

DETERMINATION

Case reference: ADA/002144

Objector: Two eligible parents

Admission Authority: The Governors of Portfields School

Date of decision: 16 August 2011

Determination

In accordance with sections 88H and 88I of the School Standards and Framework Act 1998, I have considered an objection to the admission arrangements determined by the Governors of Portfields School in Milton Keynes.

In addition to considering the objection, I have also considered the admission arrangements as a whole in accordance with section 88J of the School Standards and Framework Act 1998. I determine that for admissions in September 2012, the arrangements for Portfields School should be amended so that the numbered list of oversubscription criteria reads as follows:

“Where there are more applications than places, places will be allocated as follows:

- 1. Children in care**
- 2. Pupils living in the defined area* with siblings attending the school at time of admission**
- 3. Pupils living in the defined area***
- 4. Pupils living outside the defined area with siblings attending the school at time of admission**
- 5. Pupils who live outside the defined area**

In the event of oversubscription within any of the above categories proximity to the school will be used as the tiebreaker. Distances will be measured in a straight line using the Local Authority’s computerised measuring system with those living closest to the school receiving the highest priority.

*** The “defined area” is the Poets Estate, odd house numbers of Wolverton Road to Lakes Lane one way and to the M1 motorway bridge the other way.”**

The referral

1. An objection has been referred to the Adjudicator by two eligible parents (from one family) about the admission arrangements for Portfields School, Newport Pagnell, MK16 8PS (the school), a foundation primary school, for September 2012. The objection relates to policies and practices that may undermine fair admission arrangements.

Jurisdiction

2. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing body, which is the admissions authority for the school. The parents submitted the objection to these determined arrangements on 5th May 2011. I am satisfied this objection has been properly referred to me in accordance with section 88H of the Act and that it falls within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - the parental letters of objection of 5th May and 8th June 2011;
 - Comments on the objection made by Milton Keynes Council ("the LA")
 - the school's response to the objection;
 - LA's booklet for parents seeking admission to schools in the area in September 2011.
5. In addition to investigating the matters raised by the objectors I have also reviewed the admissions arrangements as a whole and considered whether I should use my power under section 88J(2)(b) of the Act. I am using my powers under the Act to make changes to the arrangements.

The Objection

6. The initial letter from the parents outlined in some detail what was felt to be the family's unsatisfactory experience whilst seeking a place for their child at local schools during the autumn of 2010 (to start in September 2011). The letter made it clear that the objectors are concerned that the problems they experienced in the current admissions round may also adversely affect those applying for places

in 2012. The key issues raised were as follows:

7. During a meeting for those interested in seeking a place the headteacher “. . . advised potential parents of an additional criterion for admissions. She told us that parents considering sending their children to Portfields must put the school down as their first preference, as the children of parents who put Portfields down as their second or third preference would not be considered. This surprised me, as this was an unusual criterion and was not shown in the council’s document about schools admission procedures, or anywhere on the school’s website. I was also under the impression that preference rankings were not factors that admissions authorities were allowed to take into account when applying oversubscription criteria. I wondered whether I’d misheard, or misunderstood what the headmistress was trying to tell us (perhaps, I thought, she was just warning us that Portfields was a popular school that might be oversubscribed, so if we really wanted to send our children there, it would make sense to put it as our first preference, which would be perfectly sound, if obvious, advice). In order to get clarification, I asked whether it really was school policy not to accept any children whose parents had not put Portfields down as first choice on their admissions form. [The Head] told me (and the other parents present) that it was. I commented that this was unusual and not something I’d come across before, to which she responded that Portfields was a foundation school and in charge of its own admissions policy. I asked how they dealt with parents who chose to apply for a school place on line (as, to the best of my knowledge, local authorities do not pass ranking information on to schools). We were told that all parents present who wanted their child to be considered for a place at the school had to fill in the paper version of the admissions form and pass it to the school secretary. We were told this was for administrative reasons, in order to help the school plan on the basis of the likely intake for the following year.”
8. The letter went on to comment that insistence on submitting a paper application directly to the school was unusual, and their dealings with Portfields had been different from the family’s contacts with other local schools and seemed “slightly odd” from the start. It had been difficult to arrange a visit to the school. They contacted several schools in April 2010, and in all cases except for Portfields, visits had been arranged “within a couple of weeks, usually less” they had “looked round the other schools, asked questions, which were answered straightforwardly” and went away to consider their choice. By contrast, on their initial contact, the Portfields school secretary said that only parents who’d already decided to send their children to Portfields were allowed to come on visits. They were required to fill in a paper application form before a visit could be arranged - which they duly did but “were then told that the school would be in touch to advise us when the visit would be.” They heard nothing for some time and then, despite being in contact by telephone and in person, were repeatedly told that nothing had been arranged yet. They didn’t get confirmation of a date until late November and the actual visit wasn’t until December.

9. The letter concluded that overall their experience “ . . . implies that the information being given to parents during school visits was incorrect and suggests to me that the school was either acting improperly, if it really was applying this unwritten criterion, or was misleading parents if it was suggesting that rankings would be taken into account when this was not permitted. It may be that I have got something wrong, or misunderstood something, (in which case I’d be happy to be put right) but I’m afraid that I’ve been left with the impression that the school is trying to manipulate parents’ decisions and influence their choice of ranking. The feeling that we were not being dealt with in a straightforward and open fashion was one of the considerations that finally persuaded us to put another school down as our first choice.”
10. On receipt of the objection I noted that other parents had been present during some of the reported conversations that gave rise to the objection. I therefore enquired as to whether it would be possible for the parents to obtain corroborating statements or other documentary evidence that would support the objection.
11. In response the objectors said that most of their contact with the school had been in person or by telephone and the few e-mails exchanged had not been saved. The letter also said: “We do know one of the other families who visited at the same time as ourselves but, as they live very close to Portfields and elected, on balance, to send their child there, I think it might be quite awkward to ask them to make statements about an issue the school might not wish to have raised. Given that there were a small number of parents on the visit in question and it might therefore be possible for the school to identify any parents who questioned what they were told.”

Other Matters

12. I visited the school’s website in order to check the admission arrangements for the coming year. I noted that those that appeared related to entry to the school in September 2010 – two years out of date. This constituted a technical breach of the Code which requires both information about any current consultation for change, and the arrangements for the forthcoming admission round, to be displayed. Although this is less serious if there has, in fact, been no change; in the interests of clarity for parents, school sites should be kept up to date.
13. Having verified that the version on the website did in fact reflect the 2011 determined arrangements I noted that the oversubscription criteria did not include any reference to a priority for siblings of pupils already at the school who are resident within the catchment area. It subsequently transpired that in recent years the school has not been oversubscribed from within its catchment - so all such siblings have been admitted. However the LA has indicated that this situation is changing; and to honour the spirit of paragraph 2.25 of the Code, it would be desirable for the oversubscription criteria to be recast to give higher priority to in-catchment siblings.

14. The Code requires arrangements to include an effective tie-breaker clause. It was clear to me that the school uses proximity on a straight line basis. However the chosen phraseology and placement of the relevant words within the document may be less clear to the lay reader. I therefore took the view that it would be beneficial to reposition the tie-breaker clause immediately after the numbered list of oversubscription criteria; and to make it clear that it comes into operation only within the criterion where the point of oversubscription is reached.
15. I raised these points directly with the school which indicated that it would update the website and would be content for its oversubscription criteria to be modified in the ways I suggested. I will therefore take the opportunity of this determination to make appropriate adjustments to the school's arrangements.

Local Authority Comments

16. The LA commented that in recent years the school has always been able to admit all applicants whether from within or outside its catchment. However the area is experiencing rising demand and full satisfaction of parental preferences was achieved this year only because the school agreed to take more than its PAN of 100 in September 2011. The oversubscription criteria have therefore not been brought into play and there has been no question of any applicant being improperly refused a place.
17. The LA had not previously received any formal complaints of this nature from parents. But the Director of Children's Services' letter did say: *"However it has come to our attention since your enquiry that the parent of a child due to start school in September 2013 recently contacted the school. She was told that as she lives outside the school's area she could not apply for a place and that in any case she would not be allocated a place."*
18. The LA confirmed that it would not condone schools providing inaccurate information to parents in the ways that been alleged and would take appropriate action if it received any formal complaints.

The School's Response

19. Having seen the letter from the objector the school responded as follows.
 1. *"In response to a question, I did suggest that it "may" be helpful, to LA, to put Portfields first choice, but did not state that second or any other choice would not be considered.*
 2. *As you will find from the LA response, we do not discourage on-line applications, but say that it would be helpful if parents would*

- be happy to complete a paper "interest" form for internal planning purposes. We do not, in any way, insist on this.*
3. *Portfields schedules parental visits at designated times throughout the year. We most certainly do not reject parents who wish to visit on an enquiry-only basis. Our tours are open to all interested parties. On the tours themselves, the message is, "If you choose to send your child here, this is what we offer, this is our ethos etc." It is left open at tour-end.*
 4. *I refute any suggestion that Portfields seeks to pressure parents into selecting Portfields as first choice."*
20. With regard to the comment made by the LA about the more recent report, the Headteacher expressed concerned that this was referred to me by the LA without any prior consultation or opportunity for Portfields to check the veracity or authenticity of such a serious allegation. The letter continued:
- "I can assure you that my Office staff, who are experienced and well versed in standard admissions procedure, would under no circumstances state what was alleged. They have confirmed this with me. A Staff member also attends annual Admissions Seminars. You will see from the admissions data that Portfields have always welcomed and accepted applications from out of area applicants."*

Consideration of Factors

21. It is undoubtedly the case that the alleged actions of the school, if proven, would be contrary to several mandatory aspects of the Code; notably the latter paragraphs of Chapter 1 which covers practices and policies that may undermine fair admissions arrangements.
22. Perhaps the most serious possibility is that the school has been operating a covert "first preference first" admissions criterion. This would not only be inconsistent with the school's published arrangements; but would also be contrary to paragraph 2.16b) of the Code which expressly forbids its use. However it is clear from the evidence submitted by the LA that this has not happened – if only because all applicants have, in fact, been admitted. It is also the case that, given the operational realities (on-line applications, use of the LA distance measurement system and coordinated admissions administration) it would be practically very difficult to do even if the theoretical opportunity arose. It therefore seems to me very unlikely that this would have been the school's intention.
23. The second aspect of the complaint is summed up very well in the final paragraph of the initial letter: *"I'm afraid that I've been left with the impression that the school is trying to manipulate parents' decisions and influence their choice of ranking."* This would be clear breach of paragraph 1.71 of the Code which, amongst other things, says: *"Parents must be able to make informed decisions when applying for*

*school places for their children ... admission authorities **must** make every effort to ensure that all parents are able to understand the process and in particular how oversubscription criteria will be applied.”*

24. The school has offered a succinct denial of the key claims made by the objector, both in terms of the way the school generally deals with parents and the inferences drawn from the objector's experience. The school is also correct that it would be difficult for me to attribute significant weight to the report of the second parent mentioned by the LA; as there is a lack of contextual detail and the school has not had a reasonable opportunity to respond. So, in the absence of corroborating evidence, it is difficult for me to conclude that the complaints can be proved.
25. However, the careful and detailed account of events set out in the objection letter and the steps that were taken to check and verify the parents' understanding of what was being said, leaves little room for it to be explained away as a series of misunderstandings. I also noted that the school's response did not effectively challenge the parents' account of a six month delay before the requested visit was arranged. The fact that the objectors have no direct interest in the outcome of the case means that they had no reason to do anything other than tell the truth. Indeed the letter makes the motivation explicit *“Our child has subsequently been offered a place at another school (our first choice), so the issue does not now concern us directly, but I am still concerned that the issue may not have been clarified and may cause confusion and possibly even mislead parents making enquires about the school this year (2011-2012).”* For these reasons it seems to me that the objection letter represents a fair and accurate account of one family's experience and that they drew reasonable inferences from that experience. This is sufficient for a reasonable person to be satisfied, on the balance of probabilities, that the parents' account is more credible than the school's rebuttal.

Protection of Arrangements

26. Section 88J(4) of the Act allows me formally to “protect” any changes I make to admission arrangements for up to 2 years beyond the year in question. However, since the changes are of a minor nature to improve clarity and are being made with the consent of the school, there is no need for me to exercise this power.

Conclusions

27. The first issue I that I considered was that the school may have been operating a covert 'first preference first' criterion in the 2010/11 admissions round and the consequential possibility that the same thing would happen during 2011/12, despite the absence of such a criterion

in the determined arrangements. For the reasons set out in paragraph 22 I do not consider that this was the case and would not uphold an objection on these grounds.

28. The second aspect of the objection goes to those parts of the Code dealing with the interaction between schools and parents seeking places for their children. It is beyond question that one family felt that it was being given inaccurate and misleading information. If this is the case it is quite possible that others had a similar experience; and some might actually have been misled to the extent that they altered the preferences declared on their common application form. It is impossible to determine whether the statements and actions that led the parents to feel that they were being misinformed were inadvertent or deliberate; or, if deliberate, what the school's motivation might have been. However it is clear that the school has failed in its duty under chapter 1 of the Code to ensure that parents are given full and accurate information to facilitate the unfettered exercise of their right to express preferences for different schools. Since my powers of executive action are restricted to amending admissions arrangements I cannot take any formal steps in pursuance of my judgements on this part of the objection. I can only recommend that the school review and revise its procedures and that the LA use its good offices to ensure that this happens.
29. For the reasons set out in paragraphs 12 to 15 and with the consent of the school, I am making two small amendments to the school's oversubscription criteria to strengthen the position of in-catchment siblings and to clarify the tiebreaker clause.
30. This objection is unusual as it relates mainly to the operation, rather than the content, of a school's admissions arrangements. As such it overlaps the Jurisdiction of the Schools Adjudicator and the Commissioner for Local Administration (The Local Government Ombudsman). Since some issues came to light that fell within my remit I decided to proceed with this determination. However it may be possible for this, or any other complainant, to seek a remedy from the Ombudsman for matters outside my jurisdiction.

Determination

31. In accordance with sections 88H and 88I of the School Standards and Framework Act 1998, I have considered an objection to the admission arrangements determined by the Governors of Portfields School in Milton Keynes.

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Dated: 16 August 2011

Signed:

Schools Adjudicator: Alan Parker