

## **DETERMINATION**

**Case reference:** ADA/002516

**Objector:** Lancashire County Council

**Admission Authority:** The governing body of Silverdale St John's Church of England Primary School

**Date of decision:** 24 July 2013

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of Silverdale St John's Church of England Primary School, for 2014.**

**By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator by Lancashire County Council (the council), the objector about the admission arrangements (the arrangements) for Silverdale St John's Church of England Primary School (the school), a voluntary aided school for children aged 4 to 11 years, for September 2014. The objection is to wording of the first oversubscription criterion which refers to 'Children in Public Care', which is insufficiently clear.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the governing body, which is the admission authority for the school. The objector submitted the objection to these determined arrangements on 28 June 2013. 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**

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

4. The documents I have considered in reaching my decision include:
- the objector's form of objection dated 28 June 2013;
  - the response from the Diocese of Blackburn (the diocese) dated 5 July 2013 and supporting documents;
  - the school's response dated 5 July 2013;
  - a copy of the minutes of the governing body meeting held on 5 February 2013 at which the arrangements were determined;
  - a copy of the determined arrangements; and
  - a copy of the council's booklet, 'School Admissions 2013/14 : Information for Parents';

### **The Objection**

5. The objection is to wording of the first oversubscription criterion which refers to Children in Public Care. This term refers only to 'looked after children'. The Code requires all admission authorities, to give first priority in oversubscription criteria, to both 'looked after' and previously looked after' children.

### **Consideration of Factors**

6. The council has referred an objection to the arrangements determined by the governing body of the school, for 2014, under section 88H(2) of the Act. As the adjudicator appointed to investigate the objection I **must**, as required by section 88(4), decide whether, and (if so) to what extent the objection should be upheld. I emphasise this point because at the time the objection was referred, the school might well argue that the wording of the first oversubscription complied with the requirement of the Code, in that it included reference to both 'looked after' and 'previously looked after children'.

7. The arrangements for 2014, the year for which I have jurisdiction originally had a sub-heading, 'Children in public care'. The text went on to explain, 'This includes any "looked after child" and any child who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order'. Unfortunately this is not quite accurate.

8. The Code explains that 'looked after children' are those children in the care of local authorities as defined by section 22 of the Children Act 1989. In relation to school admissions legislation, a 'looked after child' is a child in public care at the time of application to a school. The term 'children in public care' therefore only refers to looked after children.

9. However, the Code that came into force on 1 February 2012 changed the composition of the group of children who were to receive first priority

within the over subscription criteria of arrangements determined after that date. It became mandatory for all maintained schools and academies to include children who had been looked after previously, but had ceased to be so. The Code says in paragraph 1.7, 'All schools **must** have oversubscription criteria for each 'relevant age group' and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and previously looked after children.' It goes on to explain that, 'Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a residence order or special guardianship order). .....

10. The diocese sent a 'high priority' reminder to all Church of England Aided schools dated 29 May which stated that, 'All schools should have their admission arrangements for 2014 on their website (as well as the 2013 ones which must remain until the end of term)'. The message also advised schools that the first oversubscription criterion should refer to 'looked after' and 'previously looked after children'.

11. The diocese notes that the school failed to respond to reminders from both the council and from the Diocesan Director informing it that the first criterion must include the full statement clarifying that both looked after and previously looked after children would receive priority within the first oversubscription criterion. The form of words suggested by the diocese says, 'Looked after children and previously looked after children. This includes any "looked after child", "previously looked after children" and any child who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order'.

12. The diocese noted that following the submission of the objection to the adjudicator the school immediately corrected the wording and the definitions within the first oversubscription criterion and it now appears correctly on the school's website.

13. All admission authorities have a responsibility to ensure that they meet the deadline of 1 May each year, to send a copy of their full determined arrangements to their local authority. This is the date by which local authorities must publish details on their website about where the determined arrangements of all schools in their area can be viewed. Arrangements should also be available on schools' websites by 1 May each year. In this case after the arrangements had been determined, the diocesan authorities issued advice about how to frame the first oversubscription criterion giving priority to looked after and previously looked after children.

14. The headteacher responded to the objection, stating that the school had changed the wording of the first criterion that appeared on the school's website but had not forwarded an amended policy to the authority. If an admission authority subsequently amends its determined arrangements, as in this case in order to give effect to a mandatory requirement of the Code, it must again take responsibility for ensuring that both the local authority and parents are aware of the changes that have been made.

15. The arrangements for 2014 now state in oversubscription criterion 1a 'Looked After Children and previously Looked After Children. This includes any "looked after child" and any child who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order'.

16. In my view this text will provide the clarity for parents. Paragraph 14 of the Code, says that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.

### **Conclusion**

17. The council was correct in bringing this objection to the arrangements of the school. Diocesan officers have been proactive in supporting schools and by sending high priority reminders to schools about the need to frame the text that relates to both looked after children and previously looked after children fully and accurately.

18. The school has responded willingly to make the necessary changes to its arrangements. The Code in paragraph 3.6 says that once arrangements have been determined for a particular academic year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of the Code. All admission authorities are required to give first priority in their over subscription criteria to looked after and previously looked after children and therefore the governing body was entitled to make this change to their determined arrangements.

19. Despite the prompt responses from the diocese and the school, an objection has been referred and the fact remains that the arrangements that were originally determined by the governing body did not comply with a mandatory aspect of the Code, in that arrangements provided inaccurate information about the priority that must be given to looked after and previously looked after children and for this reason I uphold the objection.

### **Determination**

20. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body of Silverdale St John's Church of England Primary School, for 2014.

21. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

Dated: 24 July 2013

Signed:

Schools Adjudicator: Mrs Carol Parsons