

DETERMINATION

Case reference: ADA/0002555

Objector: A parent

Admission Authority: The governing body of Pencombe Church of England Primary School, Bromyard, Herefordshire

Date of decision: 4 November 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 Pencombe Church of England Primary School, the admission authority for the school, for admissions in 2014.

Further, in accordance with section 88I(5) I have considered the arrangements for admissions in September 2013 and I determine that these do not conform to the requirements of the legislation and the School Admission Code.

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 parent, the objector, about the admission arrangements (the arrangements) for Pencombe Church of England Primary School (the school), a voluntary aided school for pupils aged 4 to 11 years for September 2014. The objection is that parents were not consulted about changes to the admission arrangements (the arrangements) for admission in September 2013 and the arrangements for 2014 are the same as the arrangements for 2013; and that the school does not make a full-time place available to all reception age children from September.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by the governing body, which is the admission authority for the school. The objector submitted the objection to these determined arrangements on 10 August 2013. Although objections to admission arrangements for 2014

should have been made by 30 June 2013, I am satisfied there is no prohibition on considering a late objections and therefore I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

3. Having reviewed the arrangements for 2014 and concluded that there were matters that did not comply with the School Admissions Code (the Code) and given that the referral has brought the arrangements of the school to the attention of the Adjudicator, I am also using my powers under section 88I of the Act to consider the arrangements for admissions in September 2013

Procedure

4. In considering this matter I have had regard to all relevant legislation and the Code.

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

- the objection dated 10 August 2013 and related correspondence;
- a response from the Diocese of Hereford (the diocese), dated 21 August 2013;
- the school's response to the objection dated 2 September 2013; and subsequent correspondence;
- the school's arrangements for 2013 and 2014;
- a copy of the minutes of the meetings of the governing body at which the arrangements were determined for 2013, dated 6 February 2012 and minutes from the meeting on 6 February 2013 at which the arrangements for 2014 were determined;
- minutes of meetings of the governing body on 25 June and 10 July 2013 at which admissions issues were considered; and
- a copy of the information booklet for parents seeking admission to primary schools in 2013 and 2014 published by Herefordshire Council, the local authority, (the LA).

The Objection

6. There are two aspects to the objection, firstly that parents were not consulted about changes to the arrangements for admission in September 2013 and that the arrangements for 2014 are those for 2013 which were not consulted on; and secondly that not all parents are offered the entitlement of a full-time place for their child from September as illustrated by places offered for September 2013.

7. The objector states that although there was a change in the admissions policy set out by the school for 2013, parents had not been made aware of the impending changes through the public consultation process that is required of all admission authorities that intend to change any aspect of their arrangements. The objector cites paragraph 15 of the Code which says, "Admission authorities **must** set ('determine') admission arrangements annually. Where changes are proposed to admission arrangements, the admission authority **must** first publicly consult on those arrangements".

8. The second aspect of the objection stems from the parent not being offered access to a full-time place from September 2013, even though schools must provide parents with a choice of a full-time place for children in reception the year after a child's fourth birthday. The objector cites paragraph 2.16 of the Code which says, "Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that:

- a) parents can request that the date their child is admitted to school is deferred until later in the academic year or until the term in which the child reaches compulsory school age, and
- b) parents can request that their child takes up the place part-time until the child reaches compulsory school age."

Other Matters

9. There are two issues that I would also draw to the attention of the admission authority, the wording of the first oversubscription criterion, which as currently written implies that governors have discretion over whether or not to admit looked after or previously looked after children, but this is contrary to the paragraph 1.37 of the Code; and the clarity of the arrangements that are published on the school's website and require parents to read 11 separate sections in order to see the full detail of the arrangements; and which are incomplete.

Background

10. The school is a small voluntary aided, rural primary school with capacity for 56 pupils aged 4 to 11 years. There are 54 pupils on roll and the school has a published admission number of eight.

11. The most recent Ofsted report describes the school as outstanding and says, "Children of reception age do well across the Early Years Foundation Stage curriculum and that provision is good." It also says, "... progress is not yet as rapid as in the rest of the school because the resources are not always organised to best effect and opportunities are sometimes missed for adults to aid learning as the children play".

12. Pupils are educated, of necessity, in mixed age classes with children starting in the reception year combined and taught with Year 1 pupils in the mornings and combined with Year 2 pupils in the afternoons. Parents were offered places at the school, but then advised that the places would only be made available for only four mornings a week and one full day for the first

term. The objector says this is contrary to the Code which indicates that it is the parent who has the choice of full or part time provision or deferred entry. The objector also says that this was different from previous years and that an older sibling had received full-time education for the whole year.

13. Following advice from the LA and the Department for Education (DfE) about the rights of parents to full-time education for their children from September in the reception year and the right to request less than full-time provision, the objector approached the school in June 2013 to try to resolve the matter. There is clear evidence that the governing body took the time to consider this and other requests from a number of parents seeking responses to requests for full-time provision. Parents were advised that as a voluntary aided school, it is the governors who have responsibility for admissions and that they supported the school's arrangements. The school offered to meet parents who had made similar requests for full-time places in order to explain the reasons for the arrangements and to contextualise the school's policy.

14. Since the objection was lodged the school has offered provision on two additional afternoon sessions until January when the school will permit full-time attendance.

Consideration of Factors

15. The first aspect of the objection relates to a lack of consultation with parents about changes to admission arrangements. The objector contends that there has been no consultation with parents about a change from full-time to part-time attendance for admissions in 2013, and thus in 2014, and has cited paragraph 15 of the Code that says that "where changes are proposed the admission authorities **must** first publicly consult on these arrangements".

16. In response, the school says that there have not been any changes to its arrangements for over ten years and therefore the governing body was not required to consult with parents. The school explained that there had been an unprecedented occurrence in 2011, when it was discovered, after places had been allocated, that no children would reach five years of age prior to 28 February 2012. The school then arranged a meeting with parents to discuss the possibility of full-time attendance if they so wished, an offer which the school says was taken up by several parents, but not all. The admission policy had not changed, but rather in September 2011, which is described as an exceptional year, after consultation with parents, the phasing of admissions was changed because there was space to accommodate pupils.

17. Paragraph 15b of the Code goes on to say that, "If no changes are made to admission arrangements, they **must** be consulted on at least every 7 years. Consultation **must** be for a minimum of 8 weeks and **must** take place between **1 November** and **1 March** of the year before those arrangements are to apply..... This consultation period allows parents, other schools, religious authorities and the local community to raise any concerns about proposed admission arrangements." I therefore checked with the school, as arrangements have not changed for ten years, to ascertain whether or not the school had met this requirement. Evidence was provided of consultation by the diocese on behalf of all voluntary aided schools in the LA

area between 4 January 2011 and 1 March 2011 about the arrangements for admission in September 2012. The head teacher confirmed that there were no changes that year to the school's arrangements. The school provided copies of its arrangements for 2011 and 2012 and I am satisfied that the school's arrangements have not changed. The school has met the requirement to consult on its arrangements every seven years even if there are no changes.

18. I agree with the governing body's assertion that as no changes were made, consultation was not required and for this reason I do not uphold this aspect of the objection.

19. The second aspect of the objection relates to the refusal of the school to agree that parents have a right for their child to attend full-time from September.

20. The school explained that it had admitted reception class children in a phased programme for 22 years and that its arrangements were made clear in the admissions policy. This is published in the school's prospectus which is made available when parents visit the school and on the school's website. For many years the school admitted children in a programme phased over three terms, but following advice from early years advisers ten years ago, they had admitted all children who reached their fifth birthday between 1 September and 28 February full time in the September and younger pupils part time for the autumn term, increasing to full time in January each year.

21. The arrangements for admission to the school published on the school's website are undated and appear under eleven separate sections as follows:-

- LA Admission Arrangements
- LA regulations
- Certificate of Eligibility and Admissions
- School Policy for Admission
- Admission Criteria In rank order
- Resolution
- Pencombe School Admission programme
- Admission of pupils over 5 years of age
- Admission Support
- Induction Visits
- Preschool packs

22. Under the heading Certificate of Eligibility and Admissions parents are advised that:-

“In Pencombe School, which is a Voluntary Aided school, the staff and governors have decided to make a policy for twice yearly.

The decision has been made with regard for:

- The development needs of the four year olds.
- the needs of the other pupils in the class and school
- the future of the Playgroup and the children within it

It was not an easy decision and we realise that some schools will be admitting those children with birthdays in the latter part of the school year earlier than us. However, I hope that everyone will appreciate the reasons for our decision and consider Pencombe School as they always have done, as an excellent place for their children to learn, even if they have to wait at Playgroup or Nursery a few weeks longer. The children will however, have the opportunity to enjoy, and benefit from, our carefully structured induction programme.

* The Headteacher and Governors reserve the right to make exceptions to school procedures in exceptional circumstances.”

23. When parents reach the seventh of 11 headings, “Pencombe School Admission Programme” they are advised that, “Children whose 5th birthday falls between 1st September – 28th February will be offered a fulltime place at the start of the Autumn term. Children whose 5th birthday falls between 1st March and 31st August will be offered a part-time place during the autumn term and fulltime at the start of the spring term. Part-time attendance currently stands at 3 mornings a week increasing to three mornings and two afternoons after the October half-term.”

24. The headteacher says that it is in the best interests of all pupils in this small school with mixed aged classes, for there to be a phased entry as this is developmentally appropriate for the youngest pupils who otherwise would be in a three year group class with the possibility of being overwhelmed by the size and ability of pupils who have already reached seven years of age. The school operates with four classes and the following is an example of how this works in practice:-

Class 1: 7 Reception pupils (some part-time until the end of the autumn term) and 10 Year 1 pupils. (Total 17)

For afternoon sessions during the autumn term, class 1 and class 2 combine. (Total 25)

Class 2: 8 Year 2 pupils.

Class 3: 9 Year 3 and 5 Year 4 pupils. (Total 14)

Joined by Year 2 pupils for afternoons from January each year.
(Total 22)

Class_4: 6 Year 5 and 9 Year 6 pupils. (Total 15)

25. Parents were informed that arrangements for phased admission according to the date of birth of the child had been made to avoid overcrowding in some classes. The objector cites paragraph 2.15 of the Code which says, "Infant classes (those where the majority of children will reach the age of 5, 6 or 7 during the school year) **must not** contain more than 30 pupils with a single teacher." Accepting that in a small rural school there would be mixed age classes, the objector says that at no time were there more than 30 pupils in any of the classes and that the school would not therefore exceed the infant class size regulations, even when combined for afternoon sessions.

26. Minutes of the governing body meeting on 25 June 2013 indicate that in response to a request from another parent for a full-time place from September there had been a full discussion. It was stated that as a voluntary aided school, the governing body had sole responsibility for the admission policy. One governor made the point that the option of full-time education from September should be given to new reception class parents however, the governing body as a whole concluded that any decision should be based on the interests of the whole school and past experience had shown it not to be beneficial to admit reception children of such a young age on a full-time basis at the beginning of September term. The minutes record that, "(The sole reason for this decision: - All changes to current School Admission Policy **must** result in an improvement in the children's education. Otherwise, any changes would contravene the educational ethos of the School. The Governors felt from previous trials of admitting children of this age no improvements had been detected, in fact, the opposite often being the case with individual children not being ready for the next level. On this basis, the current Admission Policy would remain unchanged)."

27. At a subsequent meeting on 10 July 2013 the governing body noted that there had been further requests from parents for full-time admission from September. The minutes record that prior to the meeting the school had consulted the diocese and that support for the school's position on this issue had been confirmed. The school has stressed that if the guidance on admissions has been misunderstood or misinterpreted then this had been unintentional and that the school would welcome specific guidance on the issue.

28. In a brief response to the objection the diocese said that it was aware of this situation and had had many conversations with the school and had understood that the school had made arrangements for the early admission of pupils for afternoon sessions.

29. The Code is clear that parents can request that their child takes up the offered place part-time until the child reaches compulsory school age and paragraph 2.16 says: "Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority

must make it clear in their arrangements that:

- a) parents can request that the date their child is admitted to school is deferred until later in the academic year or until the term in which the child reaches compulsory school age, and
- b) parents can request that their child takes up the place part-time until the child reaches compulsory school age”.

30. It is for parents to make a decision about what is in the best interests of their child rather than for the school to make a decision on their behalf. The Code places a specific obligation on admission authorities to ensure that parents are informed of their right to request a part-time place or deferred entry and that obligation would make no sense if the place offered were not full-time to start with. In the absence of either of these requests, the school must offer a full-time place to pupils from the September after the child's fourth birthday. It is clear to me that the school must provide full-time provision and that the Code requires that admission authorities state explicitly that parents can choose part-time attendance or deferred entry, should they so wish. I uphold this aspect of the objection concerning the school's failure to provide full-time education from September for children in the reception year.

Other Matters

31. The first issue relates to the first oversubscription criterion which states, “Pupils in the ‘Looked After’ system and children who are adopted, where the approved agencies, in consultation with Governors, agree that the school is the most appropriate to meet the child's needs.” This seems to me to imply that governors have discretion over individual decisions to admit looked after children or previously looked after children. Paragraph 1.7 of the Code states, “All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and previously looked after children. 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 guardianship order.” The arrangements must not imply that the governing body has discretion about whether or not to give the highest priority in the oversubscription criteria to looked after children and previously looked after children. The wording of the arrangements must be changed to reflect the mandatory requirement of the Code.

32. The second issue relates to the arrangements published on the school's own website. While the printed versions of the arrangements for 2011, 2012, 2013 and 2014 that were provided for me by the school, are clearly laid out, there are disparities between these and the information provided for parents on the school's website. In the documents, the arrangements are dated, but on the school's website they are not. As there will always be two sets of arrangements available for parents to refer to, that is, the set for parents applying in year and the set determined for the next academic year, it is important for parents to know which year the arrangements apply to.

33. Online the arrangements have been subdivided between 11 separate sections. In the fifth section “Admissions Criteria” parents are advised that the oversubscription criteria are in rank order but on the website version the oversubscription criteria are all numbered ‘1’.

34. When applying for priority for a place under the third oversubscription (faith), if the school is oversubscribed, parents have to approach the parish priest or minister and the Supplementary Information Form (SIF) has not been provided for parents. The criterion states, “Pupils whose principal address is within the catchment area of the school as defined by the LA and who request a Church (faith) place supported by the appropriate Vicar/ Rector/ Minister. Faith in this context is defined as being an adherent to the Christian Trinity.” On the school’s website and in the information sent to me by the school, there was no information about how parents might satisfy the faith criteria. This information is currently only contained in the LA booklet and parents must refer to this booklet in order to understand what is required.

35. Parents must look under the Heading “Resolution” to find out that, applications for 'church' places should be endorsed or referenced by the parish priest or other minister and that a form is available from the minister. The SIF must be available on the website so that parents can see what it contains. I note that the SIF is available on the LA website.

36. All information must be readily available for parents and published on the school’s website, so the SIF which forms part of the arrangements must be published with the arrangements. The Code says in paragraph 14, “In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” The arrangements published on the school’s website do not comply with the requirements of the Code in respect of clarity for parents.

37. I strongly recommend that the governing body reviews the information for parents on its website, with appropriate support from diocesan and LA officers to develop a coherent set of arrangements that are dated and are easily accessible for parents.

Conclusion

38. When admission authorities propose to change their arrangements from one year to the next they must consult as required by the Code. In this case the objector felt that parents had not been consulted after a change of internal organisation that occurred in 2011 to accommodate exceptional circumstances. The school has provided evidence that there was no change to the determined arrangements and for this reason I do not uphold this aspect of the objection.

39. The Code makes clear that schools must provide places in the reception year from the beginning of the academic year, the September, in which a child will reach the age of five years. Once a place has been offered, it is then for the parent to decide whether to request part-time attendance until

the child reaches compulsory school age or to defer entry until that point. The duty for the school is to provide full-time education from the beginning of the school year. The arrangements determined by the school in relation to part-time admissions for the autumn term and full-time places from January each year do not meet these requirements. For these reasons and those given above I uphold this aspect of this objection.

40. Having reviewed the arrangements for 2014 and concluded that there were matters that did not comply with the Code, and given that the referral has brought the arrangements of the school my attention, I have used my powers under section 88I of the Act to consider the arrangements for admissions in September 2013. The arrangements determined by the school for 2013 are identical to those determined for 2014 and do not comply with the requirements of the Code in relation to part-time admissions in September 2013 and full-time in January 2014.

41. Finally, the arrangements for both 2013 and 2014 do not comply with mandatory aspects of the Code, in that all looked after and previously looked after children will have the highest priority for admission to the school; this is not a matter at the discretion of the governing body. The arrangements published on the website are unnecessarily complex for parents to access, are undated and do not provide all the information that parents need to hand.

Determination

42. 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 Pencombe Church of England Primary School, the admission authority for the school, for admissions in 2014.

43. Further, in accordance with section 88I I have considered the arrangements for admissions in September 2013 and I determine that these do not conform to the requirements of the legislation and the School Admission Code.

44. 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: 4 November 2013

Signed:

Schools Adjudicator: Mrs Carol Parsons