



DETERMINATION

Case reference: ADA2828

Admission Authority: The governing body of Waverley Abbey Church of England Junior School, Tilford, Surrey

Date of decision: 9 October 2014

Determination

In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Waverley Abbey Church of England Junior School, Tilford.

I determine that the school has not met the requirements concerning the determination of its arrangements and that it failed to consult appropriately prior to its late determination of its admission arrangements for September 2015, but that in respect of the other matters that I have considered its arrangements for September 2014 and September 2015 do not contravene the requirements relating to admission arrangements.

The referral

1. The admission arrangements (the arrangements) of Waverley Abbey Church of England Junior School, Tilford (Waverley Abbey, the school), a voluntary aided school, for September 2015 have been brought to the attention of the schools adjudicator by means of a completed form of objection submitted by the headteacher of St Paul's Church of England Infant School, Tongham (St Paul's) acting on behalf of its governing body, on 30 May 2014. St Paul's has objected to the way in which the school's arrangements give priority to applicants for places preferentially among its named feeder infant schools.

2. A second objection to the school's arrangements for September 2015 was also submitted on 25 June 2014 by two parents of a child attending St Paul's, one of whom is a parent governor, on behalf of an unspecified number of others but accompanied by the signatures of 40 individuals supporting the objection. This listed several reasons why they believed that the same aspect of the school's arrangements rendered them inappropriate.

Jurisdiction

3. Paragraph 3.3 of the School Admissions Code (the Code) lists those objections which may not be brought, and these *include "objections to arrangements which raise the same or substantially the same matters as the adjudicator has decided on for that school in the last 2 years"*. A determination was issued on 13 September 2013 as a result of an objection to the school's

arrangements for September 2014 which concerned essentially the same matter as that raised by the objectors concerning its arrangements for September 2015. I therefore came to the view that I was not able to consider either of the objections. Having looked at the arrangements, and those for September 2014 which were still relevant to in-year admissions and the school's waiting list, and since previous determinations had considered the fairness of the arrangements against a complex local context which the objectors told me had continued to evolve, it seemed to me possible that the matters which had been raised may have some merit. I therefore decided that I should continue to consider both sets of arrangements using my powers under section 88I(5) of the Act.

4. I asked the school to provide evidence of its determination of the arrangements for both years, those for September 2014 being the arrangements which the school believed it had revised in response to the adjudicator's determination issued on 13 September 2013. In spite of protracted correspondence between ourselves, I was unable to convince myself that it had done so in respect of either set of admission arrangements in a manner permitted by The School Governance (Roles, Procedures and Allowances)(England) Regulations 2013. I wrote to all the parties on 21 July 2014 informing them that as the school had no admission arrangements for either year determined as required by the Code, I had no jurisdiction to consider what were believed to be these arrangements. I informed the school that it needed to take action to determine its arrangements with the minimum of delay and asked it to provide me with copies of the arrangements and evidence that they had been determined as soon as this had happened.

5. The school wrote on 23 July 2014 providing the minutes of an extraordinary meeting of the governing body which had taken place on 22 July 2014, but no copy of the admission arrangements for September 2014 or September 2015 which it determined on that occasion. The school subsequently confirmed that the arrangements which it had determined were the same as those which it had previously provided, believing them to be the determined arrangements. I have decided that, although late in doing so, the school has determined its arrangements for September 2014 and September 2015.

6. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the school's governing body which is the admission authority for the school. The arrangements came to my attention in the manner described above. I am using my powers under section 88I to consider the arrangements for September 2014 and September 2015 as a whole.

Procedure

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

8. The documents I have considered in reaching my decision include:
- a. the referrers' forms dated 30 May 2014 and 25 June 2014;
 - b. the school's response to the referral, supporting documents and subsequent correspondence;
 - c. Surrey County Council's, the local authority's (the LA's) response to the referral and supporting documents;
 - d. the Diocese of Guildford's response to the referral and supporting documents;
 - e. the LA's composite prospectuses for parents seeking admission to schools in the area in September 2014 and September 2015;
 - f. maps of the area identifying relevant schools;
 - g. confirmation of when consultation on the arrangements last took place;
 - h. copies of the minutes of the meeting at which the admission authority of the school determined the arrangements; and
 - i. a copy of the determined arrangements.
9. I have also taken account of information received during a meeting I convened on 8 September 2014 at the school, and to information supplied subsequently by the school and by the LA.

The Referrals

10. The objection which was submitted by St Paul's, and which I am considering as a referral, states that Waverley Abbey's admission arrangements:
- (i) unfairly disadvantage families that are less well off, in contravention of paragraph 1.8 of the Code;
 - (ii) gives priority to children attending named feeder schools, but that these are not named on reasonable grounds, as required in paragraph 1.15 of the Code, and
 - (iii) fail to advance equality of opportunity but instead act in a discriminatory manner and so offend against the requirements of the Equality Act 2010.
11. The second objection, which I am also considering as a referral, expanded at some length in an objection spanning 13 pages and a number of appendices, the reasons the referrers had for believing that Waverley's admission arrangements were in breach of the requirements concerning admission arrangements, referring to 12 different parts of the Code and to extracts from the Equality Act 2010. It was accompanied by a letter which

summarised these concerns as being that:

- (i) the effect of the named feeder schools in the arrangements is that some children whose homes are further away than those of children who have attended St Paul's are more likely than them to be admitted;
- (ii) the arrangements deny fair access to local schools in the area;
- (iii) the community cohesion of the village of Tongham is threatened because its children will fail to secure places at Waverley and so be dispersed to schools in Farnham, Ash and Aldershot;
- (iv) the school uses feeder schools "as general criteria" rather than as oversubscription criteria; and
- (v) there had been a failure to consult the parents of children attending St Paul's concerning changes made to the arrangements.

Background

12. Waverley Abbey is a voluntary aided school for children aged seven to 11 and admits children from its own village of Tilford, where there is an infant school, and from the surrounding area. It has a published admission number (PAN) of 120. The school is popular and oversubscribed. It was described as "good" when last inspected by Ofsted, in June 2014. It is itself a feeder school for the popular Weydon Secondary School which is also oversubscribed.

13. Waverley Abbey names six infant schools as feeder schools within its admission arrangements. The six schools have a combined PAN of 179 and so not all children who have attended the six schools can transfer to Waverley Abbey.

14. St Paul's first raised an objection to the admission arrangements of Waverley Abbey in 2007 on the grounds that those used for September 2008 unfairly disadvantaged its own children. St Paul's said that the families of children attending the four other infant schools which had been given higher priority for admission to Waverley Abbey in its arrangements, which had been revised for 2008, tended to be able to afford the cost of transport to one of these schools, whereas the parents of its own children could not. So children from traveller families at the Runfold traveller site who attended St Paul's could not then access Waverley Abbey which is closer to their home than is St Paul's. St Paul's therefore claimed that the arrangements were unfairly discriminatory and did not promote social cohesion. This objection was not upheld. Neither was a further objection which the school made on essentially the same grounds in the subsequent year concerning Waverley Abbey's admission arrangements for September 2009.

15. The school's arrangements for 2012 gave priority to children attending one of four named infant schools, which were followed by a list of infant schools and parishes used in order to prioritise applications if the child attended the named school or lived in the named parish. St Paul's was a named school towards the end of this second list. These arrangements were changed for admissions in September 2013 by the removal of the priority

order applied to the second list, and this change was carried over into the arrangements determined for September 2014. This meant that children attending the other infant school named in this second list, St Mary's Church of England School, Shackleford (St Mary's), no longer had a higher priority for admission to Waverley Abbey than children at St Paul's. Parents of children at St Mary's objected that this change meant that the school's arrangements were unfair. The adjudicator agreed with them in a determination dated 13 September 2013 which took into account the fact that St Mary's was not a named feeder school for any other junior school. As a result, Waverley Abbey amended its arrangements for September 2014 by giving a higher priority to children attending St Mary's than those attending St Paul's, or to those living in one of the named parishes. This change was carried over in to the school's arrangements for September 2015.

16. As a result of the lower priority now being given to children attending St Paul's, the school and the other referrers have raised again the issues that were contained in the objections made in 2007 and 2008, and expanded upon them. St Paul's has made particular reference to these earlier determinations, saying that the adjudicators had said at the time that the case made by the school was "not without merit" and that "arrangements need time to bed down to ensure that groups are not disadvantaged". This second quote is however not contained in either determination, but in a Press release which used these words to refer to the adjudicator's view that the arrangements as a whole, which were at that point untested and included the removal of the previous "first preference first" criterion, should be "monitored with care".

17. Although I have read all the previous determinations which there have been on this matter, I am not bound by their findings, and will consider afresh the matters which have been raised.

18. As determined by the school on 22 July 2014, the admission arrangements for Waverley Abbey for both September 2014 and September 2015:

(i) set a published admission number (PAN) of 120;

(ii) give priority to looked after and previously looked after children, followed by children for whom there is a substantiated medical or social need to attend the school;

(iii) give next priority to siblings of children at the school or of children who have attended it in the previous two years;

(iv) following the priority given to children of members of staff in the 2014 arrangements, but before it in those for 2015, give priority:

a. to children attending:

All Saints Church of England (Aided) School, Tilford, or

St Mary's Church of England (Aided) School, Frensham, or

St John's Church of England (Aided) School, Churt, or

Puttenham Church of England (Aided) School, Puttenham

b. to children attending:

St Mary's Church of England (Controlled) School, Shackleford

c. to children attending:

St Paul's Church of England (Controlled) School, Tongham, or

who live in the ecclesiastical parishes of:

Tilford, Frensham, Churt, Seale, Puttenham, Thursley, Peper Harow, Shackleford, Tongham or Wanborough;

(v) give a final priority to any other child;

(vi) use distance to the parental home, and if necessary random allocation to distinguish between otherwise equally prioritised applicants.

Consideration of Factors

19. As I have set out above, the school failed to revise its admission arrangements for September 2014 as required by paragraph 3.1 of the Code following the determination concerning them which was issued on 13 September 2013. It also failed to determine its admission arrangements for September 2015 prior to 15 April 2014 as required by paragraph 1.46. I have not raised with the school any further matters which I considered may render its determined arrangements non-compliant with the requirements of the Code. I shall set out my consideration of all those matters raised by the referrers.

(i)The use of feeder schools

20. The parental referrers have complained that children living nearer to Waverley Abbey than some successful applicants can fail to secure a place there because priority for admission is based on the infant school a child has attended, rather than the distance between the school and where a child lives. The effect is, in their view unfair. They point to the fact that St Paul's is closer to Waverley Abbey than three of the five schools given higher priority for admission purposes, quoting the following distances, which have not been challenged by the other parties:

School	Distance to Waverley Abbey (miles)
All Saints, Tilford	0.76
St Mary's, Frensham	3.16
St Paul's, Tongham	4.58

St Mary's, Shackleford	5.00
St John's, Churt	5.32
Puttenham	5.41

21. The referrers express surprise that distance is not the overriding factor in determining priority for admissions for this age-group and say that the Code does not permit the school's use of feeder schools to determine admissions, since this may only be used as an oversubscription criterion, not, as they put it, as a "general" criterion for admissions. They are of course quite correct that the Code says that priority for those who have attended feeder schools may only be an oversubscription criterion, but it also says in paragraph 1.36 in relation to schools designated as having a religious character: *"As with other maintained schools, these schools are required to offer every child who applies.....a place at the school if there are places available."*

22. The school does not state this as part of its admission arrangements, but instead, in common with many schools that find themselves oversubscribed every year, it assumes that oversubscription will always occur. So instead of referring to its oversubscription criteria as such it calls them "admission criteria", which they are not. Priority may only be given on the basis of attendance at a feeder school as an oversubscription criterion, as the referrers say, but that is what the school does. It would be helpful if it said so more explicitly, but I do not agree that what it does contravenes the Code.

23. Paragraph 1.15 of the Code requires that: *"The selection of a feeder school or schools as an oversubscription criterion must be transparent and made on reasonable grounds."* St Paul's says that Waverley Abbey's selection of feeder schools is not made on reasonable grounds. Since it is itself a named feeder school for Waverley Abbey, I take this criticism to be about the relative priority given to children who have attended the four named infant schools over the two other schools named as feeder schools which include itself. Both the diocese and the LA have explained that while the practice is "historical" in nature, it is based on the absence of alternative "natural" destination junior schools for the four prioritised schools, combined with a desire to support their viability which might otherwise be threatened because of their rural locations. There is therefore a clear understanding on the part of the diocese and the LA that children not living in their immediate vicinity are likely to be admitted to the four infant schools as a result of parents living further away choosing to send their children there, and subsequently to Waverley Abbey. It is this situation which is complained about by the referrers.

24. Although St Paul's disputes that this is a justifiable reason, the diocese also refers to a topographical feature known as the Hog's Back which lies between the area in which they are situated and Tongham as a reason for regarding the four favoured schools as being more naturally associated with Waverley Abbey.

25. I have considered very carefully whether the designation and

subsequent prioritisation of its feeder infant schools by Waverley Abbey is reasonable. In doing so, I have taken into account the context in which those decisions have been taken. The diocese has placed considerable emphasis on its concerns about the viability of the four prioritised rural infant schools, saying that possible alternative admission arrangements for Waverley Abbey are likely to “threaten the future of some or all of them”. It is also clear that there is a long-standing relationship between them and Waverley Abbey and I do not think that giving priority to children who have attended these schools on such grounds can in itself be said to be unreasonable. Given the limited number of places available, the school cannot give the same level of priority to children who have attended its two remaining named feeder schools, St Paul’s, Tongham and St Mary’s, Shackleford.

26. It was the view of the adjudicator in 2013 that the absence of any priority for St Mary’s over St Paul’s amounted to unfairness for the former, since this school has no feeder status for any other Surrey junior school, whereas St Paul’s is also a named feeder school for admissions to Walsh Church of England Junior School. This ruling led to the current arrangements, which give a higher priority to children who have attended St Mary’s than those who have attended St Paul’s. Having considered this matter afresh, I have come to the view that the absence of feeder status to another junior school remains crucial in the local context in considering whether the admission arrangements of Waverley Abbey result in unfairness to children who have attended either of St Mary’s and St Paul’s.

27. The LA has told me that it considers that the school’s use of feeder schools is reasonable. I have also come to the view that the naming of feeder schools has not been arrived at unreasonably, and that their prioritisation within its oversubscription criteria is also reasonable, as a cogent response by the school to a complex local situation.

(ii) Children admitted to the school and fair access to education

28. Both the referrers are unhappy about children living further away who are able to secure a place at Waverley Abbey, and complain that children attending St Paul’s are not given the same opportunity to secure what is seen locally as “good” education. They say that fair access is being denied to them.

29. There is no doubt that Waverley Abbey admits children from a widespread geographical area. Both referrers and the LA have provided me with maps showing the locations of the home addresses of children who have been admitted in each of the last three years to the school and these show that some children in each year group live eight or nine miles away, with distances by road being proportionately greater. The LA has also helpfully analysed this information to reveal how many of these children would have had a nearer alternative junior school. These figures, which include children who have attended St Paul’s and who were able to gain admission, show that there have been between 35 and 50 such cases in the three years for which the data has been examined. Nevertheless, for a substantial majority of the children admitted, Waverley Abbey was the nearest junior school.

30. St Paul’s has provided details of the distances to the nearest infant and

junior schools starting from a variety of local locations. This data has not been challenged by other parties, and from my own examination appears to present an accurate picture. This analysis shows that for the centres of Tilford, Churt and Frensham, where three of the four prioritised feeder infant schools are located, Waverley Abbey is the nearest available junior provision. For the centres of Puttenham, where the fourth prioritised feeder infant school is located, and for Tongham, the nearest junior school is Walsh C of E Junior School. This is much closer to Tongham than to Puttenham. These geographical data tend to support the approach which Waverley Abbey has taken to the prioritisation of feeder infant schools in its admission arrangements in my view, rather than the reverse.

31. The number of children who have attended St Paul's and who have obtained a place at the school in the last three years is: 2012: 9; 2013: 11; and 2014: 3. In 2014, following the higher priority given to St Mary's, Shackleford all three children who came from St Paul's were siblings of older children at the school and the referrers have expressed the view that the implication for the future is that as existing children from St Paul's pass through the school, there will eventually be no possibility of further admissions. The referrers say that the pattern of admissions at Waverley Abbey, where children living further away are admitted and children living nearer are not because the school's admission arrangements prioritise applicants on the basis of the infant school they have attended, show that "fair access" is being denied to the latter group. The parental referrers say that the arrangements "continue(s) to omit Tongham children as fair contenders for Waverley Abbey School".

32. However, when a school is oversubscribed, its admission arrangements must provide for some applications to be given higher priority than others through its choice of oversubscription criteria. In this sense it can, when oversubscribed, no longer treat all applicants equally. The Code allows it to do so in a variety of ways, saying in paragraph 1.10 that: "*it is for admission authorities to decide which criteria would be most suitable for the school according to local circumstances*".

33. The Code in paragraph 1.8, to which I am directed by the objectors, refers to fairness in terms of "procedural fairness". That is, "fair" in paragraph 1.8 of the Code does not necessarily mean "equal to somebody else", but rather "fair and reasonable to the individual concerned". The referrers also cite paragraph 14 of the Introduction to the Code which also uses the term "fair" when it says that: "*.....admission authorities **must ensure that the practices and the criteria used to decide the allocation of places are fair, clear and objective.***"

34. This unqualified use of the word does imply a more general sense of fairness, but refers also to practices and criteria and so in my view has the sense of "not inequitable" or "not unjust". A circumstance, or a change which has brought it about, may disadvantage some compared to others, but need not necessarily be unfair in this sense. My view of the schools arrangements is that they are not inequitable or unfair in the sense meant in the Code.

35. Unfairness of the sort alleged by the referrers could however arise in

my view, if a child were as a result of decisions taken by the relevant admission authorities in an area denied fair access to education, that is to say to “efficient full-time education suitable to his age, aptitude and to any special educational needs he may have” as set out in section 436A of The Education Act, 1996.

36. I have therefore given further consideration to this question and have asked the LA for its view of the adequacy and appropriateness of the provision of junior schools in this part of Surrey. It has helpfully provided me with a description of what is a complex and evolving situation in the locality. The LA operates geographical planning areas and says that in the planning area in which Waverley Abbey is situated children often travel large distances to school and that in September 2014 all Reception and Year 3 places were expected to be filled, although not all with first choice applicants. A second planning area includes St Paul’s, Tongham and the LA says that junior places here are also at capacity. Demand for places is expected to increase in this locality and the LA has the possibility of increasing provision in mind. Two of the infant schools, Puttenham and St Mary’s Frensham which are prioritised feeder schools for Waverley Abbey lie outside these planning area but neither has “a natural junior feeder” partner locally. The LA concludes by saying that while there are developing local pressures for places which it is keeping under review, it has been possible up to this point to provide local schools for local children at Year 3 across this part of the county.

37. The nearest junior school to St Paul’s, Tongham is Walsh Church of England Junior School for which St Paul’s is a named feeder school. The LA has told me that in each of the last three years, including in 2014, this school has admitted all children from St Paul’s who have applied for a place there. It is also clear from information provided to me by St Paul’s that all 25 children who left in July 2014 have been allocated a place in appropriate local Year 3 provision. I have seen no evidence that children who have attended St Paul’s are being denied fair access to suitable Year 3 education as a result of the admission arrangements of Waverley Abbey, and I do not agree therefore with the assertion of the referrers that this is the case.

38. I have noted however the point which has been made by the referrers concerning the number of destinations for children leaving St Paul’s which I shall refer to again below.

(iii) Unfair disadvantage and unfair discrimination

39. St Paul’s says that families in the area from which it draws children (Runfold and Tongham) “are often of more modest means than those of more prosperous villages” and so do not have the means to transport their children to one of the prioritised feeder infant schools and so secure a place at Waverley Abbey. It says that this unfairly disadvantages those from poorer families and contravenes the requirement of paragraph 1.8 of the Code that admission arrangements must not disadvantage unfairly, either directly or indirectly a child from a particular social group. However, it has provided no evidence to substantiate this assertion. I have therefore considered the evidence provided to me by the LA concerning deprivation in the localities referred to by St Paul’s and have found that it does not provide convincing

support for the assertions made by St Paul's.

40. The Income Deprivation Affecting Children Index (which equates to the proportion of families in the area with children under the age of 16 who are income deprived) collected in 2010 shows a slightly higher index (0.12) for the lower super output area (LSOA) relevant to Tongham and Runfold compared to the more rural areas to the south and east. But one LSOA near to Waverley has an index of 0.1 and no part of the broad area in question reaches the threshold of a minimum index of 0.2 which is required for the allocation of additional deprivation funding to schools, for example. Levels of deprivation are relatively low, and differences between LSOAs are small. The Index of Multiple Deprivation (IMD) score for the area around St Paul's is lower than for some of the rural areas to the south and east of it. My view is therefore that I have seen no convincing evidence that those living in the area near St Paul's suffer a general relative economic disadvantage, as has been claimed.

41. I have also examined the admission arrangements of the four prioritised feeder infant schools and the numbers of children admitted to them under each oversubscription criterion in each of the last three years, as supplied by the LA. All give high priority, in one way or another, to local children, and all provide, as they must, for the admission of "other children" wishing to be admitted. One of the schools, Puttenham C of E Infant School, has consistently filled more than one third of its places under this final criterion, and two others have done so but not in each year. None of the schools' arrangements appear to me to disadvantage any group unfairly.

42. It may well be that those who are better off are more able than others to take advantage of available places in the favoured feeder infant schools, but I have seen no evidence that this is the case. In the absence of anything that convinces me on this point, or that the prioritised infant schools themselves have socially favoured localities, it is not possible for me to conclude that by prioritising children who have been attending these schools over other children that Waverley Abbey is itself unfairly disadvantaging any social group.

43. St Paul's has also stated that since some children from the traveller community are usually on its roll, the general difficulty for its pupils in securing a place at Waverley Abbey means that such children are "effectively prevented from attending" and that this contravenes the Equality Act 2010 because the school is failing in its duty to advance equality of opportunity, and that its practice amounts to unfair discrimination. The parental referrers say that Waverley Abbey fails in its duty under that Act to reduce inequalities of outcome which result from socio-economic disadvantage, and says that the school discriminates in the arrangements it makes for deciding who is offered admission as a pupil. I have asked St Paul's to provide me with the recent history of the numbers of traveller children attending the school. Over a six year period there have been either one, two or three children from traveller families in each year group, many of whom do not ascribe their ethnicity in this way because, for example, they are of mixed heritage.

44. Section 13(1) of the Equality Act says: "*A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less*

favourably than A treats or would treat others.” The protected characteristic in this case is race, that is to say, the ethnicity of the traveller children referred to. There is nothing in the admission arrangements of Waverley Abbey that would distinguish between applicants on the basis of race. Traveller children applying for a place are treated exactly as non-traveller children. If they have attended St Paul’s the arrangements treat them in the same way as other children who have done so. I therefore rule out direct discrimination by the school.

45. Section 19 of the Equality Act describes indirect discrimination in rather more complex terms. The effect of what this Act provides can be said to be that if a “provision, criterion or practice” is applied generally but has the effect of putting people with a particular characteristic at a disadvantage compared to people without that characteristic, then indirect discrimination will have occurred. I can find nothing in the admission arrangements or the policies and practices of Waverley Abbey that would mean that a child from a traveller family who applied for a place would be at a disadvantage in doing so compared to any other child. I therefore also rule out indirect discrimination by the school.

46. The referrers say that Waverley Abbey has failed in a duty imposed by the Equality Act to promote equality of opportunity and to reduce inequalities in educational outcomes that arise because of socio-economic disadvantage because its admission arrangements mean that children from traveller families do not easily secure places at the school. Laying aside for a moment the assumption which this view takes about the socio-economic status of all traveller families, while I can agree that such a duty exists for all schools, I do not take the view that it must be met in the form of school admission policies. If an admission authority gave priority to traveller children on the grounds of their ethnicity it would in my view be bound to place itself in breach of the Equality Act, since it would mean that others were being treated less favourably on the grounds of their race.

47. While it would be possible for an admission authority to prioritise the admission of children on socio-economic grounds, no such duty is imposed by the Equality Act. If that were the case, the Code would make it plain that there is such a general requirement placed on all admission authorities, but it does not. So not to prioritise admissions on socio-economic grounds is not a breach of the Equality Act, or of the Code. The requirement in the Code at paragraph 1.8 is that schools should not unfairly disadvantage, either directly or indirectly, a child from a particular social or racial group. I have seen no evidence that persuades me that this is what the school does.

(iv) The effect on community cohesion

48. The referrers say that the inability to ensure that children who have attended St Paul’s can secure a place at Waverley Abbey threatens the community cohesion of Tongham, because its children will in future be dispersed to a range of junior schools. As St Paul’s has pointed out, the PAN of its local junior school (Walsh Church of England Junior School) is 75, and the combined PANs for itself and the nearby Walsh Memorial Church of England Infant School is 90. The LA has explained that because there are

also three nearby primary schools which have not always operated at capacity, there have been sufficient junior places locally. It is true that, over the years, children from St Paul's have secured places at Waverley Abbey, although the information provided to me by the LA and by the referrers shows that in seven of the ten years since 2003 more have been admitted to Walsh Church of England Junior School. I also accept that the admission data for 2014 indicate that it will be more difficult for children who have attended St Paul's to secure a place at Waverley Abbey in coming years, and that the implication of this is that some children will have to secure places elsewhere.

49. The duty placed on the governing bodies of maintained schools to promote community cohesion was introduced by section 38 of the School Standards and Framework Act 2006, and relates to "the conduct of the school", that is to say, essentially to the curriculum but also to matters such as the provision of extended services by the school. I have examined the Guidance issued by the Department for Education concerning this duty and have found no reference to admissions policies. The referrers do not cite any part of the Code or legislation in support of their view that the admission arrangements of Waverley Abbey are defective because they are not framed in a way that would supports the cohesion of the community of Tongham, which is more than four miles distant. I can see no such requirement.

(v) Consultation

50. The referrers complain that St Paul's was not notified of the objection made in June 2013 by parents of children attending St Mary's, Shackleford concerning the admission arrangements of Waverley Abbey for September 2014. This objection was upheld and led to new admission arrangements for September 2014 being determined, Waverley Abbey believed, on 1 October 2013. For the reasons set out above, I came to the view that these arrangements were not determined by the school in accordance with the relevant requirements. However, the adjudicator considering the objection made in June 2013 decided not to invite St Paul's to be a party in that case, as she was entitled to do. I have not considered it appropriate to invite St Mary's Shackleford, or any of the other named feeder infant schools, to be a party in this present case.

51. Admission authorities are not required to consult prior to making changes to their admission arrangements which give effect to a determination of the adjudicator, and that is what the school believed it did on 1 October 2013, in response to the determination issued on 13 September 2013.

52. The referrers say that St Paul's was notified but not consulted concerning Waverley Abbey's proposed admission arrangements for September 2015. However, I have seen clear evidence that the school sent a copy of its proposed arrangements for September 2015 to St Paul's on 19 December 2013, detailing the period of consultation and stating how comments could be made. The email asked that the consultation be drawn to the attention of the Headteacher and of parents of children attending the school. The LA has also told me that it was consulted by the school at the appropriate time and that it had made no comments on the school's proposed arrangements.

53. The requirements concerning the consultation which admission authorities must carry out prior to determining their arrangements are set out in paragraphs 1.42 to 1.44 of the Code. In December 2013, Waverley Abbey was proposing to amend what it believed to be its determined arrangements for September 2014 by lowering the priority given to children of staff of the school in the arrangements for September 2015. It was therefore obliged to consult before doing so. A consultation was carried out, and while it is clear that St Paul's as well as other schools was consulted and that Waverley Abbey made an attempt also to bring its proposed arrangements to the attention of the parents of children attending these school, I have not seen evidence that this would have constituted a consultation with all those listed in paragraph 1.44 of the Code. In particular, while at least one nursery setting was contacted by the school, I have seen no evidence of a systematic attempt to consult parents of pre-school age children in the area. It is for the admission authority to demonstrate that it has made every effort to bring the consultation to the attention of such parents.

54. When the school did determine its arrangements for 2015, the consultation it relied up was that carried out in December 2013, which did not meet the requirements of the Code for this reason.

Conclusion

55. The school did not properly revise its admission arrangements for September 2014 as required under paragraph 3.1 of the Code. It had not properly determined its arrangements for September 2015 when the objections to them were made and had therefore breached the requirements of paragraph 1.46 of the Code.

56. I have considered overall the arrangements which the school has now determined and have set out above the view that I have formed concerning all elements of the admission arrangements for Waverley Abbey for September 2015 which have been brought to my attention, and have considered the arrangements for September 2014 in the same light.

57. I have explained why I have concluded that, in respect of both sets of arrangements:

(i) the school's designation of feeder infant schools is made on reasonable grounds and that the oversubscription criteria which use named feeder schools are not unreasonable;

(ii) the arrangements do not result in children being denied fair access to education;

(iii) the arrangements do not unfairly disadvantage any social group or result in direct or indirect discrimination, and

(iv) the matter of any effect of the arrangements on community cohesion in Tongham is not a relevant consideration concerning their conformity with the Code.

58. I have also explained why the school has failed to consult appropriately

prior to determining its admission arrangements for September 2015, in breach of paragraph 1.44 of the Code.

Determination

59. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Waverley Abbey Church of England Junior School, Tilford.

60. I determine that the school has not met the requirements concerning the determination of its arrangements and that it failed to consult appropriately prior to its late determination of its admission arrangements for September 2015, but that in respect of the other matters that I have considered its arrangements for September 2014 and September 2015 do not contravene the requirements relating to admission arrangements.

Dated: 9 October 2014

Signed:

Schools Adjudicator: Dr Bryan Slater