



Determination

Case reference: ADA3670

Objector: Tameside Metropolitan Borough Council

Admission authority: The governing board for St Stephen's RC Primary School, Tameside

Date of decision: 28 July 2020

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 2021 determined by the governing board for St Stephen's RC Primary School, Tameside.

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 unless an alternative timescale is specified by the adjudicator. In this case I specify that the arrangements must be revised by 15 October 2020.

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 Tameside Council (the objector), about the admission arrangements (the arrangements) for St Stephen's RC Primary School (the school), a voluntary aided school for children aged between 3 and 11, for September 2021. The objection is that the school has not consulted on its admission arrangements at least once every seven years, as required by paragraph 1.42 of the School Admissions Code (the Code).

2. The local authority (LA) for the area in which the school is located is Tameside Metropolitan Borough Council. Other parties to the objection are the governing board of the school and the Diocese of Salford (the diocese) which is the religious authority for the school.

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 school. The objector submitted its objection to these determined arrangements on 21 April 2020. 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. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 21 April 2020 and supporting documents; and
- d. the governing board's response to the objection.

The Objection and Other Matters

6. Tameside Council identified that the school had not consulted on its admission arrangements since 2014/15. Paragraph 1.42 of the Code states:

*"Where the admission arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities **must** consult on their admission arrangements at least once every 7 years, even if there have been no changes during that period."*

7. The requirements for such consultation are set out in paragraphs 1.42 to 1.45 of the Code.

8. Having considered the arrangements as a whole, it appeared to me that the following matters concerning the arrangements also do not conform with requirements:

- i. Paragraph 14 of the Code requires that arrangements are clear. There appears to be no reference in the 2021 arrangements to the admission of children with an Education, Health and Care Plan (EHCP) which names the school and so must be admitted before the application of oversubscription criteria to other children as set out in paragraph 1.6 of the Code.
- ii. Oversubscription criterion 4 refers to "*Baptised Roman Catholic children resident in other parishes*" but it is unclear whether the priority is limited to other parishes in the Diocese of Salford. The school has subsequently confirmed that this is not limited to parishes within the Diocese of Salford.

- iii. Paragraph 1.7 of the Code sets out definitions for looked after and previously looked after children. The use of the term “*residence...order*” in the Notes of the arrangements at b) should be replaced with “*child arrangements order*”. Residence orders were replaced with child arrangements orders by the Children and Families Act 2014. The use of obsolete terms renders the arrangements unclear and so they would not meet the requirements of the Code.
- iv. Notes at d) refers to The School Admissions (Infant Class Sizes) (England) Regulations 2012. The regulations permit children to be admitted as exceptions to the infant class size limit. The Notes include one example of exceptions in the regulations but should make clear that there are others. Paragraph 2.15 of the Code refers.
- v. Notes at f) states that where children live “*part of a*” week with each parent, “*the child’s “permanent place of residence” will be determined as the address of the parent who is in receipt of child benefit.*” This may not give an accurate indication of where the child lives for “*part of a week*” as it is possible that the child might spend the majority of his or her time at one address and the child benefit be received by a parent who resides at another address. There is no requirement for child benefit to be paid to the parent with whom the child lives during the school week or for most of his or her time; the only requirement is that the child lives with the parent in receipt of child benefit some of the time.
- vi. Notes at h): The arrangements for a waiting list need to reflect paragraph 2.14 of the Code which sets out that admission authorities **must** maintain a waiting list until at least 31 December of each school year of admission.
- vii. The arrangements must include information about the admission of children below compulsory school age including the right to attend part-time as set out in paragraph 2.16 of the Code. They should also include information about the admission of children outside their normal age range (paragraphs 2.17 of the Code).
- viii. Paragraph 2.4 of the Code refers to the need, in some cases, for supplementary information forms (SIF) to enable admission authorities to process applications. As there is no SIF attached to the arrangements, it is not clear to parents how the school will process applications that require additional information such as a baptism certificate.
- ix. The arrangements include a number of terms which do not reflect the wording of the Code; “*admissions number*” instead of PAN; and “*Admissions Criteria*” instead of “*Oversubscription Criteria*” as the criteria apply when there are more applications than places available. The use of incorrect terminology may make the arrangements unclear.

Background and Consideration of Case and Other Matters

9. The admission arrangements were determined by the governing board on 15 October 2019. The local authority contacted all own admission authority schools on 6 September 2019 to remind them about the arrangements for 2021 including the statutory consultation process and timetable if they proposed a change to existing arrangements. The local authority identified from its records that the last consultation by the school on its admission arrangements had been for arrangements for 2014/15, which meant that, by virtue of the requirements relating to admissions, it needed to consult on its arrangements

for 2021 even if no changes were proposed. Although the local authority contacted the school on a number of occasions by email and phone about this position, the only response from the school was “*there would be no changes*”. The local authority’s final email to the school was on 12 December but there was no response.

10. The headteacher responded to the objection and the issues I raised about the admission arrangements on 7 July 2020. The headteacher has confirmed that the school will revise the arrangements, take the revised arrangements to a meeting of the governing board in the autumn term and follow up with a consultation in the time frame set out in the Code. The school should receive credit for its response.

11. There is one issue about the admission of children outside their normal age range, where the school proposed that the arrangements include the sentence “*the final decision on this rests with the Headteacher*”. Paragraph 2.17A states that admission authorities “**must also take into account the views of the head teacher of the school concerned.**” However, it is the admission authority which makes the decision whether to admit a child outside their normal age range.

12. The Code requires the school to vary its arrangements in response to my determination and the school has already committed to doing so. The starting point in paragraph 3.1 of the Code is that such revision must happen within two months of the date of my determination. However, the Code allows me to specify an alternative date. In this case, and because this determination will be issued during the school holidays, I determine that the arrangements must be revised by 15 October 2020.

Determination

13. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2021 determined by the governing board for St Stephen’s RC Primary School, Tameside.

14. 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.

15. 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 I specify that the arrangements must be revised by 15 October 2020.

Dated: 28 July 2020

Signed:

Schools Adjudicator: Lorraine Chapman