



DETERMINATION

Case reference:	ADA3317
Objector:	A parent
Admission Authority:	The Governing Body of St Andrew's Church of England Voluntary Aided Primary School, Hitchin
Date of decision:	12 July 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2018 determined by the governing body for St Andrew's Church of England Voluntary Aided Primary School, Hitchin, Hertfordshire.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which 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 the 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 for September 2018 (the arrangements) for St. Andrew's Church of England Voluntary Aided Primary School (the school), a voluntary aided school for children aged three to 11. The objection is to the list of churches, attendance at which gives priority for a "Foundation place." The objector says that an additional church, the Hub Church, should have been included.**
- 2. The local authority for the area in which the school is located is Hertfordshire County Council. The local authority is a party to this**

objection. The other party to the objection is the Diocese of St Albans (the diocese), which is the body representing the religious denomination of the school.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school, on 8 March 2017. This was eight days after the latest date for the determination of admission arrangements laid down in Regulation 17 of the School Admissions Regulations 2012. The objector submitted his objection to these determined arrangements on 14 May 2017. 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

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 14 May 2017;
 - b. the governing body's response to the objection and supporting documents;
 - c. the comments of the diocese on the objection and a copy of the diocesan guidance on admissions;
 - d. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2017, and the local authority's comments on the objection;
 - e. copies of the minutes of the meeting of the governing body at which the arrangements were determined and of other meetings of the governing body; and
 - f. a copy of the determined arrangements.

The Objection

6. The objector believes that the arrangements contravene paragraph 1.8 of the Code, which states that oversubscription criteria **must** be "*reasonable*" and "*procedurally fair*." He says that a Church of England 'Fresh Expressions' church, the Hub Church, established in 2011, should be included in the list of churches at which attendance gives priority for a 'Foundation place.' Four other Anglican churches in the Parish of Hitchin are listed. According to the objector, the Hub Church is the only Anglican church in the parish that is not listed and he does not see why it should not be given equal status with the other churches

within the Foundation place oversubscription criterion.

Other Matters

7. When I considered the arrangements as a whole, I noted that the school requests that parents complete a Supplementary Information Form (SIF) as well as the local authority's Common Application Form (CAF). The final sentence of the introduction to the arrangements states,

"If a SIF is not completed the Governing Body will apply their admission arrangements using the information submitted on the LA form only, which may result in your application being given a lower priority."

8. It appeared to me that this might be a breach of paragraph 2.4 of the Code, which states that supplementary forms must only be used to request additional information *"when it has a direct bearing on decisions about oversubscription criteria."* The only applicants for whom additional information is required by the admission authority are those wishing to be considered for a Foundation place. This is not made clear either in the introduction or on the SIF itself.

Background

9. The school is situated in the town of Hitchin in Hertfordshire. It has a Published Admission Number (PAN) of 30, of which up to 14 are described as 'Foundation places.' The oversubscription criteria can be summarised as:

1. Looked after and previously looked after children.
2. Siblings of children attending the school.
3. Up to 14 Foundation places for children living in the Parish of Hitchin whose families have been frequent worshippers for at least 18 months at Holy Saviour, St Faith's, St Mark's or St Mary's churches.
4. Children living within the area detailed in the 'Neighbourhood Table.'
5. Any other children.

Distance from the school is used as a tie-breaker within each criterion.

10. The school was oversubscribed for admission in September 2017. There were 49 first preference applications. One place was allocated to a looked after child and 17 to siblings. Only nine Foundation places were allocated. The final three places were allocated on the basis of residence in the neighbourhood area.

Consideration of Case

11. The school has provided extracts from minutes of governing body meetings in September and October 2016. These show that there was discussion about adding additional churches to those listed in the third oversubscription criterion. The Hub Church was considered, but it was understood that its position was unlikely to be formalised by the diocese before the period for consultation on admission arrangements for 2018 had concluded. The governing body decided not to include the Hub Church in the arrangements for 2018, but to keep the position under review for inclusion in 2019, should the church by then have been “*formally recognised*” by the diocese.
12. The school submitted its proposed arrangements for 2018 to the diocese in November 2016. No comment on the list of churches was made by the diocese in the response it made at that time. In its comments to me on the objection, received in May 2017, the diocese stated that the Hub Church was “*not yet formally recognized as an official Church of England congregation within the Parish of Hitchin. It is expected that it will be officially recognized in the near future.*” The diocese expressed the view that the school had “*acted fairly*” in not considering applications from parents who worship at the Hub Church under the third oversubscription criterion. It suggested, however, that it would now seem appropriate to include the church within this criterion in the 2018 arrangements.
13. The objector subsequently confirmed that the Hub Church was recognised as an official Church of England congregation within the Parish of Hitchin, following a Bishops' Mission Order service held on 4 June 2017. He said that the date for this service had been set some months earlier and that the Hub Church became an associate member of the Parish of Hitchin in 2016. In addition, the church's leader is an ordained minister within the Church of England and also the curate of St. Mary's church.
14. In the light of these facts, which are not in dispute, I have to decide whether it is reasonable that the Hub Church is not included in the list of churches in the third criterion. I note that the criterion lists four churches by name and does not refer to them as a specific category of “*Anglican churches in the Parish of Hitchin.*” The school sought information from the diocese about the status of the Hub Church that led it to conclude that it should not be included. When the school submitted its proposed arrangements for 2018 in November 2016, no specific guidance on the matter was provided by the diocese, which the school would have needed to consider, as required by paragraph 1.38 of the Code, which provides that

“*Admission authorities for schools designated as having a religious character must have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith based admission arrangements.*”
15. Taking into account information provided to it and the circumstances at the time the arrangements were determined, I believe it was

reasonable for the governing body not to list the Hub Church in its oversubscription criteria for September 2018. Indeed, it may well have been unreasonable to include the church on the basis solely of an intention that it would be formally recognised as a Church of England congregation in the future. The recent advice from the diocese that the Hub Church should now be included in the 2018 arrangements does not alter my conclusion. The Code makes clear, in paragraph 1.38, that

“Church of England schools must, as required by the Diocesan Boards of Education measure 1991, consult with their diocese about proposed admission arrangements before any public consultation.”

The school complied with this requirement and was not advised to include the Hub Church in its oversubscription criteria. It decided not to change its arrangements, so no public consultation was necessary. The diocese expressed its view about the Hub Church after the admission arrangements were duly determined. If the governing body regards the events that have occurred and the advice it has received since determining the arrangements as a *“major change in circumstances”*, it may seek to vary them in accordance with the procedure set out in paragraph 3.6 of the Code.

16. I also consider the criterion to be *“procedurally fair”* as required by paragraph 1.8. *“Frequent”* worship is defined objectively, as meaning attending a service at least twice a month, which is confirmed by a minister on a document called a ‘Clergy Form.’ I will consider the supplementary forms used by the school in more detail later, but I am satisfied that the procedure for ascertaining whether an applicant meets the requirements of the third oversubscription is straightforward and fair. Therefore, I do not uphold the objection to the arrangements.
17. I turn now to the document that the school calls a ‘Supplementary Information Form’ (and which I will abbreviate to SIF) that all parents applying for a place at the school are requested to complete. The form first asks for the child’s name, date of birth and the parent’s address (including two forms of proof) and contact details. Parents are then asked,

“Under which category are you applying for admission?”

If the answer is the third (Foundation place), they are then asked to provide the name and address of the parish priest or minister who will complete the ‘Clergy Form’. The instructions on the form say that it *“must be completed and returned to the school”* by the national closing date for admissions, 15 January. The Clergy Form asks the priest for information about the frequency and length of time the parent has attended worship at one of the four churches listed in the oversubscription criterion. This form is to be returned with the SIF by the closing date.

18. The purpose of any SIF is to provide the admission authority with information that it would not be able to obtain from the applicant’s CAF,

which is submitted to the local authority in accordance with the co-ordinated admissions scheme. Any SIF, as paragraph 2.4 of the Code makes clear, can only be used to seek additional information (not covered by the CAF) which an admission authority needs in order to apply oversubscription criteria. In the case of St Andrew's, the only such information relates to attendance at church and is sought on the school's separate Clergy Form, which itself is to be submitted to the school by parents, should they wish their child to be considered for a place under the third criterion. The Clergy Form asks for appropriate information. Although the school does not call it a Supplementary Information Form, it is a SIF as it meets the Code's requirements for a SIF. For the avoidance of doubt there is nothing in the Clergy Form which contravenes the requirements relating to admissions.

19. It is the form that the school calls its SIF, that all applicants are requested to complete, that causes concern. The information it requests includes information about the child and the address of the parent that duplicates what the local authority obtains through the CAF. Paragraph 2.4 of the Code is clear that SIFs can be used only for additional information. In addition, the question asking parents to specify a criterion, "*under which*" they are applying for a place, is inappropriate. This question appears to be based on a misunderstanding about an important principle of the admissions process. The procedure for making a school admission application is that parents apply for a place at a school and the admission authority applies its oversubscription criteria to their application. In the case of St Andrew's, an applicant may, for example, hope to be successful in obtaining a Foundation place (third criterion), but also live in the neighbourhood area (fourth criterion). Such an applicant would need to complete a Clergy Form and this would make clear that they hoped to secure a place based on their religious practice. In summary, for a place at St Andrews, parents should be asked to complete a SIF (that is, the document the school calls the 'Clergy Form') only if they wish to be considered for a Foundation place. If not, they do not need to submit anything to the school.
20. In response to my concerns, the school argued that its SIF is part of its "*due diligence*", ensuring the admission arrangements are applied fairly and to "*double check*" information with the local authority. It also enables the school to inform applicants in cases where their "*stated categories*" do not match the oversubscription criteria, for example in respect of residence. The diocese also felt that the SIF was helpful, both to applicants and the school. Although it agreed that the SIF was not essential for applicants not seeking to be considered under the third criterion, the diocese believes the request to complete the SIF helped the school to be fair to all applicants, enabling them to supply "*as full a picture as possible*" to the admission authority. I note that the diocesan guidance on admissions includes a model SIF structured in a similar way to the one used by the school.
21. The local authority took a different view. The only information required to establish residence, it said, is provided on the CAF. It believed that

to ask all applicants to complete a SIF when it is not necessary *“actually increases anxiety and encourages some parents to provide information that is not relevant to the allocation process.”* The local authority also pointed out that all address information from CAFs is thoroughly checked prior to being forwarded to schools and *“is therefore very unlikely to be inaccurate.”*

22. I do not consider that the school or the diocese have provided reasons that require the use of a SIF other than to provide information required for consideration under the third criterion. Paragraph 2.4 of the Code, which sets out the requirements as to SIFs, follows three paragraphs that lay out the requirements for CAFs. It is clear to me that this paragraph relates only to additional information that is not obtained on the CAF as I note above. I therefore find that the request for all applicants to the school to complete a SIF is a breach of the requirements relating to admissions. In addition, applicants should not be required to nominate an oversubscription criterion in their application where this is not necessary to apply the arrangements. The Clergy Form provides all the supplementary information the admission authority needs in order to apply its arrangements.

Summary of Findings

23. The admission authority considered whether it should add the Hub Church to the list of churches in its oversubscription criterion for Foundation places. As the Hub Church had not been formally recognised as a Church of England congregation at the time of the determination of the arrangements, it was not included. I consider that this is reasonable and that the admission arrangements meet the requirements of paragraph 1.8 of the Code. I do not uphold the objection.
24. For the reasons given above, I consider that the SIF that the school requests all applicants to complete does not comply with the requirements relating to admissions.

Determination

25. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body for St Andrew’s Church of England Voluntary Aided Primary School, Hitchin, Hertfordshire.
26. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
27. 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 the determination.

Dated: 12 July 2017

Signed:

Schools Adjudicator: Peter Goringe