

DETERMINATION

Case reference: ADA002297

Objector: a parent

Admission Authority: St Edmund Campion Catholic Primary School

Date of decision: 22 August 2012

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 determined by the governing body of St Edmund Campion Catholic Primary School.

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 St Edmund Campion Catholic Primary School (the School), a voluntary aided school for pupils age 5 to 11 years for September 2013. The objection is to the oversubscription criteria in that siblings of existing pupils who are not Catholic have a lower priority than Catholic applicants without siblings.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by the School's governing body, which is the admission authority for the School. The objector submitted her objection to these determined arrangements on 20 June 2012. 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), that is, the Code issued in February 2012 which applies to admissions in September 2013. At times I have had to refer to the previous Code in relation to admission arrangements determined for earlier years to which the objector has referred.

The documents I have considered in reaching my decision include:

- a. the objector's form of objection dated 20 June 2012;
- b. the objector's email of objection dated 21 June 2012 and further correspondence;
- c. the School's response to the objection and supporting documents;

- d. the Diocese of Portsmouth's (the Diocese) response to the objection and supporting documents;
- e. information from the Royal Borough of Winsor and Maidenhead (RBWM), the local authority (LA), on admission procedures at the time of the original application;
- f. the LA's composite prospectus for parents seeking admission to schools in the area in September 2013 and 2012;
- g. maps of the area identifying relevant schools;
- h. confirmation of when consultation on the arrangements last took place;
- i. copies of the minutes of the meeting of the governing body 15 March 2012 at which the arrangements were determined;
- j. a copy of the determined arrangements for years 2009, 2010, 2011, 2012, 2013; and
- k. a copy of the admission arrangements for 2013 for other Catholic primary schools in the area.

The Objection

- 4. The objector is complaining that the change in the ordering of the oversubscription criteria is unfair. Siblings of non-Catholics are, since 2010, considered after Catholic children in any category. She is arguing that this is contrary to the Code. Paragraph 1.8 of the Code says “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”
- 5. She is further arguing that admission arrangements were changed in the time between her application for the school place and her child beginning school. The objector argues that the School did not properly consult on the admission arrangements at that time. Paragraph 1.42 of the Code requires all admission authorities to consult; “..admission authorities **must** consult on their admission arrangements once every 7 years,...” She argues that had she known of this change she would have applied for a different school. She has a sibling child refused admittance for September 2011 and another child for whom she wishes admittance for September 2013.

Background

- 6. The parent applied for a place at the School in January 2009. At that time, some schools admitted pupils the term before their fifth birthday (rising 5s) and some schools admitted pupils the term following their fifth birthday (legal 5s). It was possible, therefore to apply in January 2009 for a school place in September 2010. In these cases, the LA stored applications made by January 2009 for September 2010 and processed them in the relevant year. The parent's application was one of these.
- 7. The admission arrangements for the School at the time of application in 2009 gave non-Catholic siblings of children who were attending the School at the time of admission a higher priority than baptised Catholic children who lived outside the parish boundaries of St Edmund Campion Parish.
- 8. The School is part of the Diocese of Portsmouth who issued guidance on admission

arrangements for 2010/11 admissions. Following this guidance from the Diocese, the School consulted on its proposed admission policy for the school year 2010/2011. The consultation period ran from 17 December 2008 until 28 February 2009. The governing body report that, in order to consult, they placed an advertisement in a local newspaper, consulted by email with other schools, nurseries, the local authority and the Diocese. A significant change was to give all baptised Catholic children priority over non-Catholic siblings.

9. The objector says she was unaware of this consultation and the consequent change in the arrangements. She applied for a place in January 2009 under the previous arrangements but took up the place under the new.
10. The objector's child started school in September 2010. In 2010/2011 no children who were not Catholic were admitted into Reception, however 23 children were admitted into the Year 1 cohort of whom two were non Catholic siblings and four were in the 9th category "other children".
11. Having thus received a place for her eldest child, the objector has been unable to obtain a place at the School for her next child, for whom she has appealed twice. She has a younger child also, soon to be requiring a school place.

Consideration of Factors

12. When considering this objection, I can only consider those factors relevant to the admission arrangement for September 2013 and the extent to which they comply with the Code. The factors I have considered include the following:

Consultation

13. The objector argues that the consultation was not properly undertaken. She suggests that the notices were placed where non-Catholic parents would not see them, for example the school playground notice board and the parish notice board. She disputes also that there was a notice in the local newspaper. The parent argues that she was not aware of the consultation. This had two consequences; firstly, she did not respond and secondly she would have applied for a place at an alternative school as she had younger children and would not have wanted the place if siblings were given a lower priority. The objector's evidence for this is that neither she nor her family saw any consultation notices.
14. The School argues that it consulted on its arrangements for 2010 as required by the previous Code. The School and the Diocese have given details of the consultation process followed which included an advertisement in a local newspaper, consultation by email with other schools, nurseries, the local authority and the Diocese. The School also provided an example of the newspaper advertisement used, though not a photocopy of the original. The School shared a newspaper advertisement with several other schools and the content conforms to the requirements of the previous Code. The School received the copy of the advertisement from the school that published it on 9 December 2009 and 18 December 2009. Some time has passed since this publication but an internet search still shows some of the consultation for the schools to which it refers.
15. The School has used these arrangements since 2010, other than making those changes required by the new Code, for example in the description of pupils admitted as Priority 1, to include children previously looked after.

16. I have looked at the available evidence. The objector's argument that she did not see the consultation is not evidence that it did not take place. There is no evidence that the consultation was not proper and not in line with the previous Code. However the School did not specifically consult parents with an application for 2010 made by January 2009 as the School was not aware such a group existed.

17. The obligation under the Code for September 2013 is that the School should have consulted within the last seven years and have made no changes other than those to remain compliant. I find this to be the case.

Over subscription Criteria

18. The place of non-Catholic siblings in the oversubscription criteria is the principal objection: the objector argues that this is contrary to paragraph 1.8 of the Code "Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, ." The oversubscription criteria when the parent applied placed non-Catholic children thus:

6. Non-Catholic siblings of children who will still be attending St. Edmund Campion School at the time of admission, this includes stepchildren who live in the same house.

7. Baptised Catholic children who live outside the parish boundary of St Edmund Campion Parish, but whose families wish for education at St. Edmund Campion School.

8. Other Christian children (who are members of 'Churches Together in England') whose families wish for education at St. Edmund Campion School.

9. Other children whose families wish for education at St. Edmund Campion School.

19. Following the required review in 2008/09 for 2010 admissions the over subscription criteria were reordered placing non-Catholic siblings lower than previously. Other than making those changes with the new Code on which it did not have to consult, these arrangements are unchanged from 2012. The arrangements for 2013 are:

1. Baptised Catholic children in Local Authority Care. This category includes a 'looked after child' who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order.

2. Baptised Catholic children whose families are listed on the St Edmund Campion Parish register.

3. Baptised Catholic children who live within the St Edmund Campion parish boundary.

4. Baptised Catholic siblings of children who will still be attending St. Edmund Campion School at the time of admission, this includes any stepchildren who live in the same house.

5. Baptised Catholic children who live outside the parish boundary of St Edmund Campion Parish, but whose families wish for education at St. Edmund Campion School.
 6. Non-Catholic children in Local Authority Care. This category includes a 'looked after child' who was previously looked after but immediately after being looked after became subject to an adoption, residence or special guardianship order.
 7. Non-Catholic siblings of children who will still be attending St. Edmund Campion School at the time of admission, this includes stepchildren who live in the same house.
 8. Other Christian children (who are members of 'Churches Together in England') whose families wish for education at St. Edmund Campion School.
 9. Other children whose families wish for education at St. Edmund Campion School.
20. The parent argues that every other school in RBWM rank siblings including non-faith siblings more highly than the School does. This puts her daughter at a disadvantage when compared to other children in the Royal Borough.
21. She further argues that non Catholic siblings who live in the parish of St Edmund Campion should have priority over Catholic children who live outside the parish boundary. She refers to the financial contribution RBWM makes to the School and argues for that reason pupils in RBWM should have priority over pupils from outside RBWM. She also argues that Catholic pupils should apply to schools within the parish in which they live.
22. In addition the objector makes several references to families and siblings from the previous Code which recognised that "many parents want their children to attend the same school and give priority in admission to siblings".
23. The Diocese argues that it expects Catholic children to be given priority over all other children in Catholic schools. They argue that this is permitted by the Code. Paragraph 1.36 says "....Schools designated by the Secretary of State as having a religious character (commonly known as faith schools) may use faith based oversubscription criteria and allocate places by reference to faith when the school is oversubscribed".
24. The School argues that it is required to have regard to diocesan guidance. Paragraph 1.38 of the Code "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 over subscription criteria , to the extent that this guidance complies with the mandatory provisions and guidelines of this Code. They **must** also consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated"
25. The diocesan guidance for admissions in 2013/14 comments in its oversubscription guidance as follows:

"3.6.2 The government expects the admission authorities for primary schools to take the needs of parents with young children into account when deciding which over subscription criteria will be used. The Code advises that it is ' good practice to give priority to siblings'. Governing bodies will need to consider to what extent and in what way siblings can be accommodated in the context of a Catholic school.

Not all siblings will necessarily be Catholic so a balance needs to be struck between the priority given to baptised Catholics and siblings. The Code is not attempting to set out a list of preferred criteria but rather to discuss each of those commonly used (siblings being one) and the circumstances in which they may be good practice, acceptable or when they are unfair....”

The expectation of the Diocese is clear in a later paragraph

“3.11.2 Over subscription criteria

In reviewing their policies, governing bodies are required to pay particular attention to the diocesan guidance. The Diocese expects governing bodies to give priority to baptised Catholics over siblings. The Diocese recognises that there is a need to strike a reasonable balance in respect of baptised Catholics and siblings when drawing up over-subscription criteria. However the Diocese expects the governing bodies to give priority to baptised Catholics over siblings and at the very least to baptised Catholics within the parish or parishes that are served by the school.”

26. The School disputes the objector’s assertion that other Catholic schools in the area rank non Catholic siblings as higher in their over subscription criteria. It asserts that none of the four Catholic schools in the local authority area put non-Catholic siblings above other Catholic categories in their currently published arrangements.
27. I have looked at the oversubscription criteria of three other local Catholic primary schools for September 2013:

- St Edwards Catholic First School lists:

Priority 5: other children who on the date of entry have brothers or sisters attending the school

Priority 6: baptised Catholic children living outside the parish.

- St Francis Catholic Primary School lists:

Priority 4: Baptised Catholic children living outside the parish

Priority 5: children who on the date of entry have a sibling attending the school.

- St Mary’s Catholic Primary School lists:

Priority c: other Catholic children and catechumens

Priority d: other looked after children

Priority e: other children with a sibling in at the school at the time of admission

Priority f: unbaptised children of a Catholic parent

28. I find that neither party is correct in their assertions as there is not a consistent priority order. The Diocese offered governing bodies a range of example criteria which have been adopted. This does not, however, demonstrate any failure to comply with the Code. The reference to siblings in the Diocesan guidance is in the previous Code but not included in the current Code.

Levels of oversubscription

29. The School is popular and was rated by Ofsted as outstanding at its last inspection. In response to increasing demand, the School increased its admission number in 2011 from 45 to 60 pupils. The governing body minute shows there were 146 applications for the 60 places for 2011. For September 2012 there were 158 applicants for 60 places.

Patterns of Admission

30. Under the previous arrangements:

In 2008 – six non Catholic siblings were admitted

In 2009 when there were 53 successful applicants

- category 6 (non Catholic siblings) 0
- category 7 (baptised but outside boundaries of parish) 4
- category 8 (other Christian) 7
- category 9 (Others) 4

31. Under the current arrangements

In 2010 rising 5's were admitted for the first time, there were children admitted to both the Reception cohort and the Year 1 cohort. For 45 Reception places there were no pupils admitted from any non-Catholic category. There were in addition 23 Year 1 places, the non-Catholic category admissions

- category 6 (non Catholic siblings) 2
- Category 8 (Other Christian) 0
- Category 9 (other) 4

In 2011-12 there were 60 successful candidates out of 146 for the Reception class. Children from the 2nd (43), 3rd (14), 4th (1) and 5th (2) categories were admitted. No children were admitted from the 6th, 7th, 8th and 9th categories.

In 2012-13 there were 60 successful candidates out of 158 applicants. Children from 2nd (46), 3rd (6), 5th (5) and 7th (3) categories were admitted. No children were admitted from the 4th, 6th, 8th and 9th categories.

32. Numbers are relatively small to draw conclusions; it can be seen that few places are available in any year after the admission of baptised Catholic children and the change in the ordering reduces the chances of entry of non-Catholic siblings.

33. The objector has put forward a wide range of arguments to seek the admission of non-Catholic siblings. Her child at the School has two younger siblings, one has failed to gain entry and she fears that the youngest is unlikely to also unless the arrangements are changed in 2013. Her arguments about the importance of sibling connection to enable families to be educated together and the difficulty of journeys to and from multiple schools are not denied. However, the School is obliged to have regard for the guidance from the religious body to which they are responsible. The religious body in this case is the Diocese of Portsmouth. The Diocese requires that

Catholics are given priority over non-Catholics. The school and the Diocese are allowed, under the Code, to have these arrangements; they are compliant with the Code and the relevant legislation.

Conclusion

34. One cannot but have sympathy for the objector; she will have three young children, potentially each at different schools. Pressure on school places sometimes brings about this unfortunate circumstance but in this case the parent argues that she would have sought an alternative school if she had been aware of the change in admission arrangements.
35. The objector has offered only her view of the matter as evidence for the complaint about consultation for the arrangements for 2010. My judgement is that the School consulted appropriately within the last seven years and has made no significant change for the arrangements for 2013.
36. The objector argues that the oversubscription criteria are unfair to her children and unfair to children who are not Catholics. The paragraph of the Code to which she refers does say that groups should not be disadvantaged however there are exceptions to this elsewhere in the Code for schools designated as having a religious character which the School does. The School is entitled to place Catholic children in higher categories than non-Catholic children.
37. I find that the School followed the guidance given by the Diocese and have not contravened the Code.

Determination

38. 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 of St Edmund Campion Catholic Primary School.

Dated: 22 August 2012

Signed:

Schools Adjudicator: Jill Pullen