



DETERMINATION

Case reference:	ADA3198
Objector:	A parent
Admission Authority:	The Governing Body of St James' Church of England Academy, Bournemouth, Dorset.
Date of decision:	20 July 2016

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2017 determined by the governing body of St James' Church of England Academy, Bournemouth.

I have also considered the arrangements in accordance with section 88I(5) and find the arrangements determined conform with the requirements relating to admission arrangements.

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 James' Church of England Academy (the school), a primary school designated as having a religious character for pupils ages 4 -11 years for September 2017. The objection is to the consultation carried out before the arrangements were changed which the objector argues did not meet the requirements set out in the School Admissions Code (the Code).
2. The local authority (LA) for the area in which the school is located is Bournemouth. Other parties to the objection are the Diocese of Winchester (the Diocese) which is the religious authority for the school and the Portsmouth and Winchester Diocesan Academies Trust (the trust).

Jurisdiction

3. The terms of the Academy agreement between the 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. The trust in this case is a multi-academy trust (MAT) and it has delegated to the school's local governing body under a scheme of delegation responsibility for consulting on and determining the school's admission arrangements. The trust retains

overall responsibility for the academy but the admission authority in this case is the local governing body. The objector submitted her objection to these determined arrangements on 10 May 2016. The objector has asked to have her identity kept from the other parties and has met the requirement of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of her name and address to me. 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

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the objector's form of objection dated 10 May 2016 and further comments;
 - b. the admission authority's response to the objection and supporting documents;
 - c. the comments of the LA on the objection and supporting documents;
 - d. the comments of the Dioceses of Portsmouth and Winchester who work jointly;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
 - f. a map of the area;
 - g. confirmation of when consultation on the arrangements last took place;
 - h. copies of the minutes of the meeting of 8 February 2016, at which the local governing body of the school determined the arrangements; and
 - i. a copy of the determined arrangements.

The Objection

6. The objector argues that the change to the admission arrangements for 2017, which do not give priority on the basis of faith as in previous arrangements which included priorities for those who "*show 'Christian commitment' at St James' or St Saviour or a church included in Churches Together In England or The Evangelical Alliance*" were not subject to proper consultation with parents of children aged two to eighteen years as required by the Code at paragraph 1.44.

Background

7. The school became a sponsored academy as part of the Portsmouth and Winchester Diocesan Academies Trust in April 2014. The MAT covers Church of England schools across the two dioceses. The predecessor school was a voluntary aided Church of England school. The trust describes its role as setting "*the base Admissions Policy*", but, as noted above, has delegated the role of admission authority to the local governing body. The Trust Deed of the predecessor school states that the school was established for the "*education of the poor persons of and in that part of the liberty of Westover within the parish of Christchurch*" with no reference to worship or attendance at church. The trust decided that its schools should serve the local community and removed any reference to worship from the oversubscription criteria of their "base" admission policy. The trust issued a suggested admission policy, dated September 2015 to the academies. A note included within the admission criteria section says "*It is expected that academies will adhere to the founding documents for **The Academy** (sic), usually that living in the ecclesiastical parish is the only requirement for being offered a place. Faith criteria that prioritise church going families may prevent catchment children being offered a place*".
8. The minutes of the meeting of 2 September 2015 of the Trust Board where the admission policy was reviewed show that the representative of the school raised the issue of faith criteria as the local governing body wished to retain it, however the Board's view was that the criteria should be removed on the grounds that the "*Diocese view was that removing the faith criteria was the appropriate way forward.*" The school consulted on these proposed arrangements as described below and at a meeting on 8 February 2016 of the local governing body determined the arrangements and the minutes record that: "*this was agreed by all*" notwithstanding expressions of concern by two members that the "church attendance category had been removed."
9. The school says it consulted on new arrangements for admission in 2017. The great part of the consultation was in fact undertaken by the LA on behalf of the school. The consultation ran from 4 December 2015 to 20 January 2016.
10. The arrangements were published on the school's website and the LA's website. The LA reported that it had informed "*Childminders; Day Nurseries; Pre Schools; After school clubs; Breakfast clubs; Holiday play schemes; Child Centre Managers; Early Years colleagues; the Child Information Service; all Bournemouth schools; Education colleagues in Poole and Dorset; Local diocese (including Portsmouth Anglican, Portsmouth Catholic, Plymouth Catholic, Salisbury Anglican, Winchester Anglican); Bournemouth Libraries: Education colleagues within the Borough.*" The LA provided a copy of the email it had sent to the parties listing the schools which were consulting on their arrangements and providing the information required by the Code, for example the dates of the consultation and how and to whom to respond. It did not specifically ask for the information to be passed to parents but rather sent to the organisations a consultation poster to be displayed in the "*settings/ places of work.*"

11. The oversubscription criteria for 2016 are in summary:

1. Looked after children or children who were previously looked after.
2. Siblings of children attending St. James' at the time of the applicant's proposed admission.
3. Children living in the area served by the school whose parents/carers can show 'Christian commitment' at St James' or St Saviour or a church included in Churches Together In England or The Evangelical Alliance.'
4. Children living in the area served by the school.
5. Children living outside the area served by the school whose parents/carers can show 'Christian commitment' at St James' or St Saviour or a church included in Churches Together In England or The Evangelical Alliance.'
6. Children living outside The Area Served by The School who live closest to the school as measured by straight-line distance.

12. The oversubscription criteria for 2017 are in summary:

1. Children looked after or previously looked after;
2. Children with a serious medical/social need;
3. Children living in the catchment area
 - a. With a sibling attending
 - b. Without a sibling attending
4. Children living outside the catchment area
 - a. With a sibling attending
 - b. Without a sibling attending

Consideration of Case

13. Paragraph 1.44 of the Code says that before changes can be made to admission arrangements: "*Admission authorities **must** consult with:*
- a) *parents of children between the ages of two and eighteen;*
 - b) *other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
 - c) *all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
 - d) *whichever of the governing body and the local authority who are not the admission authority;*
 - e) *any adjoining neighbouring local authorities where the*

admission authority is the local authority; and

- f) *in the case of schools designated with a religious character, the body or person representing the religion or religious denomination.”*

14. The objector accepts that a consultation was undertaken. However, she argues that there was no appropriate consultation with prospective parents who were attending St James Church and *“had already demonstrated 12 months of this commitment.”* The objector says there were no posters visible around St James Church and *“no letter / information sheet was provided to parents, either to direct them to the website or to provide parents with another method for them to gain information and object if necessary. The information was also not verbally conveyed to other members of the congregation”*. She says that the policy *“referenced on the front of the churches’(sic) register of attendance (for children who demonstrate regular Christian Commitment) was/is not up to date. This is misleading to parents who believed they were complying with requirements”*. The school, in her view, did not consult with parents of pupils between the ages of two to eighteen.
15. The school says that most of its consultation was undertaken on its behalf by the LA and has provided evidence that this was done. The LA and the diocese confirm that this consultation took place and the diocese sent evidence of the consultation for example, the website compliance audit of 1 February 2016 showing that the consultation document was shown on the school's website.
16. Of the particular issue of consultation with church attendees, the school says that the priest-in-charge was clearly aware of the proposed change to the policy and was therefore able to communicate this information to church members including potential parents who were regularly attending the church during the consultation period. I asked if the priest-in-charge had done so and was informed by the school's Principal he could not answer as he could not speak for the priest-in-charge and had been appointed after the consultation. He adds that the *“Admissions Code does not say that the school has to visit the church to speak to the congregation about changes in the admissions policy.”* He says in relation to the matter raised by the objector about the register *“there is no requirement made in the Admissions Code for the academy/ admissions authority to ensure that any policy which accompanies a church register is up to date.”*
17. The school's response to this objection has three parts: that the consultation was undertaken by the LA; that the priest-in-charge knew about the changes and; that the Code does not require specific consultation with the church.
18. I shall consider these in reverse order. The requirements as to consultation set out in the Code do not require a school with a religious character to visit the relevant local church. However, the requirement to consult with parents of *“children between the ages of two and eighteen”* serves to ensure that parents who might be seeking a place at the school will be consulted. Within the congregation of St James and other churches there may well have been parents of children aged 2-18; indeed the objector

was one. These parents had a particular interest in the proposed changes. They were the group most likely to suffer a detriment if church attendance had given priority for admission and this was to be removed. It is possible that parents had been attending St James' Church expecting to gain priority for admission to the school and might have wished to respond to the consultation. In my view the admission authority should have considered the possible impact of the changes for the parents at this church and others, and sought their views.

19. I can see from the papers that the priest-in-charge was aware of these changes as a member of the governing body. There is no evidence that he, or any other member of the governing body consulted with parents. I have seen no evidence that those parents who attended St James' Church were made aware of the proposed changes in any way. In the absence of any evidence to the contrary then, I conclude, there was no consultation with parents attending St James Church or indeed any other church that would previously have given a priority for admission to the school.
20. The LA consulted on its own proposed admission arrangements and included a list of schools which were also changing their arrangements of which the school was one. The fact that the LA undertook this work does not absolve the school of the responsibility to ensure that parents of children between the age of 2 and 18 were consulted on changes. While the Code does not require that every parent of children aged 2-18 is contacted (and indeed, it would not be practicable to do this) it does require that efforts be made to ensure that those with an interest are aware of what is proposed. This requires more than the combined efforts of the LA (which consulted through other institutions) and the school (which placed the information on its website) achieved in this case.
21. I find the admission authority did not comply with the Code at paragraph 1.44 a).
22. As I find the consultation did not comply with the Code, I have used my power under section 88(5) and considered the arrangements as a whole. I have considered the arrangements against the key principles of reasonableness and fairness as required by paragraph 1.8 of the Code that requires "*oversubscription criteria to be "reasonable, clear, objective, procedurally fair"*" The school determined new arrangements in the light of the views of its religious authority – the Diocese of Winchester. Paragraph 1.38 of the Code requires the school to have regard to any guidance from its religious authority (to the extent that the guidance complies with the Code). The school has also had regard to the general policy set by its trust and I consider this to be reasonable.
23. With regard to fairness, for the process to be procedurally fair, the governors should have considered the views of those who may have been adversely affected but did not invite them. However, I can see from the minutes and correspondence that the decision to remove the criteria related to worship at the church was not a decision taken lightly by the local governing body. The chair of governors raised the matter with the trust at an early stage, "*actively and robustly*" stating that "*St James had always included and prioritised faith criteria and that he envisaged any attempt to remove it or downplay it would not be easily acceptable to St*

James". The trust for its part: "*felt that*"... *the new policy was the more appropriate one for a school to follow if we were to serve our local communities to the fullest extent possible*". There was further correspondence with the trust from the priest-in-charge about the changes and governors registered their concerns "*that the church attendance category had been removed*" at the meeting when the arrangements were determined by the local governing body.

24. Schools with a religious character are, of course, entitled to have faith-based admission arrangements and faith-based oversubscription criteria. This is provided for in legislation and in a number of Code provisions, including paragraph 1.36 to 1.38. However, they are not required to have faith-based arrangements and this is a matter for each admission authority in the light of guidance from the religious authority. It is the nature of oversubscription criteria that some will have greater priority than others when there is competition for places. In this case, the admission authority has chosen to give priority to those who live in the school's catchment area and not to take account of the faith and faith observance of applicants. It is open to them to take this approach; paragraph 1.10 of the Code makes clear that it is for the admission authority to decide which criteria would be most suitable to the school according to local circumstances.
25. I consider that the admission authority should have consulted the parents at the church and were in breach of the Code as they did not, I think that concerns by the parental group would have added to those already expressed by members of the governing body and were not so different as to make the final decision unsafe or unfair. In addition, I find that the arrangements determined comply with the Code. The school therefore is not required to amend its arrangements.

Summary of Findings

26. The objector's view was that the local governing body as the admission authority did not consult as widely as they were obliged to by the Code before removing faith based criteria from the admission arrangements. In particular, they were concerned that parents attending the local church were not consulted. The admission authority did not ensure that the parents at St James and other churches who had a particular interest in the outcome and who might have been disadvantaged were consulted and they should have been. For this reason and those in the determination above I therefore uphold the objection. I have considered the arrangements as a whole and find they comply with the Code. The school is not required to amend its arrangements for reasons described above.

Determination

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined the governing body of St James' Church of England Academy, Bournemouth.

28. I have also considered the arrangements in accordance with section 881(5) and find the arrangements determined conform with the requirements relating to admission arrangements.

Dated: 20 July 2016

Signed:

Schools Adjudicator: Jill Pullen