

## **DETERMINATION**

**Case reference:** ADA002344

**Objector:** Wokingham Borough Council

**Admission Authority:** The governing body of St Sebastian's Church of England Aided Primary School, Wokingham

**Date of decision:** 10 August 2012

### **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 St Sebastian's Church of England Aided Primary School Wokingham for admissions in September 2013.**

**I have also considered the arrangements in accordance with section 88I (5). I determine that they do 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 Wokingham Borough Council, the local authority ( the LA), the objector, about the admission arrangements (the arrangements) for St Sebastian's Church of England Aided Primary School (the School), a Voluntary Aided Primary School for children aged 4 to 11 for September 2013. The objection is that the school failed to consult regarding its proposed arrangements as set out in the School Admissions Code (the Code) paragraphs 1.42 to 1.45.

### **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 objector submitted its objection to these determined arrangements on 27 June 2012. 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**

3. In considering this matter I have had regard to all relevant legislation and the Code.
4. The documents I have considered in reaching my decision include:
  - a. the objector's form of objection dated 27 June 2012 together with supporting papers;
  - b. the School's response to the objection dated 12 July 2012 and supporting documents;
  - c. an email from the Diocese of Oxford (the Diocese) dated 16 July 2012;
  - d. the LA's composite prospectus for parents seeking admission to schools in the area in September 2012 as that for September 2013 is not yet available;
  - e. a map of the area identifying relevant schools;
  - f. copies of the minutes of the meeting of the admissions committee of the governing body on 14 March 2012 and of the full governing body on 28 March at which the arrangements were determined; and
  - g. a copy of the determined arrangements for 2012 and for 2013.

## **The Objection**

5. The School began discussing its arrangements for 2013 towards the end of 2011. There were a number of changes to the 2012 arrangements that needed to be made in order to reflect changes in the Code. In addition the School decided to make other changes to its oversubscription criteria.
  - a. To change the definition of sibling from someone attending the School "at the time of admission" to "at the time the application".
  - b. To add to the footnote which defines regular worship as 'attending a regular church service at least once a month over the year preceding the application', the words "For applicants who have moved into the area, previous church attendance will be taken into account. Provided that verification from a previous church is included in the application". (sic)
6. These are changes upon which the Code requires admission authorities to consult by 1 March including any supplementary information form (SIF) that will apply. The objection is that the School failed to do so.

## **Background**

7. Along with other Church of England schools representatives of the

School attended training offered by the Diocese in 2011. In the light of that training, the governors amended their 2012 arrangements to reflect the changes in the Code for 2013. In addition, they made the changes detailed above.

8. It is here that confusion began. The amended arrangements were sent to the Diocese and, according to the School admissions committee minutes of 14 March 2012, the Diocese “confirmed (they were) acceptable”. The committee took this to mean that further consultation was unnecessary. The committee’s minutes also suggest that it had thought that the LA had also advised that consultation was not required “as the only changes were amendments required by the Code”. On 28 February 2012 the LA emailed the School following a meeting of the LA’s School Admissions Forum on 22 February 2012 to point out that there were changes in the arrangements which necessitated consultation.

9. The governing body determined its arrangements on 28 March 2012 deciding that by then it was impossible to consult appropriately in order that responses could be received by 1 March, as required by law, and that the “policy is still legal”.

### **Consideration of Factors**

10. There is no doubt that the School believed that it was acting appropriately by not entering into formal consultation on the proposed changes. Neither the Diocese nor the LA has objections to the proposed changes as such.

11. I am of the view that the change in definition of sibling concerning when the older sibling would be at the school is a change that required consultation.

12. The definition of what is meant by regular attendance could be thought of as providing clear arrangements and thus did not need to be consulted on. However, the footnote specifies what has to be demonstrated to have priority against criteria 2 and 3 and therefore it should have been consulted on.

13. As the arrangements determined for 2013 undoubtedly do contain changes in addition to those required by law and on which the requirement to consult was not met I uphold the objection..

14. There is one further matter in the arrangements for 2013 which is not a change from 2012 but is contrary to the Code. Criteria 5 and 8 refer to children who worship regularly “at a Christian Church which is Trinitarian in doctrine”. Paragraph 1.8 of the Code states:

“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”

There is nothing in the arrangements to indicate which churches are counted as ‘Trinitarian’ nor what evidence may be required. In order to comply with the Code, the School should either make such a list available or require the

priest or minister signing the SIF to confirm that the church he serves and at which the applicant worships “is Trinitarian in doctrine”.

15. Finally, paragraph 1.42 of the Code states

When changes are proposed to admission arrangements, all admission authorities **must** consult by **1 March** on their admission arrangements (including any supplementary information form) that will apply for admission applications the following academic year. Where the admission arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities **must** consult on their admission arrangements at least once every 7 years, even if there have been no changes during that period.

The School’s arrangements state clearly, as they have for some years,

“We will consult annually on our admission arrangements ... we will consult with the Oxford Diocese, all local admission authorities, including LAs and Governing Bodies of other aided schools, and relevant parents and other groups with an interest in the local area.”

Given this statement it is perhaps even more surprising that the School did not formally consult on its 2013 arrangements. However, be that as it may, the School will need to decide whether or not it wishes to commit itself in this way for the future. What it must not do is state that it will and then fail to do so, for that also would be contrary to the Code.

## **Conclusion**

16. I am satisfied that I should uphold the objection that the School did not consult as required by the Code. I accept that the School did not set out to contravene the Code, but in not studying the Code carefully enough and misunderstanding advice about consultation the correct processes were not followed.

17. In addition, I have advised in paragraphs 14 and 15 above about two other issues that will need to be addressed.

18. It is now for the Governors with assistance from the Diocese and the LA if necessary to decide what should be done at this stage in order to comply with the Code. Proper consultation is an essential part of the process and should not be allowed to be omitted.

19. Looking further ahead, according to paragraph 1.42 of the Code, if the School did not wish to make any further changes in the next six years there would be no requirement for any further consultation, even on these arrangements that had this year evaded the proper consultation process. So I believe that at the very least the governors would be wise to carry out a full consultation before determining the arrangements for 2014.

## **Determination**

20. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by St Sebastian's Church of England Aided Primary School Wokingham.

I have also considered the arrangements for 2013 in accordance with section 88I (5). I determine that do not conform with the requirements relating to admission arrangements.

By virtue of section 88 K (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: 10 August 2012

Signed:

Schools Adjudicator: Dr Stephen Venner