

## **DETERMINATION**

**Case Reference:** ADA002202

**Admission Authority:** The Governing Body of St Philip's VA Church of England Primary School, Cambridge

**Date of Decision:** 9<sup>th</sup> September 2011

### **Determination**

**I do not believe that the matters raised in a referral from a local Admissions Appeal Panel concerning the oversubscription criteria for St Philip's Church of England VA Primary School breach any requirement of the School Admissions Code. However, I have seen fit to use my powers to amend the admission arrangements which must now be as set out at appendix 2.**

### **The Referral**

1. On 15<sup>th</sup> July 2011, the Office of the Schools Adjudicator received a referral, via a letter from Cambridgeshire County Council ("the Council"), from a local Admissions Appeal Panel which had considered an appeal made by a parent regarding admission to St Philip's VA Church of England Primary School ("the School"). The Panel believes that the school's oversubscription criteria do not meet the requirements of the School Admission Appeals Code ("the Code"). The Code states that an Appeals Panel must refer to the Schools Adjudicator ("the Adjudicator") any arrangements that it identifies in the course of its deliberations that it considers unlawful.

### **Background**

2. The School is a co-educational voluntary aided primary school serving pupils aged 3-11 in Cambridge. It has an admission number of 45. The School's latest Ofsted inspection, in September 2010, judged the School to be satisfactory. The School is oversubscribed. Its determined oversubscription criteria are attached at appendix 1.

3. The Appeal Panel has referred several issues relating to the School's determined oversubscription criteria. These are:

- (i) The creation of a criterion which "interrupts" criteria 3 and 5;
- (ii) A lack of clarity as to the wording of the sub-criteria under criterion 4;
- (iii) The fact that the School only admitted 37 children under criterion 3;
- (iv) Whether the criteria can be applied for the purposes of the reserve list;

- (v) The way that the online application form interrelates with the supplementary form requirements;
- (vi) A number of parents stated that they were misinformed by the School about their prospects of obtaining a place in their catchment school.

4 In a letter dated 9<sup>th</sup> August 2011, the Council officer responsible for school admissions states “*Whilst the published over-subscription criteria for the School are more complex than the majority of primary schools in the county, the Diocese of Ely, governing body and Local Authority believe that the arrangements for this school are compliant with the requirements of the School Admissions Code.*”

### **Jurisdiction**

5 Section 88I (5) of the Schools Standards and Framework Act 1988 (the “SSSF Act”) empowers the Schools Adjudicator to consider any admission arrangements that come to his attention by means other than an objection or referral by the Secretary of State where it appears to him that the arrangements may not comply with statutory requirements or the mandatory requirements of the School Admissions Code (the Code). Where the Adjudicator decides to consider the arrangements, he must decide whether or not they comply.

6 I have concluded that I have the jurisdiction to consider these arrangements.

7 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 the change to the arrangements described in paragraphs 11 and 13 below.

### **Procedure**

8 I have considered the arrangements in the light of the Code and relevant provisions of the law and of the documents submitted to me, including:

- the initial reference submitted via Cambridgeshire County Council on behalf of an Admission Appeals Panel on 14<sup>th</sup> July 2011;
- the report of the Ofsted inspection of the School in September 2010;
- the School’s determined admission arrangements for 2012;
- the School prospectus;
- a letter from the Council’s manager of admissions, transport and education welfare benefits dated 9<sup>th</sup> August 2011.

9 I also held a teleconference with the School's headteacher on 1<sup>st</sup> September 2011. I have considered evidence put to me during this call.

### **Consideration of Factors**

10 I shall consider each of the issues raised by the Appeal Panel in turn.

(i) *The creation of a criterion which "interrupts" criteria 3 and 5.* The ordering of the admissions criteria is a matter for the governing body. In this case the governing body noted that some families who live in the local parish but not in the catchment area were potentially unable to obtain a place at the School. Oversubscription criterion 4 was designed to meet this local demand for Church places, and, if this demand did not exist in any one year, to make places available for other children, from outside of the catchment area, with links to the Church. In some years, not all Church places are filled. As a faith school, the School is entitled to do this and I believe it meets the requirements of the Code.

(ii) *A lack of clarity as to the wording of the sub-criteria under criterion 4.* Criterion 4 is designed to give priority to families who are associated with the Church and live in the local parish but not in the catchment area. If there are no such applicants then this criterion permits the School to offer places to other children with links to the Church but who live outside the catchment area. The wording reflects this intent. The supplementary information form ("the SIF") requires the religious leader to determine whether a family is at the heart of the church, attached to the church or known to the church. The SIF therefore reflects oversubscription criterion 4. I am satisfied that the wording of criterion 4 accurately reflects the objectives of the School and meets the requirements of the Code.

(iii) *The fact that the School only admitted 37 children under criterion 3.* The application of the School's oversubscription criteria to a particular cohort is not a matter within the jurisdiction of the Adjudicator. My role is to consider whether the overall admission arrangements meet statutory requirements.

(iv) *Whether the criteria can be applied for the purposes of the reserve list.* I see no reason why the determined oversubscription criteria cannot be used for this purpose. Such lists are not fixed, with a child's place on a waiting list being determined by the application of the criteria on any one day. As the number of names on the waiting list varies I believe that the determined oversubscription criteria will enable a rank order to be ascertained at any point in time in light of the individual circumstances of the pupils on the list at that time.

(v) *The way that the online application form interrelates with the supplementary form requirements.* I have considered the SIF and believe that it is simple, clear, and meets the requirements of the Code. However, the SIF refers to "up to 3" places being available in relation to oversubscription criterion 4, whilst the admission arrangements themselves refer to "up to 4" places. The School accepts that this is a

drafting error, that this difference needs to be rectified and that the SIF must be amended so that it refers to up to four places being available under this criterion.

(vi) *A number of parents stated that they were misinformed by the School about their prospects of obtaining a place in their catchment school.* The admission arrangements do not suggest that residence in a catchment area guarantees a place at the School and to do so would be in breach of paragraph 2.40 of the Code. I am unable to comment on any oral communications between the School and its parent community but note that, for entry in September 2011, the School could not offer places to all pupils resident in the catchment area. This was the first time this situation had arisen and may explain why some parents believed they had been misinformed. I am satisfied that there has been no breach of the Code in relation to this matter.

### **Other Matters**

11 I note that the School's undated prospectus available on its web-site includes a set of admission arrangements that differ from those which have been determined for 2012. To avoid confusion, the School must address this immediately to ensure that the prospectus accurately describes the School's admission arrangements as I have determined them as set out at appendix 2.

12 The School's oversubscription criterion 1 gives equal status to children in public care and children with a statement of special educational needs (SEN) which names the School. Paragraph 2.8 of the Code clearly states that pupils with a statement of SEN which names a school must be admitted and that the possession of a statement of SEN cannot be used as an oversubscription criterion. Therefore criterion 1 must be amended to remove reference to statements of SEN. Instead, the School's admission arrangements must clearly state that children who have a statement of SEN that names the School will be admitted.

13 Criterion 3 must also be amended to ensure that it, too, reflects the requirement to admit all pupils with statements of SEN which names the School. I have made this amendment in my determined admission arrangements at appendix 2.

### **Conclusion**

14 The Admissions Appeal Panel was right to refer this matter to the Adjudicator. However, for the reasons set out in paragraph 10 (i), (ii), (iv), (v) and (vi) above I do not believe the matters referred breach any requirement of the Code. I also conclude that I do not have any jurisdiction in relation to the matter discussed in paragraph 10 (iii).

15 I have considered the admission arrangements as a whole and am using my powers under the Act to make changes to the arrangements as described in paragraphs 12 and 13 above.

16 The School must revise its SIF so that it states that “*Up to four places will be offered to children of families who specifically wish their children to be educated at a Church of England school.*” (see paragraph 10(v) above).

17 The School is aware that it must revise its prospectus so that the admission arrangements described within it match those I have determined at appendix 2.

### **Determination**

18 I do not believe that the matters raised in a referral from a local Admissions Appeal Panel concerning the oversubscription criteria for St Philip’s Church of England VA Primary School breach any requirement of the School Admissions Code. However, I have seen fit to use my powers to amend the admission arrangements which must now be as set out at appendix 2.

Date: 9 September 2011

Signed:

Adjudicator: Mr John Simpson

## Appendix 1

### Oversubscription criteria

- 1 Children who are in Public care or have a Statement of special educational need that names the school.
- 2 Children normally living<sup>1</sup> in the catchment<sup>2</sup> area, who have siblings<sup>3</sup> attending St Philip's at the time of admission.
- 3 Children normally living<sup>1</sup> in the catchment<sup>2</sup> area. Places will be offered in this category until either a total of 41 places have been filled from criteria 1 to 3 or else all applicants in this category have received an offer.
- 4 Children applying for a Church place. (**NB: A Supplementary Information Form must be submitted**)  
*Up to four Church places will be offered to children of families who specifically wish their children to be educated at a Church of England school. Parents applying on religious grounds must also submit a St Philip's Supplementary Information Form.*  
*These places will be prioritised in the order of those:*  
*i) at the heart of their church ii) attached to their church iii) known to their church.*  
*Within each of these categories applicants will be prioritised as follows:*
  - (a) St Philip's Church; the Parish Church.
  - (b) other Church of England Churches.
  - (c) other Christian Churches.
- 5 Any remaining children normally living in the catchment area (and not included in 3).
- 6 Children not living within the catchment area who already have siblings at St Philip's.
- 7 Children applying for a Church place (and not already offered a place in 4).
- 8 Any remaining applicants.

### **Priority, Definitions and Eligibility**

**Priority** Where there is a need to prioritise within a category, children living nearest<sup>4</sup> to the school, will be given priority.

#### **Definitions:**

<sup>1</sup>The address used for the purpose of admission is the home address at the time of application. We use the LA's definition of home address, which can be found detailed in the *Admission to Schools in Cambridgeshire* booklet. The family must expect to be resident at this address at the time of admission.

<sup>2</sup>Information about the catchment area is available from the school.

<sup>3</sup>We define siblings as children who are blood related or living as part of the same family unit. The sibling must be already attending St Philip's and still doing so at the time of admission

<sup>4</sup>The distance, for admissions purposes, is measured using the straight line distance from the centre point of the home to the centre point of the school as determined by the National Land and Property Gazetteer (NLPG). These distances are produced by the LA Admissions team for the school. For families who live outside the area covered by the Cambridgeshire mapping system, distances are determined using a combination of local maps and on-line resources.

## Appendix 2

Children who have a statement of special educational needs that names the school will be admitted.

### Oversubscription Criteria

- 1 Children in public care.
- 2 Children normally living in the catchment area who have siblings attending St Philip's at the time of admission.
- 3 Children normally living in the catchment area. Places will be offered in this category until a total of 41 places have been taken by children with statements of SEN, or in accordance with criteria 1-3, or when all applicants in this category have received an offer.
- 4 Children applying for a Church place.

Up to four Church places will be offered to children of families who specifically wish their children to be educated at a Church of England school. Parents applying on religious grounds must also submit a St Philip's Supplementary Information Form which is available from the School.

These places will be prioritised in the following order.

- a. Families at the heart of their Church,
- b. Families attached to the Church
- c. Families known to their Church.

Within these categories applicants will be prioritised as follows:

- i. Families linked to St Philip's Church; the Parish Church,
  - ii. Families linked to other Church of England Churches,
  - iii. Families linked to other Christian Churches.
- 5 Other children normally living in the catchment area (and not included in 3).
  - 6 Children not living in the catchment area who have a sibling at the school at the time of admission,
  - 7 Children applying for a Church place (who were not offered a place under criterion 4).
  - 8 Any remaining applicants.

Tiebreaker. Where there is a need to prioritise in a category, children living nearest to the school will be given priority.