



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** ADA3588 Long Ditton St Mary's Church of England (Aided) Junior School

**Objector:** A member of the public

**Admission authority:** The Governing Board of Long Ditton St Mary's Church of England (Aided) Junior School

**Date of decision:** 5 September 2019

## 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 2020 determined by the Governing Board for Long Ditton St Mary's Church of England (Aided) Junior School, Surrey.

I have also considered the arrangements in accordance with section 88I(5) and find there is one other matter which does 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 the objector about the admission arrangements (the arrangements) for Long Ditton St Mary's Church of England (Aided) Junior School (the Junior School), a voluntary aided Church of England junior school for pupils aged 7 to 11 for September 2020.

2. The local authority (LA) for the area in which the school is located is Surrey County Council. The LA is a party to this objection. Other parties to the objection are the objector, the governing board of the Junior School and the Diocese of Guildford (the diocese).

## Jurisdiction

3. These arrangements were determined under section 88C of the Act by the school's governing board which is the admission authority for the Junior School. The objector submitted the objection to these determined arrangements on 12 May 2019. The objector has asked to have his/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 his/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. 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 12 May 2019;
- b) the other parties' response to the objection and supporting documents;
- c) the LA's composite prospectus for parents seeking admission to schools in the area in September 2020;
- d) copies of the minutes of the meeting of the governing board/LA at which the arrangements were determined; and
- e) a copy of the determined arrangements.

## The Objection

6. Whether the selection of Long Ditton Infant and Nursery School as a feeder school for the School is made on reasonable grounds. Paragraph 1.15 of the School Admissions Code reads "*Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds*".

7. Whether the School has policies around school uniform which discourage parents from applying for a place for their child (Paragraph 1.8 of the Code).

8. The objector has also asked me to consider whether the lack of any clear definition of what the Junior School means by a “distinctively Christian ethos” is a breach of the requirement that admission arrangements are clear (Paragraph 1.8 of the Code). As the school has no oversubscription criterion relating to faith, the school’s ethos does not go to its admission arrangements and so lies outside my jurisdiction. I have therefore not considered this point further.

## Other Matters

9. In Note A, first bullet point (the definition of looked after child), the wording does not exactly follow the definition in the Code. It is not required to do so but must not depart in meaning from the definition in the Code. The words “...registered as being...” appear to be unnecessary and may be misleading as there is no formal process by which such children are registered. The phrase “by *that* authority” (my emphasis) may also be misleading in that it suggests that the accommodation must be provided by a particular authority. The Code (and the second bullet point in Note A) refer to “*a* local authority” (again my emphasis). It is also not clear what the inclusion of “(a)” after references to the Children Act 1989 is meant to indicate. The wording may not be compliant with the requirements for clarity set out in Paragraphs 14 and 1.8 of the Code.

## Consideration of Case

10. The junior school has pupils aged from 7 to 11. It is a Church of England voluntary aided school and the governing board are the admissions authority and so are responsible for the admission arrangements. The Junior School’s oversubscription criteria for 2020 may be summarised as follows:

- i) Looked after and previously looked after children
- ii) Exceptional circumstances
- iii) Children with a sibling at the school
- iv) Children attending Long Ditton Infant School
- v) Other children.

11. I note that although many faith schools have faith oversubscription criteria the Junior School does not. However, as the objector has pointed out, it does refer in the Admissions Policy to “*our distinctive Christian ethos and close connections with St Mary’s Church*” and, under the fifth oversubscription criterion it states “*children whose parents wish them, to attend this distinctively Christian Church of England Junior School*”. There are other references to faith on the school’s website.

12. In the area in which the Junior School is situated there are a number of schools catering to children below the age of 7. These include primary schools (ages 4 to 11) and two infant schools, Thames Ditton Infant School and Long Ditton Infant and Nursery School (ages 4 to 7). Both Thames Ditton Infant School and Thames Ditton Junior School (neither of which are faith schools) give a degree of priority to children for whom that school is the nearest school which admits “without regard to faith”. Long Ditton Infant and Nursery School (the Infant School) gives a degree of priority to children for whom it is the nearest school, regardless of any faith criteria. Thames Ditton Junior School gives a degree of priority to children attending Thames Ditton Infant School.

13. Pupils transfer at age 11 to secondary education. There are a number of secondary schools in the area, one of which is Hinchley Wood School. Hinchley Wood School has four feeder schools given some degree of priority in its oversubscription criteria. Both Thames Ditton Junior School and the Junior School are feeder schools for Hinchley Wood School.

14. In this determination references to the objector should be read as references to the objector and others who are in the same relevant circumstances.

**Whether the selection of Long Ditton Infant and Nursery School as a feeder school for the School is made on reasonable grounds.**

15. In considering this point I have looked at all relevant provisions of the Code on the basis that if such selection did not comply with the provisions of the Code more widely it would not be reasonable. It is not in dispute that the selection of the Infant School as a feeder school for the Junior School is transparent, which I find it clearly is.

16. The Code permits the inclusion of feeder schools in oversubscription criteria. Paragraph 1.10 of the Code states that “*It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances*”. I do not find that there is anything unreasonable in a faith school having a non-faith school as a feeder school. I also find that this arrangement does not in any way disadvantage the objector.

17. I would point out that my jurisdiction is concerned with admission arrangements, that is the arrangements for deciding who is to be admitted to a school. My jurisdiction does not extend to how a child may or may not be treated once admitted to a school, for example whether or not the school will “*challenge those of no faith*”. I do not find that parents are expected to apply to any particular school. Parents will decide which schools they wish to express a preference for on any of a large number of possible grounds.

18. The objector also contends that it is unfair that a child, by attending the non-faith infant school, gains higher priority in the oversubscription criteria for a faith school. The objector asserts that this makes it less likely that the child will get into a neighbouring school. I do not find this is correct: the feeder school criterion has no effect on applications to other schools. However, the identifiable issue relates to Thames Ditton Junior School’s oversubscription criteria which, as set out above, give some degree of priority to those for

whom it is the nearest school which admits without regard to faith. The Junior School is a faith school but has no faith oversubscription criteria and so would count as the objector's nearest school, placing her application for a child lower in the oversubscription criteria for Thames Ditton Junior School as it is not her nearest school.

19. The objector also refers to St Paul's Catholic Primary School (St Paul's), a faith school which gives a degree of priority based on the Catholic faith. As such St Paul's does not count as a nearest school for admission to Thames Ditton Infant School or Thames Ditton Junior School and so those living closer to St Paul's than to Thames Ditton Infant or Junior schools may still qualify for the priority afforded to those for whom Thames Ditton Infant or Junior school is the nearest school.

20. The objector wishes to send her child to a junior school which is a feeder school for Hinchley Wood School and which is not a faith school. The local school falling into this category is Thames Ditton Junior School.

21. To summarise, the objector does not wish to send a child to a faith school. The objector would prefer to send a child to the nearest non-faith school because a) it is a non-faith school and b) it is also a feeder school for Hinchley Wood School. She is less likely to get into Thames Ditton Junior School because her nearest school has no faith based oversubscription criteria. I accept that this position makes it more difficult for the objector to achieve what s/he considers to be the optimum educational path for a child from reception to secondary school.

22. However, that is not the issue. A person living anywhere in England (my jurisdiction applies only to England) will find that their local schools have a range of different admissions criteria applying to different schools at different ages of entry. A parental choice at one stage will often affect the choices available at a later stage. Or schools may change their admission arrangements from time to time and so, for example, a choice made for a child aged four years may make an assumption that admission arrangements at a later stage will remain unchanged when that may not turn out to be the case. Fairness, in this context, is not about achieving a position in which every child can achieve what their parent regards as the optimum educational path. Conceivably absolute fairness could be achieved if every school admitted every child whose parent wished him or her to go there. However, that is not the case and is not possible. Schools admit up to a maximum number beyond which children are not admitted. Where a school is oversubscribed, oversubscription criteria are the means to decide who does and who does not gain a place. For many schools the deciding factor will be distance which disadvantages those living further away. However, all other things being equal it does not disadvantage them unfairly. In many parts of the country, especially in rural areas, the local primary, infant or junior school will be a Church of England faith school and in some areas it will be the only accessible school. Any parent not wishing to send their child to that school because it is a faith school will be at a disadvantage in getting their child into a more distant, non-faith school if that school is oversubscribed and if distance is an oversubscription criterion.

23. I accept that the objector is disadvantaged but only if s/he chooses not to send a child to a faith school. The disadvantage arises out of that choice and from a complex interaction of the admission arrangements of a number of local schools. I do not consider that this disadvantage is unfair. As there are non-faith schools available, there is no compulsion to send a child to any particular school, no prohibition on sending children to non-faith schools and the objector's non-adherence to any faith does not prevent or reduce their child's access to the Junior School I find that there is no unlawful discrimination and no breach of human rights legislation.

24. **Whether the School has policies around school uniform which discourage parents from applying for a place for their child (Paragraph 1.8 of the Code).** The relevant part of Paragraph 1.8 reads "*Admission authorities **must** ensure...policies around school uniform and school trips do not discourage parents from applying for a place for their child*". It is not uncommon for a faith school to have some faith symbol displayed on the uniform. In this case the Junior School's blazer has on it a cross formed by a pencil and a pen. I do not find that it is unreasonable for a Church of England school to have this symbol on its blazer. This does not discourage parents from applying on, for example, the basis of unreasonable cost or establish some other requirement which the objector would find it hard to meet. These are examples of uniform policies which the Code seeks to prevent. The objector is discouraged because she does not agree with the faith nature of the school, manifest in the cross on the badge and doubtless in other ways such as pictures of Jesus and crosses on classroom walls. Many parents do not wish their children's school to have uniform at all and might argue that any uniform requirement would discourage them from applying. However, the Code does not prescribe uniform and the courts have repeatedly found that schools are entitled to require pupils to wear a prescribed uniform provided the requirements do not constitute unlawful discrimination. Consequently I find that the inclusion of a cross symbol on the school blazer is not a breach of the provisions of the Code.

25. I find that the definition of "*looked after child*" is not compliant with the requirements of the Code as set out in paragraph 9 above, which it is not necessary to repeat here.

## Summary of Findings

26. I find that

- a. the selection of Long Ditton Infant and Nursery School as a feeder school for the Junior School is transparent and made on reasonable grounds (Paragraph 1.15 of the Code) and do not breach any other provisions of the Code or law relating to admissions.
- b. the cross symbol on the school's blazer is not in breach of the provisions of the Code.
- c. that the definition of "*looked after child*" is not compliant with the requirements of the Code.

## Determination

27. 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 Board for Long Ditton St Mary's Church of England (Aided) Junior School, Surrey.

28. 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.

29. 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 this determination.

Dated: 5 September 2019

Signed:

Schools Adjudicator: Tom Brooke