined;
 - i. a copy of the determined arrangements; and
 - j. the most recent Ofsted inspection report for the school.

The Objection

5. The objections in this case are to two aspects of the arrangements. Firstly the objectors consider the consultation arrangements to have been inadequate and not compliant with the requirements of paragraphs 1.42 to 1.45 of the Code. They also say that the school did not publish the determined arrangements on their website from the date of determination as required by paragraph 1.47 of the Code. The determined arrangements were not displayed until 28 June 2013.

6. Secondly, they contend that the oversubscription criteria are not reasonable, clear, objective and procedurally fair as they are required to be under paragraph 1.8 of the Code. Criterion 5 of the oversubscription criteria for 2012 reads as follows;

“Children who attend an infant school and attend the following named schools or residing in the following parishes at the time of application in the priority order; Tilford. Frensham. Churt. Seale. Puttenham. Thursley, Peperharrow. St. Mary's Shackleford C of E School, Shackleford Parish, St. Paul's Tongham CoE School. Wanborough.”

7. This was changed in 2013 and the 2013 oversubscription criteria read as follows;

1. Looked After Children (**see note i**)
2. Exceptional Circumstances (**see note ii**)
3. Siblings (**see note iii**) of children who will be on roll at Waverley Abbey at the time of admission'
4. Children of teachers who are on the payroll and have been employed at the school for two years or more or who meet a skills shortage. They must apply as all other applicants and also complete the Supplementary Information Form.
5. Children attending the following church aided infant schools
All Saints Church of England (Aided) School, Tilford.
St. Mary's Church of England (Aided) School, Frensham.
St John's Church of England (Aided) School, Churt.
Puttenham Church of England (Aided) School, Puttenham.
6. Children attending the following named infant schools or residing in the following ecclesiastical parishes at the time of application: Tilford, Frensham, Churt, Seale, Puttenham, Thursley, Peperharrow. St. Mary's Shackleford Voluntary Controlled Infant School, Shackleford, St Paul's Voluntary Controlled Infant School, Tongham and Wanborough.
7. Any other child whose parents want them to attend this Church of England school.

These 2013 arrangements incorporate some changes of wording from previous years and the removal of the phrase, “in the priority order”, from criterion 6. A new criterion giving priority to the children of teachers was introduced.

8. The 2014 arrangements made further changes, as follows;

3. Siblings (**see note iii**) of children who will be on roll at Waverley Abbey or who have been on roll at Waverley Abbey within the past two years at the time of admission.

4. Children of staff who are on the payroll and have been employed at the school for two years or more or who meet a skills shortage. For normal round admissions the date that will be used to assess the length of time that a member of staff has been employed will be the closing date for applications (15th January 2014). For in-year applications the date that will initially be used will be the date that the application is made. Should the child be placed on the waiting list, their position will be updated according to eligibility each time a place becomes available ie if staff member did not fulfil the two year criteria at the time of application. Staff must apply as all other applicants and also complete the Supplementary Information Form.

5. Children attending the following church aided infant schools
All Saints Church of England (Aided) School, Tilford.
St. Mary's Church of England (Aided) School, Frensham.
St. John's Church of England (Aided) School, Churt.
Puttenham Church of England (Aided) School, Puttenham.

6. Children attending the following named infant schools at the time of application:

St Mary's Church of England (Controlled) School, Shackleford
St Paul's Church of England School, Tongham

or residing in the following ecclesiastical parishes at the time of application: Tilford, Frensham, Churt, Seale, Puttenham, Thursley, Peper Harow, Shackleford, Tongham and Wanborough;_

7. Any other child whose parents want them to attend this Church of England school.

9. The 2014 arrangements incorporate three further changes; criterion 3 has been extended to include siblings of those who have left the school in the past two years, criterion 4 now includes children of all staff, not just teachers and criterion 6 has appended the parish of Tongham.

10. The objection states that the 2013 and 2014 oversubscription criteria are unfair and contravene paragraph 1.8 of the Code. The objectors state that their attention was not drawn to these changes and that the school has failed to communicate with them. They also object to the abolition of the supplementary information form (SIF), for all applicants except staff of the school.

Other Matters

11. Criterion 1 of the school's oversubscription criteria is "Looked After Children (**see note i**)". Paragraph 1.7 of the Code requires looked after **and** previously looked after children to be given first priority. It is not acceptable to have to go to a note to find out that the school means not only looked after but also previously looked after children. The note can explain what is meant by looked after and also by previously looked after, but the two categories of

children must both be named in the oversubscription criterion. The Code says that previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a residence order or special guardian ship order). Any explanatory note needs to set this definition out clearly.

12. An admission authority is permitted, as set out in paragraph 2.4 of the Code to have a SIF in which parents are asked to provide information that is necessary to process applications. Only information that has a direct bearing on decisions about oversubscription criteria can be requested. The school's general use SIF was abolished for the 2013 admissions round on the basis that it was unnecessary. A SIF is now required only from those parents wishing to apply under criterion 4, children of staff. The SIF asks for the names of parents or guardians in the plural and their address or addresses. The form does not specifically ask for the signatures of both parents, which is prohibited under paragraph 2.4 e) of the Code, but as currently set out, it does suggest that information which does not have a direct bearing on oversubscription criteria is being requested. It can only ask for the address at which the child lives and the name of one parent.

Background

13. St Mary's is a voluntary controlled infant school educating children aged 4-7. It is situated in the village of Shackleford and has a published admission number (PAN) of 25. It is one of two schools listed by Waverley Abbey as a feeder school. It is not a named feeder for any other junior school.

14. Waverley Abbey is a voluntary aided junior school located in the village of Tilford. It educates children aged 7-11 from Tilford and surrounding rural parishes. It has a PAN of 120.

15. The school sits within a planning area between the towns of Farnham, Godalming and Haselmere. All of these urban areas have seen large increases in demand for reception places resulting in increased demand spreading out into the neighbouring rural areas which have themselves also seen a somewhat increased birth rate. Demand for places at the school as measured by first preference applications has consistently exceeded the supply of places and it is forecast that this pressure will continue.

16. The school and St Mary's have had a long partnership. For more than 20 years, all St Mary's applicants wanting to do so have moved on to Waverley Abbey. The current objectors believe that changes made to the school's arrangements for 2013 and 2014, in particular the removal of the phrase, "in the priority order," will mean that this is no longer the case. The objectors maintain that this and other specific changes were not brought to the attention of parents and properly consulted upon.

17. The 2013/14 arrangements were consulted upon between December 2011 and 20 February 2012. They were determined on 9 March 2012. The school has said that "the determined policy was to be placed on the website

on 23 April 2012” and “I can confidently state that the determined policy was placed on the website before the 6 September because I checked the website”. The objectors have said that the determined policy was not posted until 6 September 2012. The copy currently on the website is dated 6 September 2012. The 2014/15 arrangements were sent out to consultation on 20 December 2012 and determined on 27 March 2013. The determined policy was placed on the website on 28 June 2013.

Consideration of Factors

18. I will deal first with the question of the consultation. The local authority has said that the school provided notice of the 2013/14 consultation by email on 13 December 2011 and asked for comments by 20 February 2012. This is confirmed by the school. This same email was circulated to those listed in paragraph 1.44 of the Code including local schools, the diocese and the local authority. There is no evidence of any attempt to consult, as is required, with parents otherwise than by assuming that schools would pass the consultation on to them. The school did not indicate an intention to make any specific changes to criteria at this stage. They did however incorporate a proposed change to the wording of criterion 5 (now criterion 6) which relates to St Mary's. This was not drawn to the attention of the local authority. Under the circumstances, the local authority did not comment upon this change of wording.

19. Correspondence provided to me by the school shows that there was further discussion with the diocese in March 2012 about the arrangements. As a result of this, the version of the determined policy eventually placed on the website included a new criterion giving priority for children of teaching staff. This had not appeared in the version consulted upon. The school says that the determined policy was placed on the website on 23 April 2012 but the version of this policy that is currently on the website is dated 6 Sept 2012. Either way, the school had consulted, but not on the change to the arrangements to include a completely new criterion.

20. Consultation on the 2014/15 arrangements was initiated by email and circulated to those listed in paragraph 1.44 of the Code on 20 December 2012. As before, there was no direct attempt to consult, as required, with parents. The documents were sent not to them, but to the school. The objectors complain that the consultation documents were not emailed directly to the head teacher and governing body but to the generic “info” email address at the school. As a result of this the head teacher did not see the documents and so the proposed changes were not brought to the attention of the governing body or parents. One of the objectors suggests that the email in question should have been sent directly to the head teacher and flagged as important with some explanation of the proposed changes. I also consider that the school would have been well advised to draw the attention of those likely to be affected to the proposed changes. Although head teachers are ultimately responsible for all matters pertaining to their schools and should therefore make sure that they read or are alerted to anything significant coming into any of their school's email addresses, it is the responsibility of the

school whose arrangements are the subject of the consultation to ensure that all those who are required to be consulted are consulted.

21. The arrangements consulted upon introduced priority at criterion 3 for siblings of children who have been on roll at school within the past two years and amended the wording of criterion 4 so that priority would be given to children of all school staff as opposed to teachers only. Criterion 6 was reworded again. The determined arrangements were circulated by email on 27 March 2013. The determined arrangements were not placed on the website until 28 June 2013 which contravenes the requirement in paragraph 1.47 of the Code which says, "Once determined admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the academic year in which offers are made)." The school has acknowledged that this was a mistake and apologized.

22. The Code does require admission authorities to consult with parents of children between the ages of two and eighteen and other persons within the relevant area who have an interest in the proposed admissions. It does not specify how this should be done so it is for admission authorities to ensure the methods it uses are appropriate to fulfil the requirements for consultation which may include an on line consultation. Given how busy parents of small children are, many do not think to start scanning websites for information about school admissions arrangements in the year prior to the one in which their children are due to start school. Thus it is not unusual for parents to miss on line consultations as seems to have happened in this case, but it is for the admission authority to demonstrate that it has made every effort to bring the consultation to parents' attention.

23. There were two elements to the changes that were consulted upon in the two consultations. New criteria were introduced and there were small, subtle changes to the existing criteria such that fine attention would have been required for them to be noted. The first consultation covered rewording and the removal of the four words "in the priority order". The local authority admit to not having noted or commented on this since it was not drawn to their attention. It is therefore likely that parents who were not directly sent the arrangements and may be less familiar with the details and requirements for arrangements will not have been able to respond to the consultation that the school carried out.

24. Furthermore, an entirely new criterion was introduced following the consultation. The process of consultation means that admission authorities are seeking views on their arrangements and are not bound to determine the precise arrangements upon which they have consulted any more than they are bound to change the arrangements in the light of responses to the consultation. Neither is it expected that completely new criteria will be introduced or other changes made that it would be difficult to justify as a response to consultation. It is understandable and indeed predictable that a sequence of events such as those connected with these two consultations will

leave many parents feeling frustrated and angry at the failure to use consultation to engage properly with them.

25. It is clear that although the school did carry out a consultation within the required timescale in both 2012 and 2013, there was no active attempt to consult with parents as required by paragraph 1.44 of the Code. Thus the impact of the 2013/14 changes to the arrangements did not become clear to parents until 17 April 2013, when only ten children from St Mary's were given initial offers at Waverley Abbey and the majority of children from St Mary's were rejected. Furthermore, the 2014/15 arrangements were not posted on the school's website until 28 June 2013, just two days before the deadline for making objections to the OSA. The consultations have not complied fully with paragraph 1.44 of the Code, and failing to post the arrangements on the website until 28 June has clearly breached the requirements of paragraph 1.47 of the Code.

26. Moving on from the question of the consultation to that of the oversubscription criteria, there are three criteria to which the parents have objected. Firstly, there is criterion 4. This was originally introduced in the 2013 arrangements and covered the children of teachers. In the 2014 arrangements it was amended following advice from the diocese and it now reads as follows; "Children of staff who are on the payroll and have been employed at the school for two years or more or who meet a skills shortage."

27. This criterion was introduced in 2013 following changes to the Code. Paragraph 1.39 of the Code says that admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the categories covered by the school's criterion. The local authority notes that this is permitted, but goes on to register its concern that the inclusion of this criterion might reduce the number of places available to other children in the local area. The objectors complain that "staff" covers a much wider range of people than "teachers" and state that this is a "subjective amendment of the criteria to favour staff" working at the school. In their view it is unfair because it potentially deprives children attending a named feeder school of places. It is however permitted by the Code.

28. Secondly, there are the changes to criterion 3, the sibling criterion. The extension of priority to siblings of children "who have been on roll at Waverley Abbey within the past two years at the time of admission" is, according to the objectors, arbitrary and will affect applicants in priority categories 4-7 who have greater priority need. The local authority has said that, as such priority is permitted by the Code, they did not comment upon this. Nonetheless, they wish to register their concern that it might reduce the number of places available to other children in the local area. The school has said that this criterion has been added "for the purpose of promoting families" and that it is "a change particularly popular with the Waverley Abbey parents". Paragraph 1.11 of the Code permits priority to siblings of former pupils. It is nonetheless worth noting in the context of the Code's promotion of fairness that the rationale for sibling priority is generally thought of as enabling parents to make one journey to one school, rather than two as is likely to be the case

with extended sibling priority.

29. Thirdly, there are the changes to criterion 6. The objectors say that this criterion is unclear. The 2013 version lists a confusing combination of infant schools and ecclesiastical parishes such that it is difficult in places to know which is which. It is indeed unclear. It also omits the key phrase, "in the priority order". In effect this phrase and the position of St Mary's at the head of the list gave almost a guarantee of places at the school for children attending St Mary's. This was a crucial change for those affected. The objectors understandably complain that attention was not drawn to it at the time of the consultation and they have been given no reason or explanation for the change.

30. The school says that it acted on advice from the diocese indicating that the original criterion contravened the Code in that it contained "a priority within a priority." This was said to conflict with the overall statement in the arrangements to the effect that where the school is oversubscribed within a criterion places will be allocated on distance.

31. The 2014 version again omits "in the priority order". It separates the schools from the parishes and lists both clearly. On reading the 2014 arrangements as a whole, it is clear that the determining factor within each criterion is distance. I do not consider that the 2014 criterion 6 is unclear. The question then is whether it is unfair.

32. In 2012, 23 children from St Mary's were admitted to Waverley Abbey. In 2013 this dropped to 11 offers in all, including one from the waiting list according to the local authority. Of these offers, eight were allocated under the sibling criterion and two under criterion 6. Eleven St Mary's children ranked under criterion 6 did not receive offers. The objectors anticipate further reductions in future in the light of the other changes to the criteria for 2014/15.

33. Feeder school status is generally the norm for infant schools in the area, but the combination of the changes to the school's other oversubscription criteria with the removal of priority for St Mary's is likely to mean that its feeder school status for the school is undermined. Since it is not a feeder for any other school, friendship groups are likely to be broken up and children dispersed around a number of schools.

34. The school is within its rights to give priority to the children of staff and to siblings of former pupils. All the changes made are technically permissible within the Code. But considered cumulatively and together with the fact that St Mary's, unlike the other schools in the area, has no other feeder school, they amount to unfairness.

35. Finally there is the question of the SIF. This was abolished for general use on the advice of the diocese and the local authority and in accordance with the requirements of the Code as all the necessary information was available on the local authority's application form. The information required for the staff priority criterion was not, hence the retention of the SIF only for

those applicants applying under the staff priority criterion.

Conclusion

36. The Code sets out clear requirements for consultation. The school carried out a very circumscribed consultation with no attempt to draw subtle changes to the attention of those likely to be affected and too little consideration was given to the impact of the changes on this particular group of children. The requirements for consultation were not met. Paragraph 1.47 requires authorities to publish arrangements on their websites once they have been determined. The school did not do this and so breached the Code.

37. Paragraph 1.8 of the Code says that oversubscription criteria **must** be reasonable and procedurally fair. The changes to the sibling criterion and the insertion of priority for children of staff are lawful. However, the cumulative effect of the removal of priority for St Mary's, which is not a feeder school for any other school, together with the changes to criteria, is unfair to the children, the parents and St Mary's itself. I uphold the objection.

Determination

38. 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 of Waverley Abbey Church of England Junior School.

39. I have also considered the arrangements in accordance with section 88I(5). I determine that the SIF does not conform with the requirements relating to admission arrangements.

40. 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 as quickly as possible.

Dated: 13 September 2013

Signed:

Schools Adjudicator: Mrs Janet Mokades