

DETERMINATION

Case reference: ADA002345

Objector: Wokingham Borough Council

Admission Authority: The governing body of Shinfield St Mary's Church of England Aided Junior School

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 Shinfield St Mary's Church of England Aided Junior School.

I have also considered the arrangements for 2013 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 Shinfield St Mary's Church of England Aided Junior School (the School), a Voluntary Aided Junior School for children aged 7 to 11 years 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 Interim Executive Board (IEB) which later the same day transferred its authority to the governing body, which is the admission authority for the School. The LA 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 11 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 IEB held on 13 December 2011 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 or Shinfield Infant and Nursery School "at the time of their term of entry" to "at the time the application is processed and who is expected to be in attendance at the point of entry to the Junior School".
 - b. In the section on church attendance, to change the definition of "any other Christian denomination" from "a denomination that is a member of Churches Together in Britain and Ireland" to "a denomination that is a member of Churches Together in Britain and Ireland, Evangelical Alliance or churches ascribing to the doctrine of the Trinity".
 - c. To add a new criterion regarding children of staff.
6. These are changes upon which the Code requires admission authorities to consult by 1 March. The objection is that the School failed to do so.

Other matters

7. According to the proposed arrangements, applications for a place on denominational grounds require completion of a Supplementary Information Form (SIF). The SIF currently in use does not conform with the Code and requires revision.

Background

8. 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 three changes detailed above.

9. The School understood that it needed to consult on these changes in order that comments could be made by 1 March. However, there was clearly some confusion as to what 'consult' meant, as evidenced by a range of emails between the School and the Diocese and the LA. The amended arrangements were sent to the Diocese, amended further in the light of diocesan advice, and then approved by the Diocese on 12 December 2011 and ratified by the IEB of the School on 13 December 2011. At the end of that meeting governance was formally passed to the School's Governing Body. These arrangements were then published on the School's website, in the words of the Chair of Governors, who had also chaired the IEB, "so that it was publicly available for the full consultation period". The governors in that same email had clearly heard from the diocesan training that their "obligation was to publish the policy on our website until the end of Feb". At a meeting of the IEB on 6 December 2011, governors had been advised by the Chair that "publication on the website was all that was required".

10. The LA discovered the arrangements on the School's website and made contact with the School on 7 February 2012. The School was sent the relevant paragraphs of the Code and the regulations that support them. The School was informed of its duty to consult the LA and other local admissions authorities. It was also advised that while the arrangements had been published on the website, there was nothing to say that the policy was for consultation nor that comments were invited and to whom they should be sent.

11. The School responded saying that it had only made changes as required by the new Code.

12. On 9 February 2012 the LA pointed out that adding a criterion about children of staff was a change permitted but not required by legislation, and therefore consultation was needed. As a result that section was removed.

13. On 10 February 2012 the LA made contact again by email and made a number of further comments on the arrangements. As a result, on 14 February 2012 the School emailed the Diocese for advice. The Diocese responded the same day strongly supporting the School's proposed changes, and giving detailed advice on what consultation is required by the Code.

14. On 22 February 2012 and again on 14 March 2012 the LA's School Admissions Forum met and reviewed the arrangements in detail. At its March meeting it was resolved to inform schools that the consultation on their arrangements had not been carried out strictly in compliance with the Code. This was communicated to the School in writing on 4 April 2012.

15. By the end of March, a new section had been added to the School's website giving information about how and on what grounds one might object to the Adjudicator about the arrangements.

16. On accessing the website in July, I found the very strange situation where there was a section about objecting to the Adjudicator, but the 2013 arrangements themselves had been removed.

Consideration of Factors

17. The long and sometimes passionate email exchanges that I have seen make it very clear that all concerned, and particularly the School, have wanted to fulfil their obligations appropriately. As the Chair of governors wrote: "At no point has the school intentionally attempted to operate outside of the prescribed process, but for lay people, the whole area of admissions is a 'minefield' and one for experts."

18. In the same email, the Chair states "I hope that our good intentions are clear, even if the execution of the process was not 'textbook'". I have no doubt that this is true.

19. The arrangements proposed for 2013 contain in the view of the objector changes in addition to those required by law. Therefore the School as the admission authority were required to consult and failed to do so. Publishing arrangements on a website does not fulfil the requirements of paragraphs 1.43 to 1.45 of the Code.

20. Looking at the changes to the arrangements themselves:

- a. The definition of sibling has been changed from someone attending the School or Shinfield Infant and Nursery School "at the time of their term of entry" to "at the time the application is processed and who is expected to be in attendance at the point of entry to the Junior School". As it stands, that is contrary to paragraph 1.8 of the Code which states that "oversubscription criteria **must** be reasonable, clear, objective, procedurally fair ...", as there is no information available to applicants informing them when the application is processed.
- b. The definition of "any other Christian denomination" has been changed from "a denomination that is a member of Churches Together in Britain and Ireland" to "a denomination that is a member of Churches Together in Britain and Ireland, Evangelical Alliance or churches ascribing to the doctrine of the Trinity" is also as it stands against paragraph 1.8 of the Code. A church's membership of Church Together in Britain and Ireland

and/or of the Evangelical Alliance can each be objectively verified. However, the addition of “churches ascribing to the doctrine of the Trinity” is more vague and open to question. There is no authoritative list.

I agree that these changes required the school to consult, which it did not do in accordance with the Code and therefore I uphold the objection

21. The SIF would need to be revised in order that the arrangements conform with the requirements of the Code.
 - a. The SIF should be completed by the parent/guardian/carer who should be the one to make the statement about attendance at church.
 - b. It is then for the parish priest/minister to confirm the truth of that statement.
 - c. The SIF should be returned to the School and not to the LA as currently stated.
 - d. If the School wishes to continue to include applicants who belong to “churches ascribing to the doctrine of the Trinity” they would probably require verification by the parish priest/minister that his/her church does ascribe to the doctrine of the Trinity in order to provide governors with some objective evidence.

Conclusion

22. 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.

23. 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.

24. 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

25. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by Shinfield St Mary’s Church of England Aided Junior School.

I have also considered the arrangements for 2013 in accordance with section 88I (5). I determine that they 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