



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3273

Objector: A parent

Admission Authority: Wokingham Borough Council for community and voluntary controlled primary schools in Wokingham

Date of decision: 21 July 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by Wokingham Borough Council for two named primary schools for September 2018.

I have also considered the arrangements for the two named schools and for the other community and voluntary controlled primary schools for which the Council is the admission authority 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 unless an alternative timescale is specified by the adjudicator. In this case in view of the timing I determine that the arrangements must be revised by 30 September 2017.

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 Whiteknights Primary School and Loddon Primary School (the schools) for September 2018. Both are community schools catering for children between the ages of three and 11. The objection is to the clarity with which the arrangements describe the catchment areas for the schools, to the adequacy of the consultation which preceded the determination of the arrangements and to the stated intention of the admission authority to implement a fully electronic admission process.

2. The local authority for the area in which the schools are located and their admission authority is Wokingham Borough Council (the local authority). The local authority and the objector are parties to the objection.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the local authority, which is the admission authority for the school. The objector submitted her objection to these determined arrangements on 13 April 2017. 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole both for the schools named in the objection and for the other community and voluntary controlled schools for which the local authority is the admission authority and which have the same oversubscription criteria.

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 13 April 2017;
- b. the local authority's response to the objection and supporting documents;
- c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2017;
- d. a map of the area identifying relevant schools;
- e. confirmation of when consultation on the arrangements last took place;
- f. copies of the minutes of the meeting of the local authority at which the arrangements were determined; and
- g. a copy of the determined arrangements.

The Objection

6. There were three elements to the objection. First, the objector complained that the consultation which preceded the determination of the local authority's admission arrangements for community and voluntary controlled schools, schools for which it is the admission authority, did not comply with the requirements concerning such consultations in the Code. The

objector said that the local authority had not consulted for the required six week period, and that there was no notification in the press or social media that the consultation was under way. In addition, the objector claimed that the local authority failed to publish the arrangements on its website once they had been determined.

7. Secondly, the objector was of the opinion that the way in which the local authority had described proposed revised catchment areas for Whiteknights Primary School and Loddon Primary School in that consultation was unclear. In subsequent correspondence, the objector confirmed that this aspect of the objection was in respect of the arrangements which had been determined, following the consultation.

8. Thirdly, the objector explained that she was of the view that a proposal contained within the local authority's consultation on its proposed admission arrangements for 2018 that it implement a fully electronic process for school admissions offended specific provisions within the Code, and that it was likely to be unfair in its effect.

Other Matters

9. When I looked at the arrangements for the two schools, which are also those for the other community and voluntary controlled primary schools in Wokingham, I was concerned that they appeared not to contain a statement which described the entitlement to part-time admission of children to school which conformed with paragraph 2.16 of the Code.

Background

10. The local authority's admission arrangements for September 2018 for community and voluntary controlled schools give priority, when a school is oversubscribed, to children in the following order:

- (i) children who are looked after or were previously looked after;
- (ii) children from families where an exceptional medical or social need requires that the child be admitted to a particular school;
- (iii) those transferring to a junior school from a named linked infant school;
- (iv) children who live in the school's designated area and who have a sibling link with the school (as defined);
- (v) children who live in the school's designated area;
- (vi) any other children.

11. When it consulted on its proposed admission arrangements the local authority included a proposal that the designated areas of Whiteknights Primary School should be extended to encompass the designated area of Radstock Primary School, and that that of Loddon Primary School should be extended to encompass the designated area of Aldryngton Primary School. In

its consultation documentation, and in the arrangements which it subsequently determined, the local authority described the revised arrangements in the form of a map and associated wording. It is the clarity of this description that is the subject of the second part of the objection.

Consideration of Case

12. The jurisdiction of the adjudicator under section 88H of the Act is in respect of objections concerning the admission arrangements which have been determined for a school. I have considered the third part of the objection, which is that the local authority intends to institute a fully electronic process for school admissions, against that provision in the Act. I have come to the view that this is a matter which concerns not the admission arrangements themselves, but rather the process of making applications for school places. That being the case, this part of the objection does not fall within my jurisdiction concerning determined admission arrangements, and I have informed all the parties of this fact.

13. The first part of the objection concerns the consultation which the local authority carried out prior to determining the arrangements and the publication of the arrangements once determined. The local authority has assured me that the consultation was published on its website between 20 December 2016 and 31 January 2017, and so for the required period of six weeks. It has not been able to provide direct evidence to that effect in the form of any records which relate to the website itself. However, it has sent evidence that a request for publication of the consultation material was made on 20 December 2016, and a copy of a recent email from a member of the local authority's IT team which confirms that the team had responded to this request for publication on the day it was made. It is not clear to me, however, where on the website the consultation appeared. The objector complained that this was not in the area dealing with current consultations, and the local authority has informed me only that *"I can confirm that following a complaint we took steps to make the consultation more visible on the website and an additional link was added on 30 December 2016."* This is the same date that the objector says she was first able to see the consultation on the website. On balance, it does seem that the evidence is that the consultation was displayed on the local authority website for the required period, and I do not uphold this part of the objection.

14. The local authority did not respond initially to the complaint that there had been no attempt to notify the public that the consultation was taking place, and so I asked it to provide me with evidence that each of the parties listed in paragraph 1.44 of the Code had been consulted. In response, it provided evidence, in the form of copies of emails, that the consultation had been brought to the attention of schools in the local authority's area and to that of neighbouring authorities. There had also been a communication with local elected members of the council explaining what was being proposed concerning the changes to the designated areas of the two schools.

15. Paragraph 1.44 of the Code gives a list of those bodies and parties which an admission authority **must** consult concerning proposed admission arrangements. This list includes:

“parents of children between the ages of two and eighteen”.

Although the Code, in paragraph 1.45, requires that the proposed admission arrangements are published on its website for the duration of the consultation period, doing so does not mean that all the requirements concerning consultation have been complied with. The duty to consult parents requires that there is some active attempt to engage them on the part of the admission authority. The local authority has given me no evidence that it made any such attempt. For example, its letter to schools did not mention bringing the consultation to the attention of parents, as it might usefully have done. It has also given me no evidence either that the public as a whole was made aware of the consultation through social media, press advertisements or notices in relevant public places. Taking all the above into account, I have come to the view that the local authority did not meet the requirements of paragraph 1.44 of the Code when it carried out the consultation which preceded its determination of its admission arrangements for September 2018, and I uphold this part of the objection.

16. The objector also complained that the determined arrangements had not been published on the local authority's website. The local authority has told me that the arrangements are published *“in draft in the admissions section”* and *“in full in our Committee decisions section”*, saying that the links to both are *“clearly established from our Council home page”*.

17. It should be self-evident that publication of draft admission arrangements is not publication of the determined arrangements, which is what the Code requires. Parents and others must be able to see the determined arrangements if they are to be able to exercise their right to object to those arrangements if they wish to do so. Moreover, parents will begin to consider how to use their available preferences for their child's schooling before the publication of the composite prospectus in September. I have visited the local authority website on several occasions, most recently on 13 July 2017, and have found the situation to be still as described to me by the local authority, with only proposed 2018 arrangements shown on that part of the website which deals with school admissions.

18. I did not find it a straightforward matter to access the determined admission arrangements in the “committee decisions” section of the local authority website. I was able to do so because the local authority had informed me that it was necessary to search “decisions” under the area of the website describing the work of the relevant committee of the Council, which is its Executive Committee. I also needed to know the date on which the decision was made by that body. Neither of these critical pieces of information would be likely to be available to a parent looking for the determined admission arrangement for schools. In all, I needed to make five correct decisions about which links to follow to get from the Council's home page to the arrangements, which I do not consider to be the *“clearly established”* link the local authority wishes me to believe exists. I do not consider this to be a meaningful fulfilment of paragraph 1.47 of the Code, which says:

*“Once admission authorities have determined their admission arrangements, they **must**.....publish a copy of the determined*

arrangements on their website displaying them for the whole offer year.”

The local authority has manifestly failed to “display” the arrangements as it is required to do and in my view is still in default of this requirement. I therefore uphold this part of the objection.

19. I turn now to the second part of the objection, which concerns the clarity with which the revised designated areas for the two schools are described in the arrangements. Designated areas are what the Code refers to as “catchment areas”, and paragraph 1.14 says that:

*“Catchment areas **must** be designated so that they are reasonable and clearly defined.”*

Paragraph 14 of the Code says that:

*“...admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are clear...”* and paragraph 1.8 says that:

*“Oversubscription criteria **must** be reasonable, clear.....”*

20. When the local authority’s Executive Committee determined the arrangements on 23 February 2017, it had received a report on the consultation concerning the arrangements, which made elected councillors aware that concern had been expressed about the clarity with which the revised designated areas was being described. This description consisted of a map showing the location of the schools in the Earley neighbourhood of Wokingham and their designated areas. The area around Aldryngton Primary school is described as being *“Shared Designated Area for Aldryngton and Loddon Primary schools”* and that around Radstock Primary School as *“Shared Designated Area for Radstock and Whiteknights Primary Schools.”* The concern expressed in the consultation was that this description was ambiguous and the officer comment in the report clarified that the proposal *“does not give residents in the current designated areas of Whiteknights and Loddon Primary Schools priority for Radstock and Alryngton Primary Schools.”*

21. The arrangements were nevertheless determined unaltered and so show only the map and the labelling of areas described above. If an area is stated to be a “shared” designated area, then the implication is that it is an area which provides priority for admission to both the named schools. The intention in this case was clearly to describe a situation in which those living in the area around Aldryngton Primary School are in the designated area for admission purposes for both it and Loddon Primary Schools, and that those living in the area around Radstock Primary School are given priority on the basis of living in the designated area for both it and Whiteknights Primary Schools. As the officer comment explains, this dual priority is for the labelled areas of the map only, which were the original designated areas for Aldryngton and Radstock Primary Schools. It is nevertheless quite possible to look at the map and the labels associated with it and believe that there is a

single shared designated area for Aldryngton and Loddon Primary Schools and a single shared designated area for both Radstock and Whiteknights Primary Schools. Neither the clarification provided to members of the Executive Committee nor the simple wording provided on the consultation response form, which is:

“That the designated area of Loddon Primary School be extended to include that of Aldryngton Primary School. That the designated area of Whiteknights Primary School be extended to include that of Radstock Primary School.”

has been used to clarify the arrangements, which remain in my view unclear and in breach of paragraphs 14, 1.8 and 1.14 of the Code. I uphold this part of the objection.

Other Matters

22. The arrangements for all community and voluntary controlled primary schools in Wokingham contain the following statements in a section which is entitled “Timing of Entry to Primary Education”:

“Parents may request that their child attends part-time until the child reaches compulsory school, the start of the first school term after their fifth birthday. Where parents choose to defer their child’s admission, or take up the place part-time but later wish to increase it to full-time, before the child has reached statutory school age, this must be discussed with the Headteacher to agree the effective date.”

23. Paragraph 2.16 of the Code says:

“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 the school:

- a) that child is entitled to a full-time place in the September following their fourth birthday;*
- b) ...*
- c) Where the parents wish, children may attend part-time until later in the school year....”*

My reading of paragraph 2.16 is that it confers on parents the decision about whether to take up a school place prior to their child reaching statutory age, and also the right to determine whether that schooling should be on a full or part-time basis. The arrangements on the other hand require the agreement of a child’s Headteacher as to the timing of any transition from part-time to full-time attendance, and so make this decision not that of the parent.

24. The local authority did not respond to my concern about the statement contained within its determined arrangements, which fails in my view to conform to the statement required by paragraph 2.16 of the Code.

Summary of Findings

25. I have explained in the foregoing paragraphs why I have come to the conclusion that:

- (i) the authority did not satisfy the requirements of paragraph 1.44 of the Code when it carried out a consultation prior to the determination of the arrangements, and has failed to comply with the requirement of paragraph 1.47 by failing to publish the arrangements as required;
- (ii) the arrangements for the two named schools fail to comply with paragraphs 1.4, 1.8 and 1.14 of the Code because they contain an unclear description of their designated areas, and
- (iii) the arrangements for all community and voluntary controlled primary schools also fail to comply with what is required under paragraph 2.16 of the Code.

Determination

26. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by Wokingham Borough Council for two named primary schools for September 2018.

27. I have also considered the arrangements for the two named schools and for the other community and voluntary controlled primary schools for which the Council is the admission authority 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.

28. 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 unless an alternative timescale is specified by the adjudicator. In this case in view of the timing I determine that the arrangements must be revised by 30 September 2017.

Dated: 21 July 2017

Signed:

Schools Adjudicator: Dr Bryan Slater