



DETERMINATION

Case reference: ADA 2606

Objector: A member of the public

Admission Authority: The academy trust of South Farnham School,
Surrey

Date of decision: 16 September 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the academy trust, the admission authority of South Farnham School, for admissions in September 2015.

I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 to the admission arrangements (the arrangements) of South Farnham School (the school), has been referred to the adjudicator by a member of the public on 2 May 2014. The objection is in two parts. The first part of the objection concerns the oversubscription criterion which prioritises siblings before children living close to the Bourne site of the school which in the view of the objector contravenes paragraph 1.8 of the School Admissions Code (the Code), in that it is neither objective nor procedurally fair. The second part of the objection concerns the lack of proper consideration by the governing body of the outcome of the consultation for admissions in 2013, when this sibling criterion was introduced. The objector has argued that this contravenes paragraph 15(b) of the Code.

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 academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing body on behalf of the academy trust, which is the admission authority for the school, on that basis.

3. The 2015 arrangements for the school were determined on 11 March 2014. Previous arrangements for the school have been the subject of determinations in 2012 and 2013. The determination published in 2012 was under section 88H of the Act and concerned an objection to the new catchment area for 2013. I have considered whether the objection to the sibling criterion is the same or substantially the same as matters considered in that determination and therefore prohibited from further consideration by paragraph 3.3(e) of the Code. I am satisfied that the objection to the sibling criterion is different from the matter considered in the previous determination and therefore has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider this objection.

4. The determination in 2013 concerned arrangements for September 2014 that were brought to the attention of the adjudicator under section 88I of the Act and concerned the selection of schools as feeder schools and a change in the way distance between home and school was measured to be a gate at either of the school's sites, whichever, is the nearer. As the arrangements were considered and the determination made under section 88I of the Act the terms of paragraph 3.3 of the Code do not apply. I have also used my power under section 88I of the Act to consider the arrangements as a whole and the concerns raised about the 2013 consultation process which led to the inclusion of the sibling criterion.

Procedure

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

The documents I have considered in reaching my decision include:

- the objector's email dated 2 May 2014, supporting documents and subsequent correspondence;
- the school's response to the objection and supporting documents including the minutes of the meeting at which the arrangements for 2015 were determined and subsequent correspondence;
- Surrey County Council's (the council's) response to the objection and supporting documents;
- a copy of the determined arrangements for 2012, 2013, 2014 and 2015;
- admissions data for 2012, 2013 and 2014;
- a map pin pointing the home address of children allocated a place in the Reception year (YR) for 2014.

- a map of the area identifying all infant, junior and primary schools;
- the 2014 composite admissions prospectus available on the council's website; and
- minutes of the meetings of the governing body, which considered the responses to the consultation about and determined the arrangements for 2013.

6. I arranged a meeting on 9 June 2014 at the school (the meeting) with the objector and representatives of the school and the council. Correspondence was also submitted after the meeting as a result of my requests for further information and clarification, and this has been copied to the objector, the school and the council as appropriate. I have considered the representations made to me at the meeting and the documentation and correspondence submitted before and after the meeting.

The Objection

7. The objection relates to the oversubscription criterion giving priority to all siblings of children at the school. The objector refers to paragraph 1.8 of the Code which notes *"oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation...."* The objector has raised the following concerns:

- a) The objector argues that the fourth oversubscription criterion which gives priority to all siblings, and was first introduced for admission in 2013, has made the admissions process unfair and is unreasonable because it disadvantages infant aged children who live in the Bourne village. The objector notes that prior to 2013 the school gave priority for admission to YR to local children including siblings for whom the Bourne site was nearest to their home address. However, as the junior site, which is approximately 1.9km from the infant site admits an additional 76 Year 3 children each year, siblings from a much wider area now have priority access to YR of the school.
- b) The objector asserts that paragraph 15(b) of the Code implies *"that the output of any consultation is taken into account by the school.... I have made a number of enquiries to the school using FOI legislation and I can see that over 100 objections were received when the sibling policy was first proposed in 2012. Despite the overwhelming majority objecting to the policy in 2012 the governors pressed ahead with this new and completely unpopular policy."* The objector argues that the school has not given proper consideration to the outcome of the consultation undertaken in 2012 for the 2013 arrangements.

Background

8. In May 2011 The Bourne Community Infant School was closed and South Farnham School which was then a junior school extended its age range to become a primary school for pupils aged 4 to 11 years. The infant site is in Bourne village and the junior site is in South Farnham and the two sites are approximately 1.9km apart.

The school became an academy school on 1 July 2011. The published admission number (PAN) is 60 for YR and 76 for Year 3. South Farnham is a popular school which has been oversubscribed since at least 2012 and while there has been discussion with the council on the possibility of increasing the PAN for the school to 90 which I take to be for YR, at the time of the meeting on 9 June 2014 there was no agreement for expansion.

9. I shall refer to different parts of the school in the course of this determination, for ease of reference I shall refer to them as South Farnham Primary School “the school”, South Farnham Infant section at the Bourne site as “the infant site” and South Farnham Junior section at Menin Way as “the junior site” while recognising that the school is an all-through primary school.

10. The admission arrangements for 2015 show oversubscription criteria (in summary) as:

Infant – Reception (Age 4)

1. Looked after children
2. Exceptional arrangements
3. Children of staff at the school
4. Siblings
5. Distance from the school – measured in a straight line from home as set by Ordnance Survey to the nominated gate at either site

Junior – Year 3 (Age 7)

1. Looked after children
2. Exceptional arrangements
3. Children of staff at the school
4. Siblings
5. Children attending a named feeder school - All Saints C of E Infant, Tilford; St Andrews C of E Infant, Farnham; St John’s C of E Infant, Churt; and St Mary’s C of E Infant, Frensham
6. Distance from the school - measured in a straight line from home as set by Ordnance Survey to the nominated gate at either site

11. The school provided data about the breakdown of applications for YR and first round allocations for the last three years, which I have summarised in the table below. The table shows that the school is oversubscribed.

	2012	2013 (New sibling criterion introduced)	2014
Total applications	186	192	220
First preferences	88	97	90
SEN	0	0	0
1. Previously/ Looked After Children	0	0	0
2. Exceptional arrangements	1	2	0
3. Children of staff	n/a	0	0
4. Siblings attending the school	n/a	38	31
5. Siblings for whom infant school is nearest to home address	18	n/a	n/a
6. Distance to Infant School	n/a	20	29
7. Children for whom infant school is nearest to home address	29	n/a	n/a
8. Siblings for whom infant school is not nearest to home address	12	n/a	n/a
9. Any other applicant	0	n/a	n/a
Total allocations	60	60	60

Consideration of Factors

Priority for admission for siblings

12. The objection concerns the fourth oversubscription criterion which gives priority to all siblings. The objector claims as the school admits an additional 76 children at Year 3, the priority at YR for all siblings rather than for siblings for whom the infant site is nearest to the home address, distorts the number of siblings prioritised for admission to YR. The objector says, *“the new policy (first applied to the 2013 intake) means that siblings from a very wide catchment area have priority access to our small infant school at the expense of children who live locally. The implication is that many more children are driven into our village every day, some from a considerable distance, while parents of very local only children such as ours are expected to drive to schools much further away because there is no longer room for them at their nearest school.”*

13. The school notes that *“in terms of adopting oversubscription criteria, The Code is clear that “it is for admissions authorities to decide which criteria would be most suitable for the school, according to local circumstances” (paragraph 1.10). Further, paragraph 1.11 of the Admissions Code permits a school to give priority to siblings of children who are registered pupils at the school in its oversubscription criteria.”* In the submission of 22 May 2014 the school states that it believes the *“oversubscription criteria are fair and reasonable in the local context.”*

14. In its response of 19 May 2014 the council has stated that in relation to the introduction of the new sibling criterion in 2013, it does not believe that the admission arrangements for the school are unlawful but does *“acknowledge that the school’s policy on siblings may reduce the number of Reception places left available to be allocated to local children on distance.”*

15. The oversubscription criteria for admission to YR in September 2012 and prior to the introduction of the new sibling criterion were as follows (in summary):

1. Looked after children
2. Exceptional arrangements
3. Siblings of pupils who would be attending the school at the time of admission and for whom the Bourne infant site is nearest to the home address
4. Children for whom the school would be the nearest to the home address
5. Siblings of pupils who would be attending the school at the time of admission and for whom the Bourne infant site is not nearest to the home address
6. Any other applicant

16. The oversubscription criteria for admission to YR in September 2013 and 2014 changed to (in summary):

1. Looked after children
2. Exceptional arrangements
3. Children of staff at the school
4. Siblings
5. Distance from the school

17. The key matters for me to consider are whether the criterion meets the requirements of the Code at paragraph 1.11 that refers specifically to siblings and the requirements for all criteria as set out in paragraph 1.8. First, paragraph 1.11 of the Code says. *“Admissions authorities **must** state clearly in their arrangements what they mean by ‘sibling’.....”*. The arrangements for the school say *“places are then offered to siblings of pupils who would be attending the school at the time of admission, i.e. September 2015. A sibling is a brother or sister, or half-sister or half-brother, or step-brother or step-sister, living at the same address or foster children or adopted children living at the same address.”* I am satisfied that the arrangements meet the requirements of the Code in respect of including a clear definition of the term ‘sibling’.

18. Secondly, I must consider the objector’s view that the oversubscription criterion is unfair and unreasonable because it disadvantages the infant aged children who live in the Bourne village. Paragraph 1.8 of the Code, cited by the objector, says, *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation....”* In order to test the criterion I have considered the data about the

admission of siblings over the last three years to try to assess the impact of the oversubscription criterion which prioritises all siblings before children living close to the school.

19. The data on the allocation of YR places for 2012, 2013 and 2014 for the two criteria, siblings and distance, are provided in the table below.

YR places allocated by sibling and distance criteria	2012 (PAN 60)	2013 (PAN 60)	2014 (PAN 60)
Sibling			
sibling of child for whom the infant site is the nearest school	18	n/a	n/a
sibling of child for whom the infant site is not the nearest school	12	n/a	n/a
sibling of child at the school	n/a	38	31
Siblings Total	30	38	31
Distance	29	20	29

20. The table above shows that while the number of places allocated for each of these two criteria changed significantly from 2012 to 2013, the numbers are almost identical for 2012 and 2014. In its submission of 22 May 2014, the school asserts *“the allocations for 2014 demonstrate that the sibling policy is not closing the local school. There are 31 siblings in September 2014 (38 in September 2013) leaving 29 spaces being taken by non-sibling children. This figure is not significantly different to the sibling numbers pre amalgamation (32 in September 2012 and 32 in September 2011).”* There is a slight discrepancy in the figures provided of the actual number of children who were allocated a place in 2012 through the sibling connection. The school’s submission notes a figure of 32, however, the data provided with the submission and confirmed at the meeting gives a figure of 30 places (see table above). The data for 2013 and 2014 compared with 2012 do not indicate that the priority for all siblings has made a significant difference to the availability of places allocated against distance from the infant site.

21. The issue raised by the objector is not simply the trend in the “overall” number of siblings allocated a place at the infant school, but also refers to the number of children who have been allocated a place through the sibling criterion who live some distance away from the infant site and the impact this has had on local children and is likely to have in the future. This is of particular relevance as the school has for its Y3 intake four feeder infant schools which range in distance from approximately 1.7km to 8.8km from the junior site. The priority for siblings introduced in 2013 means that the siblings of all the children from the feeder schools who attend the school together with those who joined the school in YR have priority for a place

in YR at the school's infant site over other local children. The school has provided data as shown in the table below of the distance from home to the infant site of siblings allocated a place in each of the last three years.

Allocation of YR places to siblings								
Distance in km								
	No of siblings	Under 0.50	Between 0.50-0.99	Between 1.00-1.49	Between 1.50-1.99	Between 2.00-3.99	Between 4.00-5.99	Over 6.00
2012	30	6	20	3	0	1	0	0
2013	38	10	10	7	2	8	0	1
2014	31	10	12	4	2	0	1	2

22. In 2012, one out of 30 children was allocated a place through a sibling connection who lived over 2.00km away from the infant site, this compares with nine children out of 38 in 2013 and three children out of 31 in 2014. On the data available, I do not think it would be safe to conclude that the differences year on year could be attributed solely to the change in the sibling criterion.

23. I have also looked at the furthest distance from the Bourne site at which a child gained a place against the distance criterion to consider the chances of a child without a sibling connection being able to access their local infant provision. In 2012 the furthest distance between home and the infant site for a child allocated a YR place without a sibling connection was 1.06km and this reduced to 0.43km in 2013 and to 0.54km in 2014.

24. In its response of 22 May 2014 the school asserts that for the 2013 YR allocation *"53.3% of the total intake lived within 500m of the school, and over 70% live within 1 km. Due to an increase in houses in the immediate vicinity of the school there is an increase in applications from children living very close to the school."* From the table above it is evident that more siblings, who lived less than half a kilometre from the Bourne site, were allocated a place in YR in 2013 and 2014 than in 2012. The data for 2014 do not support the view that the allocation of YR places to siblings from further away has resulted in a reduction of places allocated by distance. It appears that more children live nearer the infant site and so the distance for last places has decreased.

25. The council has provided details of five other primary or infant schools in Surrey which are also on a split site and have a similar sibling criterion, where a child is considered an eligible sibling if they are attending *"any one of the sites"* or *"either site"*. However, only one of these schools, Surrey Hills Church of England Primary school (Surrey Hills) has a separate PAN for YR (45) and Y3 (10). Surrey Hills is on two sites which are approximately 3.4km apart: the Abinger site has infant provision and the Westcott site has infant and junior provision. While the distance between the two sites of Surrey Hills is greater than that between the two sites of the school, a Y3 PAN of only 10 may mean that the sibling criterion is likely to have minimal impact on YR allocations at Surrey Hills. The Y3 PAN at the school is 76 and in my view although this has the potential to impact on YR allocations for children in the Bourne village without a sibling connection, I am not convinced that the data from the last

two years support this view. Although giving priority to all siblings has the potential to reduce places for children who live near the infant site, but do not have an older sibling, at present the evidence does not support the view that the sibling criterion is unreasonable or unfair. The governors will want to monitor the situation closely as no doubt they would not wish to encourage unnecessary travel for families with young children. On the evidence available to me, I do not find the sibling criterion to be unreasonable or unfair and conclude that the arrangements do not contravene paragraphs 14 and 1.8 of the Code.

The consultation before the sibling policy was introduced

26. Before changing arrangements the admission authority must consult on the proposed change in accordance with the requirements of the Code. The objector cites paragraph 15(b) of the Code which summarises the requirements in paragraphs 1.42 to 1.45. Paragraph 15(b) 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*

*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 apply.”* I have therefore considered the consultation that was undertaken and tested it against the Code’s requirements.

27. The objector’s view is that the school’s processes for considering the consultation undertaken in 2012 for the 2013 admission arrangements was flawed. The objector makes reference to paragraph 15(b) of the Code which sets out the requirements for determining arrangements annually and the process for consultation which *“allows parents, other schools, religious authorities and the local community to raise any concerns”* and the implication that all responses would be properly considered by the admission authority. The objector asserts that of the 142 responses to the consultation undertaken in 2012 for the 2013 arrangements there were 104 objectors, 29 supporters who provided *“lukewarm support for the proposal”* and 9 further responses which were mainly neutral. The objector believes that the response to the consultation was not fully considered by the school. He argues *“If the governing body had been fully informed about the consultation outcome, given the amount of opposition to these proposed changes, I would have expected a reasonable response to be devoting considerable time to reviewing the outcome of the consultation.however there is no discussion about the effect of the policy – most crucially how many additional siblings would be likely to be admitted from outside the area of the school if the policy change were accepted by the governors. None of this analysis was discussed by governing body during the meeting on 27th February 2012”*

28. In its response of 19 May 2014 the council notes that it works closely with schools to ensure that all admission authorities are aware of their responsibilities and timetable for consultation and determination and *“can confirm that South Farnham School has complied with its statutory obligations in this respect. However, I cannot account for decisions made by the Governing Body or the information considered by*

them each year in order to reach their decision and shall therefore leave the school to respond on these points."

29. The school argued in its submission of 22 May 2014 that *"although the objection received is to the 2015 policy, the complaint relates to the introduction of the sibling policy from September 2013. This 2013 policy has already been checked by the Schools Adjudicator and the EFA [Education Funding Agency] and is in line with nearly all other Surrey schools.....the year that the sibling change was introduced there was extensive public consultation regarding the new policy including three public meetings, and numerous other meetings with individuals or small groups of parents. The governors listened and took account of the numerous comments on the policy and following this evaluation concluded that it was in the best long term interests of the school to implement a whole school sibling policy. They considered this to be a lawful, fair and equitable approach that is not uncommon in other schools with a split-site structure. The consultation was taken into account but cannot and should not be looked at only in terms of the number of written responses. There were many verbal messages of support that are not acknowledged and responses from individual parents naturally only focus on the position for their particular child. The Governors have taken a step back and considered each group of people that may be affected by the admissions policy and implemented a policy that they believe to be lawful, fair and equitable."* In its submission of 22 May 2014 the school confirmed that the proposed changes to the sibling criterion for admission for September 2013 were consulted upon between 20 December 2012 and 14 February 2013. This meets the requirements for the duration of a consultation specified by the Code.

30. In my consideration of the arrangements I have examined whether the school met the requirements for consultation before changing the sibling criterion for admissions in 2013. There is evidence that consultation took place and that at their meeting on 27 February 2012 the governors discussed the responses. The minutes of 13 March 2012 show that the 2013 admission arrangements were determined. The Code does not specify the process to be followed for consultation or the level of detail admission authorities should record about their consideration of the responses to consultation. I must assess whether the requirements for consultation have been met and conclude that the school has not contravened paragraph 15(b) of the Code, cited by the objector, in respect of consultation.

Other matters

31. In reviewing the 2015 arrangements I noticed other matters which appeared not to comply with the requirements relating to admission arrangements, so I used my power under s88I of the Act to review the arrangements as a whole. I noted that the 2015 first oversubscription criterion did not set out as clearly as it must the requirement in paragraph 1.7 of the Code to give the highest priority to previously looked after children. The criterion shown in bold is "Looked after children" with the words below saying "Looked after and previously looked after children will be considered to be....." followed by definitions. The arrangements do make clear in the definitions that looked after and previously looked after children are different, but it is not acceptable to give only looked after children in the main part of the criterion.

32. I also noticed that the 2015 arrangements had once again included a change in the way the distance between home and school were measured to be a gate at either of the school's sites, rather than distance to a gate at the infant site for admissions for Reception and to a gate at the junior site for Year 3. This matter is subject to two further objections and is considered in the determination for ADA 2752 and ADA 2753.

Conclusion

33. Having considered the data presented above for admissions in 2012, 2013 and 2014 I conclude that the evidence available to me does not support the objector's view that the oversubscription criterion giving priority for admission to YR for all siblings is unreasonable or unfair. I am not persuaded that the arrangements contravene paragraphs 14 and 1.8 of the Code. I do not uphold the objection to the admission arrangements for 2015.

34. I have also used my power under section 88I of the Act to consider the concerns raised about the 2012 consultation process which led to the inclusion of the sibling criterion in the 2013 arrangements. I conclude that paragraph 15(b) has not been contravened.

35. I have used my power under s88I of the Act to review the arrangements as a whole and find that the admission of previously looked after children is not shown sufficiently clearly as the first oversubscription criterion.

Determination

36. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the academy trust, the admission authority of South Farnham School, for admissions in September 2015.

37. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the way set out in this determination.

38. 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.

Date: 16 September 2014

Signed:

Schools Adjudicator: Dr Krutika Pau