



## DETERMINATION

<b>Case reference:</b>	<b>ADA2863</b>
<b>Objector:</b>	<b>A parent</b>
<b>Admission Authority:</b>	<b>The Governing Body of St Joseph's Roman Catholic Voluntary Aided Primary School, Stanley, Durham</b>
<b>Date of decision:</b>	<b>3 September 2015</b>

### **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 for St Joseph's Roman Catholic Voluntary Aided Primary School, Stanley, Durham.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements.**

**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 publication date of this determination.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a parent, the objector, about the admission arrangements (the arrangements) for St Joseph's RC Primary School, (the school), a voluntary aided primary school for 4 to 11 year olds. The objection concerns the arrangements for the academic year 2016/17 and, in particular, the options available for parents of children starting school below compulsory school age and the admission of children outside their normal age group.

### **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 her objection to these determined arrangements on 1 May 2015. 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. As the arrangements have been brought to my attention I have also considered the arrangements as a whole in accordance with section 88I(5) of the Act.

### **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 form of objection dated 1 May 2015;
  - b) the school's response to the objection and supporting documents dated 17 June 2015;
  - c) the LA's response to the objection and supporting documents dated 17 June 2015;
  - d) the Diocese of Hexham and Newcastle's response to the objection dated 15 June 2015 and the diocesan general guidance on admissions;
  - e) the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - f) the Department for Education (DfE) departmental advice "Admission of summer-born children" published December 2014;
  - g) copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
  - h) a copy of the determined arrangements.

### **The Objection**

5. The objector states that the arrangements do not comply with paragraphs 2.16 and 2.17 of the Code because they do not "*make any mention of the options available to children below compulsory school age*" and "*do not appear to have clear provisions for children starting school at compulsory school age*". This includes information about the admission of children below compulsory school age and deferred entry, and the admission of children outside their normal age group.

### **Other Matters**

6. I have considered the arrangements as published on the school's website. Paragraph 1.8 of the Code states that "*admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated*". The arrangements include a note with the title "*Tie-breaker*" where it describes the methodology for measuring distance from home to school which is used in the event of oversubscription within particular

criteria. Although unlikely, it is possible that when this is implemented it may result in two or more applicants living equi-distant from the school. An additional tie breaker is therefore required in order to conform with the Code.

## **Background**

7. The school has a published admission number (PAN) of 30 for admission to YR. Currently there are 199 pupils on roll and the school has a capacity of 210. The school was oversubscribed for admission in September 2015 there were 48 first preference applications for the 30 places. The school has provided me with a copy of the minutes of the governing body meeting of 25 November 2014 at which they determined the arrangements for September 2016. I am satisfied that these minutes indicate that the governors determined the arrangements at that time. The arrangements are published on the school's website in line with the Code.

## **Consideration of Factors**

8. The objector says that the arrangements do not comply with the Code because they do not mention paragraphs 2.16 (admission of children below compulsory school age and deferred entry) or paragraph 2.17 (admission of children outside their normal age group).
9. Paragraph 2.16 states that "*Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that, where they have offered a child a place at a school;*
  - a) *that child is entitled to a full-time place in the September following their fourth birthday;*
  - b) *the child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and*
  - c) *where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.*
10. The objector says that the arrangements do not conform with the requirements of this paragraph because they do not make these options clear in their arrangements. Indeed, the objector says there is no mention of these provisions in the published arrangements.
11. The school's response provided me with a copy of the arrangements. They exactly are as published on its website. This confirms that the provision for the admission of children below compulsory school age and the options for part-time or deferred entry to school during the school year are not in the arrangements. The school's website provides a link to the LA's 'Schools admission process and primary

school admission' website for further information and states that *"full details of the admission arrangements can be found in the Primary and Secondary Admissions Brochure produced by Durham County Council"*.

12. In its response the LA commented that it *"describes in full the process to be followed by all admission authorities in respect of the admission of summer born children in its composite admissions prospectus, which is published by 12 September prior to the beginning of the following academic year to which it applies"*.
13. The diocese has sent me a copy of the general guidance document on admissions which is in the form of a suggested template for admission arrangements. This document also does not include the options available to parents for the admission of children below compulsory school age for entry to school.
14. The school's arrangements make no reference to parents' entitlement for their children of deferred entry or part-time attendance at school as outlined in paragraph 2.16, and therefore do not comply with the Code. I uphold this element of the objection.
15. Paragraph 2.17 of the Code states that *"Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1. Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group."*
16. The objector says that the arrangements do not comply with this paragraph of the Code because the process for parents who seek a place for their child outside their normal age group is not explained in the published arrangements.
17. The school's response suggests that the relevant paragraphs are covered on the LA's website. The LA comments that the composite admission prospectus for the 2015/16 academic year was published by September 2014 and was at that time Code compliant. It goes on to say that the prospectus for September 2016/17 will be published in September 2015 at which time the process for the admission of children outside their age group will be published in line with the Code which was published in December 2014. The LA does indeed have until 12 September to publish its composite prospectus for 2016. The matter I have to consider is whether the school's arrangements as determined by the governing body and published on its website comply with the Code.

18. The diocesan response says that *“the admission arrangements that the school published in September 2014 did adhere to the Code in force at that point in time. They could not take into account the provisions of the December 2014 Code which at that point (September 2014) did not exist.”* The objection concerns the arrangements for admissions in 2016 and I must consider whether these arrangements comply with the Code that is now in force.
19. The absence of any reference to paragraph 2.17 in the arrangements means that the school does not make clear in their arrangements the process for requesting admission out of the normal age group. I therefore uphold this element of the objection.
20. The requirements of paragraphs 2.16 and 2.17 were introduced in the revised Code in December 2014; over three months before the deadline by which arrangements had to be determined. The school’s arrangements were published after the meeting at which they were determined in November 2014 and they required amendment following the publication of the revised Code in December 2014. An amendment could have been made as permitted by paragraph 3.6 of the Code to achieve compliance with paragraphs 2.16 and 2.17. Paragraph 3.6 of the Code states that *“arrangements cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code...”* but this did not happen.

## **Conclusion**

21. The school’s arrangements do not refer to the parental entitlements relating to the admission of children below compulsory school age and deferred entry nor the process for requesting admission out of the normal age group. These arrangements are therefore not compliant with the Code at paragraphs 2.16 and 2.17 and I therefore uphold the objection.
22. I have also concluded that the absence of a fair tie-breaker to decide between two applications that cannot otherwise be separated is not compliant with paragraph 1.8 of the Code and requires amendment.

## **Determination**

23. 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 for St Joseph’s Roman Catholic Voluntary Aided Primary School, Stanley, Durham.
24. I have also considered the arrangements in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements.

25. 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 publication date of this determination.

Dated: 3 September 2015

Signed:

Schools Adjudicator: Ann Talboys