



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA 3052

Referrer: A member of the public

Admission Authority: The academy trust for St Peter and St Paul Church of England Academy, Syston, Leicestershire

Date of decision: 2 December 2015

Determination

I have considered the arrangements determined by the governing body on behalf of the academy trust for St Peter and St Paul Church of England Academy in accordance with section 88I(5) of the School Standards and Framework Act 1998. I determine that they 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 within two months of the date of this determination.

The referral

1. The admission arrangements (the arrangements) for St Peter and St Paul Church of England Academy, Syston (the school) a Church of England academy school for children aged four to 11 have been brought to my attention under section 88I(5) of the School Standards and Framework Act 1998 (the Act) by a member of the public (the referrer).

2. The matters referred were the failure of the school to publish its arrangements for September 2016 and to a statement contained within those for September 2015 which concerned the deferred entry to school of children below compulsory school age.

Jurisdiction

3. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and

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

4. The referrer brought the school's arrangements to my attention on 28 June 2015, which was after the last date on which an objection concerning the school's admission arrangements for September 2015 could be made and is not considered further.

5. The arrangements for September 2016 were determined by the governing body on 1 October 2015. Having had the arrangements for the school brought to my attention I have used my power under section 88I of the Act to consider the school's admission arrangements for September 2016 as a whole.

Procedure

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

7. The documents I have considered in reaching my decision include:

- a. the referrer's email and form of objection dated 28 June 2015;
- b. the school's response and supporting documents and subsequent correspondence;
- c. correspondence received from the Diocese of Leicester, the faith body (the diocese);
- d. correspondence received from Leicestershire County Council, the local authority (the LA);
- e. information obtained from the school's website;
- f. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
- g. a map of the area identifying relevant schools;
- h. confirmation of when consultation on the arrangements last took place;
- i. a copy of the minutes of the meeting at which the governing body determined the arrangements; and
- j. a copy of the determined arrangements.

The Referral

8. The referrer complained that the school had failed to publish on its website admission arrangements for September 2016 and that within the

arrangements which could be found there, those for September 2015, a statement concerning the deferral of entry to school of children below compulsory school did not conform to the requirements of the Code. This statement was that *“Governors have agreed that 4+ children are admitted once a year, at the start of the Autumn Term following their fourth birthday”*.

Other Matters

9. I have looked at the school’s admission arrangements for September 2016 as a whole. Having done so, I was concerned that they may not conform with what is required by the Code, and asked the school for its comment on these matters which included:

(i) paragraph 14 of the Code requires admission arrangements to be clear. Those determined for the school may fail to be so because:

(a) there is no statement concerning the position of children whose statement of special educational needs or Education, Health and Care Plan names the school (paragraph 1.6 of the Code); and

b. the arrangements give priority to children “who regularly attend” or who “attend” worship at an Anglican church or that of another Christian denomination. The term “regularly” is not defined, and no criteria are given to enable a parent to know what the term “attend” means since it presumably requires attendance on more than one occasion. Also, paragraph 1.37 of the Code requires admission authorities to ensure that parents can easily understand how faith-based oversubscription criteria will reasonably be satisfied;

(ii) admission authorities are required by paragraph 2.17 to make clear the process of requesting admission out of the normal age group. The arrangements refer only to summer born children and not to all such requests;

(iii) paragraph 2.14 of the Code requires there to be a statement concerning a waiting list, which is not present in the school’s arrangements; and

(iv) the arrangements state that parents are asked to complete a “Preliminary Application Form” but do not state what its purpose is, or give access to it. I was concerned that this may not meet the requirements concerning supplementary information forms as set out in paragraph 2.4 of the Code.

I informed the school that I had visited its website on 20 October 2015 and was unable to find there a copy of the school’s determined arrangements. Paragraph 1.47 of the Code requires admission authorities to publish arrangements on their website once these have been determined.

10. I had also previously asked the school for information concerning the last time the arrangements were the subject of consultation. The diocese had responded to this request on 22 July 2015, but stated only that no consultation had been required in the last year. The Code at paragraph 1.42 requires arrangements to be the subject of consultation either when changes are proposed, or at least once every seven years, and I therefore asked the school to provide the details of when this requirement had been met.

Background

11. The school, which is located in Syston near Melton Mowbray in Leicestershire, admits up to 60 children each year to Year R. When the school was last inspected by Ofsted in December 2014 it was judged to be good. The school is designated by the Secretary of State under section 69(3) of the Act as a school with a religious character, which is Church of England. The relevant faith body is the Diocese of Leicester and the academy trust for the school is the Diocese of Leicester Academies Trust. The school became an academy school on 1 March 2013.

12. The referrer submitted an objection concerning the school's admission arrangements on 28 June 2015, stating that the school had not published admission arrangements for September 2016 on its website. The referrer's form also stated that the school had said that these arrangements were not due to be determined until the Spring Term 2016, and so complained that the school was failing to determine as well as to publish its admission arrangements for September 2016 and that it was in breach of both paragraphs 1.46 and 1.47 of the Code as a result. The objector complained that aspects of the school's admission arrangements for September 2015 did not conform with the requirements of the Code concerning the deferred entry of children below compulsory school age.

13. I was able to confirm on 7 July 2015 that the school's website showed its admission arrangements for September 2014 when the link to "admissions policy" was followed, and those for September 2015 within a prospectus also displayed there. No admission arrangements for September 2016 were shown at this time.

14. The diocese confirmed on 16 July that the school had not yet determined its admission arrangements for September 2016. I therefore wrote to all the parties explaining that the jurisdiction of the adjudicator to consider objections which have been made concerning the admission arrangements of a school is in respect of arrangements which have been determined by the school's admission authority. Since no arrangements for September 2016 existed, and since the date by which objections could be made concerning admission arrangements for September 2015 had passed, I was unable to consider further the objection which had been referred to me.

15. The school was asked to provide a copy of the arrangements for September 2016 as soon as these were determined, together with evidence of this determination and also evidence of the date on which consultation concerning the school's admission arrangements had last taken place. The school wrote to me on 15 October 2015 with a copy of the arrangements and evidence of their determination by the governors on 1 October 2015.

16. These arrangements:

(i) refer to a "preliminary application form" which all parents are asked to complete;

(ii) state that 60 pupils will be admitted each year to Year R and list criteria

used to give priority to applications if these places are oversubscribed;

(iii) include oversubscription criteria which give priority to children on the grounds that their parents “regularly attend” or “attend” worship in described Christian settings, and a criterion for “all other children”;

(v) provide suitable tie-breakers;

(vi) make the following statement:

Delayed entry for first time admissions – Parents of summer born children wishing to submit a request for delayed entry must make their request in writing with all supporting documentation to the governing body of the school who will consider the request.”

17. When the school responded on 29 October 2015 to the matters which I had raised it also provided an amended version of its arrangements and confirmed on 3 November 2015 that these had been agreed by the school’s governors.

Consideration of Factors

18. I shall set out my consideration of the matters I raised with the school concerning the arrangements as these were determined on 1 October 2015 in the light of the school’s response and of its revised arrangements.

19. Paragraph 1.6 of the Code says:

*“The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied. All children whose statement of special educational needs or Education, Health and Care plan **must** be admitted.”*

In order to be clear how places are allocated, admission arrangements need to inform parents that the group of children specifically referred to in paragraph 1.6 will always be admitted and so reduce the number of remaining places which are available. The school’s admission arrangements as determined on 1 October 2015 contained no such statement and as a result fail to comply with what paragraph 1.6 of the Code requires and are unclear and so do not meet the requirements of paragraph 14.

20. The school’s revised arrangements state that children whose statement of special educational needs or Education, Health and Care plan names the school will be given first priority in its list of oversubscription criteria. This still does not conform with what paragraph 1.6 of the Code requires, which is that these children are admitted to the school under all circumstances and not, therefore, by means of an oversubscription criterion.

21. Paragraph 1.37 of the Code says “Admission authorities **must** ensure that parents can easily understand how any faith-based oversubscription will be reasonably satisfied”. The Code therefore places a mandatory requirement on any school which is permitted to give priority to applications by reference to

faith that it is possible for parents to look at its admission arrangements and know from them whether an application for a place at the school is or is not likely to be prioritised on such grounds in their case. In the case of the school it is therefore necessary for a parent to know whether an application would be prioritised under the criteria requiring “regular attendance” or “attendance” at one of the defined places of worship. Without a definition of attendance (since this must mean attendance on more than one occasion) or of regular attendance (which presumably requires a more frequent level of attendance) or of the periods for which such levels of attendance are required, this is simply not possible. The arrangements as they were determined on 1 October 2015 contain no such definition and fail to meet what paragraph 1.37 requires and also fail to be clear as required by paragraph 14.

22. The school has told me that it does not think that it is necessary to define what is meant by “regular attendance” or “attendance” in setting out its arrangements, and has declined to do so in revising them. The school’s revised arrangements also fail to comply with the requirements of paragraphs 1.37 and 14 of the Code.

23. Paragraph 2.17 of the Code states that:

*“Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.”*

The arrangements as determined on 1 October 2015, make reference only to summer-born children, who are one of the groups of children potentially concerned, but do not describe such requests as a whole. As a result, the arrangements do not conform with what is required by paragraph 2.17. The school’s revised arrangements again refer only to summer-born children and so do not comply with paragraph 2.17.

24. Paragraph 2.14 of the Code places a mandatory requirement on admission authorities to maintain a waiting list for places and to describe its operation in their admission arrangements. The school’s arrangements determined on 1 October 2015 contained no such statement and were in breach of this provision. The school has included in its revised arrangements a statement which meets the requirements concerning waiting lists in paragraph 2.14 of the Code.

25. When I visited the school’s website on 20 October 2015 I did not find there a copy of the school’s admission arrangements for September 2016. Although this omission was subsequently rectified by the school, it had failed to meet the requirement of paragraph 1.47 of the Code that admission authorities publish arrangements on their website once these have been determined.

26. Paragraph 2.4 of the Code says that any additional forms used by a school must only request information which is required to make decisions about oversubscription criteria, and sets out information which must not be sought by this means. Such a form is also part of a school’s admission arrangements, and must be published as part of them, as required by paragraph 1.47 of the Code. When the school provided me with a copy of the admission arrangements it had determined on 1 October 2015, it did not

include a copy of the form referred to in them as a “preliminary application form”, and I had been unable to find it or any part of the arrangements on the school’s website when I visited it at this time. I therefore asked the school to make a copy available to me.

27. It did so when it provided its revised admission arrangements, stating that the form, which was still referred to in them as its “preliminary application form”, was now called the “supplementary information form”. The school stated that the form conformed with the requirements of paragraph 2.4 of the Code. Having seen the form, it is clear that it is used to request information concerning religious practice in connection with the application of the school’s oversubscription criteria and so forms part of the admission arrangements and should have been published as part of them. Although the revised arrangements were available when I visited the school website again on 24 November 2015, I could find no form there. The school therefore continues to fail to meet the requirement of paragraph 1.47 in respect of the publication of its supplementary information form (SIF).

28. Having seen the form under its new title I am of the view that it and the revised arrangements in relation to it contravene what is required by:

(i) requiring all applicants for a place at the school to complete the form by 31 December of the relevant year, since the national closing date for applications for places at primary schools set out in the Code is 15 January in the year in which a place is sought;

(ii) asking for details of two parents to be provided, since such a request is likely to reveal personal details which paragraph 2.4a) of the Code forbids an admission authority from seeking;

(iii) asking for details of a pre-school or school previously attended to be given, since this is not relevant to the application of any of the school’s oversubscription criteria and so prohibited by paragraph 2.4;

(iv) asking two parents to sign the form, which is expressly forbidden by paragraph 2.4e).

29. The school has told me that it is unable to provide any evidence of the former school having consulted on its admission arrangements prior to its conversion to academy status, and that no consultation has taken place since that time. The school will need to be mindful of the need to conform to the requirements concerning consultation on its admission arrangements which are set out in paragraphs 1.42 to 1.45 of the Code.

Conclusion

30. I have set out why I have concluded that the arrangements determined by the school on 1 October 2015 failed to meet the requirements which are set out in the Code:

(i) in paragraphs 1.4 and in paragraph 1.6 concerning children whose statement of special educational needs or Education, Health and Care plan names the school;

(ii) in paragraphs 14 and 1.37 with respect to the clarity of faith-based oversubscription criteria;

(iii) in paragraph 2.17 about the admission of children outside their normal age group and

(iii) in paragraph 2.14 concerning a waiting list.

The school has also failed to publish these arrangements in accordance with paragraph 1.47 of the Code.

31. Although the school has already revised its admission arrangements, I have set out the reasons why I am of the view that further revision of them is needed, since they fail to comply with what the Code requires:

(i) in paragraph 1.6 concerning children whose statement of special educational needs or Education, Health and Care plan names the school;

(ii) in paragraphs 14 and 1.37 with respect to the clarity of faith-based oversubscription criteria, and

(iii) in paragraph 2.17 about the admission of children outside their normal age group.

The school has also failed to publish these arrangements in accordance with paragraph 1.47 of the Code by failing to publish its SIF. I have set out the ways in which I consider this form to contravene the requirements in paragraph 2.4 concerning such forms.

Determination

32. I have considered the arrangements determined by the governing body on behalf of the academy trust for St Peter and St Paul Church of England Academy in accordance with section 88I(5) of the School Standards and Framework Act 1998. I determine that they do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

33. 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 within two months of the date of this determination.

Dated: 2 December 2015

Signed:

Schools Adjudicator: Dr Bryan Slater