



DETERMINATION

Case reference: ADA2738

Objector: Somerset County Council

Admission Authority: The Bath and Wells Multi Academy Trust

Date of decision: 27 August 2014

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 on behalf of The Bath and Wells Multi Academy Trust for Horsington Church School in Somerset.

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 Somerset County Council, (the objector) about the admission arrangements (the arrangements) for Horsington Church School (the school), an academy for children aged 4 to 11 for September 2015. The objection is to the consultation undertaken by the school before it introduced a change in its catchment area. Somerset County Council is the local authority (the LA) for the area in which the school is situated.

Jurisdiction

2. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined under section 88C of the Act by the school's governing body on behalf of the Bath and Wells Multi Academy Trust (the trust), on 18 March 2014. The LA submitted the objection to these determined arrangements on 30 June 2014.
3. 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.

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:
 - a. the LA's email of objection dated 30 June 2014;
 - b. the school's response to the objection and supporting documents dated 11 July 2014;
 - c. correspondence from the consultant acting for the school and the Diocese of Bath and Wells (the diocese) dated 30 July 2014;
 - d. information from the LA on the recent pattern of admissions in the area and their forecast of future pupil numbers at neighbouring schools dated 25 July 2014;
 - e. further correspondence from the LA dated 23 July 2014;
 - f. guidance for governors on admissions published on its website by the diocese;
 - g. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014;
 - h. maps of the area identifying relevant schools;
 - i. confirmation of when consultation on the arrangements last took place;
 - j. copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
 - k. a copy of the determined arrangements.

The Objection

6. The LA considered that the school's consultation with them on the school's admission arrangements for 2015 did not conform with the requirements of paragraph 1.45 of the Code. This was because the school had not made it clear to the LA that a change in the catchment area was being proposed in the consultation.

Background

7. The school is in the village of Horsington near Wincanton in Somerset. The school became an academy in December 2013 within the Bath and Wells Multi Academy Trust.
8. The school has a published admission number (PAN) of 17 and the children are organised into four classes. The school is oversubscribed with the majority of the children attending the school living outside of

the catchment area that applied in 2014 and previously.

9. This former voluntary controlled school did not become an academy until after the date by which regulations required the 2014 arrangements to be determined. Therefore the school was subject to the arrangements set by the LA for 2014. The oversubscription criteria for 2014 can be summarised as:
 1. Looked after and previously looked after children;
 2. Children with high needs;
 3. Siblings living in the catchment area;
 4. Other children living in the catchment area;
 5. Siblings from outside the catchment area;
 6. Children living outside the catchment who attend a school within the catchment area;
 7. Children from families who are practising members of the founding religious body or other churches;
 8. Other children.
10. The 2015 arrangements determined by the governing body are significantly different to the previous arrangements. The catchment area has been enlarged and the oversubscription criteria have been changed.
11. The new catchment area is approximately twice the area of the previous one taking in a large area to the north of the school. No changes have been made to the eastern, southern or western boundary of the catchment area.
12. The school's oversubscription criteria for 2015 can be summarised as:
 1. Looked after and previously looked after children;
 2. Siblings;
 3. Children living in the catchment area;
 4. Children who qualify for the pupil premium;
 5. Other children.
13. Priority within each category is based on distance from home to school with children living closest to the school having priority. A ballot is used as a final tie-break.
14. The main difference in the oversubscription criteria is that the previous arrangements gave children living in the catchment area priority over

siblings from outside the catchment area. The introduction of priority for children who qualify for the pupil premium is also new and is permitted in the school's funding agreement.

Consideration of Factors

15. Paragraphs 1.43 to 1.45 of the Code set out when consultation must take place, for how many weeks it must be open, who must be consulted and where proposed arrangements must be published.
16. The school opened consultation on 20 December 2013 and closed it on 16 February 2014. This met the requirements of paragraph 1.43 of the Code which requires eight weeks of consultation between 1 November and 1 March in the determination year.
17. The consultation began with an email from the school to parents, the LA, the diocese and ten nearby schools alerting them to the consultation. The email said that the trust and the school proposed to "*alter the admission arrangements applying to Horsington Church School for the 2015/16 academic year.*" The email twice referred readers to the school's website where the proposed arrangements could be viewed; it offered paper copies on request and explained how comment could be made by email or by writing to the school office.
18. In their objection the LA argued that the school should have made it clear in this communication that they were consulting on a change in the catchment area because the LA did not become aware of the catchment area change until after the arrangements were determined.
19. The LA suggested that while it "*does not have significant concerns in relation to the change of catchment area*" other consultees may have been unaware of the proposed catchment area change and its implications. Parents, for example, would not be aware of the possibility that children living in neighbouring catchment areas, but near to the school, may be unsuccessful in obtaining a place when previously they would have been successful. The LA was also concerned that parents in the new part of the catchment area may make incorrect assumptions about their entitlement to home-to-school transport because this was not discussed in the school's consultation.
20. In its response to the objection, the school has said "*In hindsight, it might have been more beneficial if the catchment alteration was specifically mentioned in the announcement.*" I would agree. This is however no excuse for the LA not looking at the school's website during the consultation period when they were supplied with the necessary information to do so.
21. In my view the email announcement met the requirements of paragraph 1.45 of the Code. I am however concerned that the consultation undertaken by the school may not meet the full requirements of paragraph 1.44 of the Code.

22. The ten schools consulted are all in Somerset; the school is near the county boundary with Dorset and I have noted that there are schools in Dorset nearer to the school than some of those consulted. While it is arguable that those schools should have been consulted, I am particularly concerned about the consultation with parents of pre-school children who would be most affected by the proposed change.
23. The school says it sent the email announcing the consultation to parents. Paragraph 1.44a of the Code requires that consultation is with "*parents of children between the ages of two and eighteen*". I do not think that the school would have access to the email addresses of parents of children aged 2 to 18 in the area unless those children were already on the school's roll. It will be parents of children yet to start at the school who will be most affected by the new arrangements and I have seen no evidence of any attempt to consult this group of parents.
24. The school admissions section of the diocese's website says "*The governing body must ensure that an advert is placed in the local papers to notify the public that the consultation is taking place.*" Following this advice would have been the minimum consultation I would have expected the school to do.
25. I have also seen a copy of the notice put up at the school for parents and visitors to see. This did not give any indication of the range of proposed changes and nor did it say where the proposals could be viewed.
26. I have looked at maps of the new and the former catchment areas and have considered two hypothetical children without a sibling at the school, one living in the village of Abbas Combe and one living in the village of Holton. Previously both would both have been outside the catchment area and the child from Abbas Combe would have had higher priority for a place because that village is closer to the school than Holton. The new catchment includes Holton, so that child would now have higher priority under the new arrangements.
27. It seems to me that this reversal in priority could have a significant impact on children living in Abbas Combe and other villages not included in the new catchment area. Parents of pre-school children living in those villages may well have raised concerns about the proposal with the governors had they been aware of the consultation. Such concerns may have led to the governor's making a different decision about the proposals.
28. I have also considered whether the changes to the oversubscription criteria might have any adverse effect on any groups of children which wider consultation might have brought to the governors' attention.
29. Previously all children living in the catchment area had priority over siblings living outside it. The school now gives priority to all siblings, wherever they live, ahead of children living in the catchment area. Some parents might have asked whether it made sense to increase the

size of the catchment area and at the same time give siblings from elsewhere greater priority for places at the school.

30. Again, if parents who would be affected by the changes had had the opportunity to raise this question during consultation it would have allowed the school in partnership with the LA to look carefully at the number of children living in the enlarged catchment area. Such considerations would have enabled governors to reach a view on the possibility of children from the new catchment being displaced by siblings from elsewhere and to consider the implications of this before determining the arrangements.
31. The final point which I think parents may have raised had they been fully consulted is what entitlement to home-to-school transport children from the new part of the catchment area would have. The LA has identified this as a matter of concern while the school has suggested that a recent change in the LA's home-to-school transport policy is not widely known.
32. The LA's transport policy is available on its website; it includes a section on how changes to schools affect children's entitlement to transport. In particular paragraph 6.14.6 says "*Where an own Admission Authority applies to change its catchment area for admission purposes, this will not normally affect the designated transport area for the school. The transport entitlement remains for the designated transport area as designated in September 2012 unless the Authority has agreed to change it following consultation.*"
33. The change in catchment area means some families live in the catchment area for two schools. I agree with the LA that insufficient consultation makes it possible for parents living in the new part of the catchment area to express a preference for school places with an incorrect understanding of their entitlement to transport. The relevant sections of the LA's transport policy have been in place since 2012 and in my view should have been known and considered by the governors and their consultant.
34. The minutes of the governing body meeting of 18 March 2014 at which the arrangements were determined justify adopting the arrangements on the grounds that there were no objections or comments received on them. It might be expected that the governors would have questioned the absence of any responses to proposals for such significant changes in the arrangements.
35. I am of the view that the requirements of paragraph 1.44a of the Code have not been met because parents of pre-school children were not fully consulted.

Conclusion

36. This objection is to the consultation undertaken by the school's governing body before changing its catchment area. For the reasons set out above I do not agree that the school failed to meet the requirements of paragraph 1.45 of the Code as suggested by the LA. However I am not satisfied that the consultation met the requirements of paragraph 1.44 of the Code. I therefore partially uphold the objection.

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 on behalf of The Bath and Wells Multi Academy Trust for Horsington Church School in Somerset.

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: 27 August 2014

Signed:

Schools Adjudicator: Phil Whiffing