



DETERMINATION

Case reference: ADA2653

Admission Authority: The governing body of The Queen's Church of England Primary School, Richmond

Date of decision: 26 September 2014

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing body, which is the admission authority, for The Queen's Church of England Voluntary Aided Primary School, Richmond, for admissions in 2015.

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 88I(5) of the School Standards and Framework Act 1998, (the Act), the admission arrangements (the arrangements) for The Queen's Church of England Primary School (the school) Richmond, a voluntary aided primary school for 4-11 year olds for September 2015 have been brought to the attention of the adjudicator. The matters of concern are that the school requests a birth certificate as part of the admissions process which it is claimed could be used to select on the basis of parental occupation and that there is a complex tick box system for recording church observance which includes non specific activities to be carried out by children and/or parents.

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 arrangements were brought to the attention of the adjudicator by a member of the public on 16 May 2014. I considered there may be matters that do not comply with requirements relating to admissions and have therefore used my power under section 88I of the Act to consider the arrangements for 2015 as a whole.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

The documents I have considered in reaching my decision include:

- a. the email bringing the arrangements to the attention of the adjudicator dated 16 May 2014;
- b. the school's response and subsequent correspondence and supporting documents;
- c. The London Borough of Richmond upon Thames Council's (the council) response to the referral;
- d. the Southwark Diocesan Board of Education's (the diocese) response to the referral;
- e. the council's composite prospectus for parents seeking admission to schools in the area in September 2014 and 2015;
- f. a copy of the minutes of the meeting of the governing body held on 20 March 2014, at which the arrangements were determined; and
- g. a copy of the school's determined arrangements for 2015.

4. I arranged a meeting on 22 July 2014 (the meeting) with representatives of the school, the diocese 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 parties as appropriate. I have considered the representations made to me at the meeting and the documentation and correspondence submitted before and after the meeting.

Matters of Concern

5. There are two aspects of the school's admissions arrangements that came to the attention of the adjudicator. The first of these is the requirement in the "supplementary application form" to include a copy of the child's birth certificate with the application, which gives the potential for selection on the basis of parental occupation. This would be a breach of paragraph 1.9(f) of the Code. The second matter concerns the Clergy Form for admission which a parent and a priest must complete if the application is to be considered under oversubscription criteria 4 and 5 as set out below. The Clergy Form appeared to involve a complex tick box system of church observance including non-specific activities to be carried out by children and/or parents and may breach paragraphs 1.8, 1.9(e) and 1.9(f) of the Code.

6. In the course of considering the arrangements for 2015 as a whole, as they appeared on the school's website in May 2014, several points appeared to me to contravene the Code. I raised these with the school and indicated

that they could be amended immediately by the school as a permitted variation under paragraph 3.6 of the Code. I offered the school the opportunity to make the amendments to comply with the Code, and agreed to note their progress in my determination. I raised the following points:

- a) The absence of a final tie-breaker to determine between two applicants who cannot otherwise be separated meant the arrangements did not meet the requirement of paragraph 1.8 of the Code.
- b) The first oversubscription criterion did not refer correctly to previously looked after children. While the definition of previously looked after children is given in the explanatory notes previously looked after children are not a subset of looked after children and thus the arrangements did not comply fully with paragraph 1.7 of the Code.
- c) The third oversubscription criterion concerning siblings did not clarify whether foster siblings were included in the definition of siblings and thus the arrangements did not meet the requirement of paragraph 1.11 of the Code.
- d) The lack of a clear statement that a waiting list will be held for at least the first term of the academic year of admission and each added child will require the list to be ranked again in line with the published oversubscription criteria, is a breach of paragraph 2.14 of the Code.

Background

7. The school is a voluntary aided school for 4 to 11 year olds. The published admission number (PAN) for reception is 60. The Christian ethos of the school is reflected on its website and in published information.

8. The admission arrangements on the school's website for 2015, at the time I first looked at them in May 2014 showed oversubscription criteria (in summary) as:

- 1) Looked after children
- 2) Children with an exceptional medical or social need
- 3) Siblings
- 4) A child living within the boundaries of the Kew ecclesiastical (Anglican) Parishes where one or both parents is a member of one of the three Kew Church of England churches and are committed and regular worshipers at the church.
- 5) A child living within the boundaries of the Kew ecclesiastical (Anglican) Parishes where one or both parents are committed and regular worshipers of a Christian church
- 6) Distance

Consideration of Factors

9. In relation to most of the concerns I raised with the school it acted speedily to bring its arrangements into line with the requirements relating to admissions using the provisions of Section 88E of the Act which allows arrangements to be varied after determination in order to comply with admissions law or a mandatory provision of the Code.

10. I shall deal first with the matter relating to the request for a birth certificate in the supplementary application form and the requirement for parents to *“include a copy of the child’s short birth certificate with this application.”* The relevant paragraphs of the Code to consider on this matter are paragraphs 2.4 and 2.5. Paragraph 2.4 says, *“in some cases, admissions authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria...”* Paragraph 2.5 says, *“once a place has been offered, admission authorities may ask for proof of birth date, but must not ask for a ‘long’ birth certificate....”* A child’s date of birth is already included in the council’s common application form (CAF) and is not *“additional information”* and therefore cannot be requested in the supplementary application form even if that form were permitted and thus is a breach of paragraph 2.4 of the Code. Furthermore paragraph 2.5 of the Code allows the school to ask for only a ‘short’ birth certificate as proof of a child’s date of birth, after an offer of a place has been made.

11. Parents must apply for a place at the school using the council’s CAF for the local authority in which they live. An admission authority may use a supplementary that asks for information that is essential to be able to apply the oversubscription criteria, but no other application form is permitted. The school’s supplementary application form does not meet the terms set in paragraph 2.4 of the Code for having a supplementary form in addition to the CAF. It does not provide information necessary to apply the oversubscription criteria and therefore it has no place as part of the arrangements. It needs to be removed from the admissions policy and arrangements.

12. As a voluntary aided school with a religious character, the school is entitled by paragraph 1.36 of the Code to use faith-based oversubscription criteria in addition to other lawful oversubscription criteria. Parents who are applying for a place for their child at the school under criteria 4 or 5 above are required to complete a Clergy Form which then has to be countersigned by a minister or priest. Parents are asked to show their commitment to a church by stating the nature of their involvement in the church by ticking one or more of the following 5 categories and any other information they may wish to provide:

- a) Child attends Sunday school/junior church
- b) Church music, study, prayer or reading group
- c) Position of responsibility, e.g. church warden, youth leader, PCC etc
- d) Communicant member of the church
- e) Registration on the electoral roll

13. The Clergy Form says that *“the Admissions Committee will use this information to make decisions on your application.”* However, it is not clear how parents would be able to satisfy the faith-based criteria, for example would they have a higher priority if they ticked more boxes and were some of the examples of religious commitment given on the Clergy Form more important than others. The paragraphs of the Code which are key considerations are paragraph 14, 1.8 and 1.37. Paragraph 14 states that arrangements **must** be *“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.”* Paragraph 1.8 states that *“oversubscription criteria **must** be reasonable, clear, objective and procedurally fair....”* Paragraph 1.37 of the Code is particularly relevant as it relates to faith-based oversubscription criteria in schools with a religious character. It states, *“admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.”* The 2015 arrangements on the school’s website, at the time I first looked at them, did not set out clearly for parents how they could satisfy the faith-based criteria and therefore did not conform with the requirements of paragraphs 14, 1.8 and 1.37 of the Code.

14. Paragraph 1.38 of the Code provides that an admission authority of a school with a religious character **“must have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith based oversubscription criteria...”** and when deciding how membership or practice of the faith is to be demonstrated.

15. In its response of 25 June 2014 the diocese confirmed that while the governors have based their decision under criteria 4 and 5 on a parent’s *“commitment to the church and attendance at worship...all the examples of involvement are specifically related to religious commitment,”* it has discussed with the governing body how the level of commitment required can be made clearer to parents. In its response the diocese says, *“It is impliedthat it is sufficient for applicants to confirm that they are a ‘committed worshipper’ by stating either that they are on the electoral roll, an office holder in the church etc, but section 4 of the clergy form does not indicate a minimum level of commitment in order to qualify under the church criteria and it could be interpreted that the more boxes that are ticked the more likely it is a place will be awarded; this was never the Governors’ intention. The Governors agree that this needs to be amended to ensure parents understand the minimum requirements.”* This position was confirmed by the representative of the diocese and the chair of governors at the meeting of 22 July 2014 and both parties agreed to work together to amend the Clergy Form so that parents could easily understand how the faith-based criteria could be reasonably satisfied. In its correspondence of 26 July 2014 the school attached a revised Clergy Form, which I note also now appears on its website. It clearly states under church commitment that the five items are equally weighted and as a minimum any two boxes should be ticked to fulfil the criterion. The wording is still not completely clear as a parent could be left wondering whether there is any advantage to be gained by ticking more of the boxes. The use of *“as a minimum”* could be taken to imply, *“but more would be better”*. The school could reassure anxious parents by removing any doubt from this requirement. The school has acted to clarify its faith-based criteria.

16. On 26 July the school also provided me with a revised admissions policy for 2015, which I note now appears on its website which deals with 3 of the 4 further concerns I raised. The revised 2015 policy now complies with paragraph 1.7 of the Code and clearly includes previously looked after children in the first oversubscription criterion; complies with paragraph 1.11 of the Code in leaving no doubt over whether foster siblings are included in the definition of siblings and complies with the requirements of paragraph 2.14 of the Code relating to waiting lists.

17. The school has not yet included a final tie breaker to determine who has the higher priority between two applications that are otherwise equal. The Code at paragraph 1.8 makes clear that “*admission arrangements must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.*” The school must provide an effective final tie breaker such as random allocation to comply with paragraph 1.8 of the Code.

Conclusion

18. On the matter relating to the request for a birth certificate, as the child’s date of birth is already included in the council’s CAF, this is not “*additional information*” needed to apply the oversubscription criteria and so is a breach of paragraph 2.4 of the Code. There is also a breach of paragraph 2.5 of the Code as only a ‘short’ birth certificate as proof of a child’s date of birth can be requested after an offer of a place has been made.

19. On the matter concerning the information requested from parents in the Clergy Form in order to satisfy faith-based oversubscription criteria, I note that a clearer Clergy Form now appears on the school website.

20. Having reviewed the arrangements as a whole for compliance with the Code I concluded, that for the reasons given above, that there are other matters in the arrangements that need to be amended and the supplementary application form needs to be removed from the admission arrangements.

Determination

21. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for The Queen’s Church of England Primary School, Richmond, for admissions in September 2015. I determine that some aspects do not conform with the requirements relating to admission arrangements.

22. By virtue of section 88(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: 26 September 2014

Signed:

Schools Adjudicator: Dr Krutika Pau