

## **DETERMINATION**

**Case reference:** VAR/000583

**Admission Authority:** The Governing Body of Littleton Church of England Infant School, Shepperton.

**Date of decision:** 25 July 2012

### **Determination**

**In accordance with section 88E of the School Standards and Framework Act 1998, I do not agree to the proposed variation to the admission arrangements determined by the governing body, the admissions authority, for Littleton Church of England Infant School; that would give a lower priority to children of families who attend a Christian Church other than St Magdalene in Littleton, in the arrangements for admission in September 2013.**

### **The referral**

1. The Governing Body of Littleton Church of England Infant School, a Voluntary Aided infant school (the School), has referred a variation to the Adjudicator about its admission arrangements for September 2013.
2. The variation that has been requested is to change oversubscription criterion 3 to lower the priority given to children of families who attend another Christian Church (as defined by the Council of Churches for Britain and Ireland) in order to be able to give a higher priority to children from families who live in the parish of Littleton, Charlton and Ashford Common.

### **Jurisdiction**

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that: "where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority's proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations".

I am satisfied that the proposed variation is within my jurisdiction.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation,

guidance and the School Admissions Code (the Code).

5. The documents I have considered in reaching my decision include:
- the determined arrangements for 2013/14 and the proposed variation to those arrangements dated 20 June 2012;
  - minutes of the governing body held on 20 June 2012;
  - correspondence between the School and the Surrey County Council, the local authority, (the LA) between 11 and 28 June 2012;
  - correspondence between the School and the Diocese dated 21 and 22 June 2012;
  - maps of the area; and
  - a copy of the booklets provided by the LA for parents seeking admission to primary schools in the area in September 2012.

### **Consideration of factors**

6. The governing body is seeking a variation to the arrangements it has determined for admissions in September 2013. A review of the projected intake for admissions in September 2012 which was considered at a meeting in June 2012, has highlighted that around half of the children who have been offered a place, will have gained admission through criterion 3 which states, 'Third priority will be given to children of families who have worshipped at St Mary Magdalene Church, Littleton at least once a month for the past year (as vouched for by the Priest-in-Charge) or other Christian Church (as defined by the Council of Churches for Britain and Ireland) and vouched for by the incumbent.'

7. Under this criterion children worshipping at a Christian church outside the parish of St Mary Magdalene are given priority over 'other children' who live in the parish. However, governors have become aware that some children who have been allocated a place under this criterion live at quite a distance and that a number of children living within the parish, close to the School, have not been successful in obtaining a place. Some of these local children have been placed on the waiting list.

8. There have been more applications from further afield due to the increasing pressure on primary places in the county and this has made it difficult for all local children to gain admission in September 2012. Governors are of the opinion that this outcome does not serve the interests of the small community in the parish. They feel that if this were to be repeated, the pupil population profile would be detrimental to the long term sustainability of their small school for many reasons, and they cite pupil and parent broader engagement amongst them. Governors feel that school life would be enhanced for both children and parents if local families attend the School, as they are more easily able to participate in community events.

9. The governing body has agreed that the arrangements they determined by 15 April 2012 are now in urgent need of revision. They propose to change and lower the priority currently afforded to children who have attended another Christian Church (as defined by the Council of Churches for Britain and Ireland). Criterion 3 would change to, 'Third priority will be given to children of families who have worshipped at St Mary Magdalene Church, Littleton at least once a month for the past year (as vouched for by the Priest-in-Charge).' They would introduce a new criterion 5 which would state, 'Fifth priority will be given to children of families who have attended another Christian Church (as defined by the Council of Churches for Britain and Ireland)'. The governors point to the fact that another local school, Shepperton Church of England Primary School does not give the same priority to those practising faith in another Christian Church and so note that any change would not be inconsistent with local Church of England school practice.

10. Prior to making this decision the School contacted the LA and the Diocese on 11 June 2012, to check their understanding that their proposal would constitute a significant change; which would require a full eight week consultation and could only be implemented for admissions in September 2014. Both the LA and Diocese provided prompt, accurate advice.

11. The LA confirmed that the proposal would require consultation because it would change the level of priority that applicants received and that once arrangements have been determined they cannot be altered unless the changes are needed to bring those arrangements in line with the Code or the law, in which case they can be made straight away. The LA explained that the School could only change the priority given to a group of applicants by requesting a variation and expressed the view that it was unlikely this level of change would be agreed by the Adjudicator, so soon after the arrangements had been published.

12. The Diocese also acknowledged the School's concerns about the admission of local children but agreed with the LA advice that an application for a variation would have to be made. Diocesan officers added that proposals to vary arrangements should only be made by an admission authority in response to a major, unforeseen change of circumstances and advised governors to consider what they wanted to achieve through the admissions policy for admissions in September 2014 and then to propose any changes for consultation in January 2013. They also advised the School that there was no reason why governors could not have a different policy from another Church of England school, as local circumstances differ.

13. The governors responded to the LA and to the Diocese by stating that the School had hoped to start another consultation immediately and not to wait until January 2013. This would enable them to change arrangements before the end of the school year and before parents started to consider schools for their children, for admission in September 2013, some 15 months hence.

14. The LA explained that consultation on admission arrangements is a statutory process governed by regulations and these stipulate that consultation on any changes must take place for at least eight weeks between 1 November and 1 March and that admission arrangements must then be determined by 15 April in the year prior to admission. After determining arrangements, admission authorities are required to let the LA have a copy of these by 1 May and to publish them on their website. Any variation to admission arrangements outside this timeframe would require a request for a variation to be submitted to the Adjudicator. As the Diocese had indicated, this would normally only be appropriate if there had been a material change in circumstances. If the school decided to pursue a change for admissions in 2014 it could not consult formally until after 1 November 2012.

15. It is the School's contention that a major and unforeseen change of circumstances has led to this proposal to vary arrangements. The minutes of the governing meeting of 20 June 2012 record that four children who attended a church outside the parish had been allocated a place for admission in September 2012 and had been given priority over other pupils who lived locally and very close to the school. However, in my view this is not an overly large proportion of the intake of 30 pupils and in any case it merely reflects the correct application of the oversubscription criteria that had been determined by the governors in April of 2011. While I accept that the School's aim of making provision available to local children is reasonable the question remains as to whether this situation could have been anticipated and whether it is sensible to make such a significant change, at this late stage.

16. The LA's co-ordinated scheme for admission to primary schools indicates that the closing date for all applications (either online or paper) was 15 January 2012. By 7 February 2012 the LA's Admissions and Transport team had assessed the level of preferences for each school and had sent the set of preferences for each own admission authority school so that they could apply their admission criteria. By 7 March 2012 all schools which are their own admission authority would have applied their admission criteria and provided a list of all applicants in ranked order to the LA. This timetable enabled the LA to offer places to ensure that under the terms of the co-ordinated scheme each applicant is offered the highest possible ranked preference.

17. It is not unreasonable to consider why the information made available by early February, at the point when the School applied the oversubscription criteria to rank applications for admissions in September 2012; and which indicated a changing profile of pupil admissions, was not considered and taken into account when determining arrangements for admissions to the School in September 2013.

18. I have sympathy with the governors' aim of enabling local children to attend the school to develop strong community links, but I do not agree with their view that the admission in September of 2012 of a small number of pupils, who have legitimately been offered places, but who do not live locally

would necessarily affect the long term sustainability of the School. Indeed if the projected number of primary children was falling, instead of increasing, the School would in all likelihood recruit from further afield. I note from minutes of a meeting of the governing body that where places had been offered to parents living at a distance; some have subsequently sought and gained admission to schools nearer to where they live. In practice then this may have released places for local children.

19. I understand that as pressure on places increases, the School may wish to review and change arrangements to secure the admission of other local children, who do not worship at St Mary Magdalene Church, but who live locally within the parish. In order to achieve this, the priority given to children of families who have attended another Christian Church and who are currently accorded the same priority as those who attend St Magdalene Church will be changed and lowered. Therefore, while I accept that it is the governors' view that there has been a major change in circumstances since arrangements were determined in April, I cannot agree that there is a compelling reason to change the oversubscription criteria at this late stage, without first providing for those parties who would be affected, an opportunity to respond to the proposed changes through a full consultation.

## **Conclusion**

20. Once arrangements have been determined they cannot be altered unless the changes are needed to bring those arrangements in line with the Code or the law, in which case they can be made straight away. This is not the case here. In this proposal the governing body wishes to change the priority given children of families who have worshipped at other Christian Churches and this will be quite a significant change for those families.

21. Such a decision can not be made lightly or in haste without full consultation with the families who will be affected. For this reason and for those given above I do not agree to the variation that would give a lower priority to children whose families worship in other Christian Churches and who are currently included in criterion 3.

22. In accordance with section 88E of the School Standards and Framework Act 1998, I do not agree to the proposed variation to the admission arrangements determined by the governing body, the admissions authority for Littleton Church of England Infant School; that would give a lower priority to children of families who attend a Christian Church other than St Magdalene in Littleton, in the arrangements for admission in September 2013.

Dated: 25 July 2012

Signed:  
Schools Adjudicator: Mrs Carol Parsons

