



DETERMINATION

Case reference:	ADA2987
Objector:	Surrey County Council
Admission Authority:	The Governing Body of St Martin's Church of England Aided Junior School, Epsom.
Date of decision:	18 August 2015

Determination

In accordance with section 88H (4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of St Martin's Church of England Aided Junior School.

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.

The referral

1. Under section 88H (2) of the Schools Standards and Framework Act 1998, (the Act), an objection has been referred to the Adjudicator by Surrey County Council (the local authority), the objector, about the admission arrangements (the arrangements) for St Martin's Church of England Aided Junior School, (the school), a voluntary aided school for pupils age 7-11 years for September 2016. The objection is that the school has reduced the published admission number (PAN) without consultation.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the School. The objector submitted the objection to these determined arrangements on 30 June 2016. I am satisfied the objection has been properly referred to me in

accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the objector's emailed form of objection dated 30 June 2015 and supporting documents;
 - b. the school's response to the objection and supporting documents;
 - c. the faith body's, the Diocese of Guilford (the diocese), response to the objection and supporting documents
 - d. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - e. a map of the area;
 - f. copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
 - g. a copy of the determined arrangements.

The Objection

5. The objector argues that the school has decreased the PAN for September 2016 without consultation, contrary to paragraphs 1.3 and 1.42 of the Code.

Background

6. The school is in Epsom in Surrey and was a two form of entry (FE) school admitting 64 pupils into Year 3. As part of the planning for pupil places, the feeder / linked infant school, St Martin's Infant Church of England Aided Infant School, increased its PAN to 90 from September 2014. The school agreed to make a permanent arrangement to admit 90 pupils from September 2017 when those additional pupils would transfer to Year 3. However, the local authority needed additional places from 2014 and asked the school to admit an extra Year 3 class, making 90 pupils, in September 2014 and September 2015. These classes were created with funding for 'bulge years' from the local authority.

7. The correspondence from the local authority offers "Bulge year funding for September 2014, that the school will admit 90 pupils again in 2015 as the neighbouring infant school has a bulge year moving though and notes that 'you may be open to admitting another bulge class in 2016'".

8. The published admission arrangements for the school for September 2015 show:

St Martin's CofE Aided Junior School Published Admission Number (PAN) for September 2015/16 will be 90;

and for September 2016;

St Martin's CofE Aided Junior School Published Admission Number (PAN) for 2016/17 will be **64**.

9. The governing body met 25 November 2014 and determined the arrangements for September 2016. At that meeting the governing body noted the time scale required if there were to be any changes requiring consultation and *"confirmed that the PAN would be maintained at 64 and that any increase in 2015 (sic) would need be requested by Surrey as a bulge class. The PAN would then increase in 2017"*.

10. The governing body sent its arrangements with a PAN of 64 to the local authority for comment and received a few minor changes; no comment was received about the PAN. The diocese wrote to the school 20 January 2015 and alerted the school to the matter of the PAN writing *"when you admitted a 'bulge class' last year, your PAN I believe should have remained at 64 whilst you merely admitted 'over PAN'...you cannot legally reduce your PAN to 64 without 8 weeks consultation for which there is now insufficient time."*

11. On 23 April 2015 the governing body sent its arrangements to the local authority and in May the local authority queried the PAN of 64. The school responded that the governors understood the PAN to be 64, that a bulge year had been admitted in 2014, another in 2015, for September 2016 the school would continue with a PAN of 64 and the PAN would be changed to 90 for September 2017. Correspondence took place over the next few weeks between the school, the local authority and the diocese but no agreement was reached by the parties and the matter was referred as an objection by the local authority to the Schools Adjudicator.

Consideration of Factors

12. The factors I have considered include the following: were the arrangements for 2015 including the admission number published as required, was a change made requiring consultation, was a change made for any reason permitted by the Code.

13. The objector argues that the school formally determined a PAN of 90 for September 2015 and published it as such and to change it without consultation is unlawful. The objector adds that the data showing the need for pupil places indicates that the *"central Epsom and Ewell village planning areas will be 38 places short"* if the school only admits 64 pupils in September 2016.

14. The school argues that it intended to show that it was admitting 90 pupils: it had not realised the implications of publishing an admission number of 90; it was not its intention to set the PAN at that level and should have said the PAN was 64 and a bulge class would also be admitted. It adds that while willing to admit 90 pupils, it cannot afford to do so unless it has 'bulge year' funding.

15. The arrangements for September 2015 show the PAN as 90. I cannot see there would be any other reasonable interpretation of this, other than 90 was the admission number set by the governing body as required by the Code at paragraph 1.2 "*As part of determining their admission arrangements, all admission authorities **must** set an admission number for each 'relevant age group'*". Parents must be able to rely on the published admission arrangements and cannot know what other intention an admission authority, in this case the governing body, might have had. My view is that the school set a PAN of 90 for September 2015 as required by the Code and no one looking at these arrangements would form any other view; to publish an admission number of 64 is a reduction in the PAN and the school is in breach of the Code at paragraph 1.3. "*All admission authorities **must** consult in accordance with paragraph 1.42 below where they propose a decrease to the PAN.*" if the number was decreased without the consultation required by the Code.

16. With reference to that paragraph, the objector makes that argument; if the governing body wished to reduce the PAN, that must be after consultation. The school argues that it sent its arrangements for September 2016 with a PAN of 64 to the local authority for advice and received information on some minor changes but no comment about the PAN. It writes that would have consulted about the reduction to the PAN if the matter had been brought to its attention. The local authority's response to that point is "*it is unfortunate that I did not pick up that the school had proposed to reduce its PAN from 90 to 64. However the email from the school which included the proposed policy did not alert me to major changes. It said 'Please find attached our Admission policy for 2016/17. We have not made any particular changes and I wonder if you could advise me on whether we need to consult further'. While I accept that the school took my advice in good faith, it is ultimately the responsibility of governors as admission authority, to ensure its admission arrangements are compliant with the Code and that the statutory requirements of consultation are met.*"

17. I see from the evidence submitted that the school sought the advice about its arrangements showing the PAN as 64 and no comment was received on that from the local authority. This is unfortunate, but the lack of advice to consult on this matter does not permit the school to make changes without consultation. The Code makes it clear that the responsibility for adherence to the Code falls to admission authorities *at paragraph 1.1* "*Admission authorities are responsible for admissions and **must** act in accordance with this Code,*" I therefore consider the school is in breach of the Code at paragraph 1.42 which requires consultation "*When changes are proposed to admission arrangements, all admission authorities **must** consult*

on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year.”

18. The school also argues that the PAN of 90 for September 2015 was a “*genuine error, a misprint.*” The Code does permit changes to admission arrangements in certain very specific circumstances, as is shown in paragraph 3.16 “*Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements*”

19. I have considered whether writing the PAN as 90 in the 2015 arrangements when the intention was a PAN of 64 with a bulge class could be a misprint as intended by the Code. I think not, a misprint is an error in the final drafting, usually typographical; the use of a term without understanding the implications, which is what the school suggests happened here, is not a misprint. The school may not rely on this provision of the Code to change its PAN in its 2015 arrangements retrospectively.

Conclusion

20. The school set an admission number of 90 and published it at such for its 2015 arrangements. Parents may rely on those published arrangements. The school may not change its arrangements on the grounds of error because the PAN was not a misprint. If it intended to reduce the PAN for 2016 the school should have consulted. I note that it sought advice from the local authority on the matter and was not advised about the requirements to do so. However, that it did not receive advice to do so, does not free the governing body from its obligations to consult if it wished to reduce the PAN, for these reasons and those shown in the determination above, I uphold the objection.

21. I consider that the school’s admission arrangements do not comply with the Code and the law relating to admissions in the matter of the PAN. In order that parents are informed as soon as possible of the number of pupils that will be admitted to the school in September 2016, the school must revise their admission arrangements within two months of this decision as provided for by paragraph 3.1 of the Code.

Determination

22. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of St Martin’s Church of England Aided Junior School.

23. By virtue of section 88 K (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.

Dated: 18 August 2015

Signed:

Schools Adjudicator: Miss Jill Pullen