



DETERMINATION

| | |
|-----------------------------|---|
| Case reference: | ADA2830 |
| Referrer: | A parent |
| Admission Authority: | The governing body of St Luke's Church of England Primary School, Newham, London |
| Date of decision: | 12 January 2015 |

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of St Luke's Church of England Primary School, for admissions in September 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements.

By virtue of section 88K(2) of the Act the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

The referral

1. Under section 88I(5) of the School Standards and Framework Act 1998, (the Act), the admission arrangements (the arrangements) for St Luke's Church of England Primary School (the school), a voluntary aided school for pupils aged 4 to 11 years, for September 2015 have been brought to the attention of the Adjudicator by a parent (the referrer). The matters raised concern: the way the admission authority allocates places as the arrangements do not make clear how looked after children and previously looked after children are admitted; the supplementary information form (SIF) requires some information that is not related to the school's Church of England designation, but to other faith groups and other information that is not required to apply the oversubscription criteria; and finally, the faith-based oversubscription criteria are difficult to understand.

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 arrangements were brought to the attention of the Adjudicator on 3 September 2014. I am satisfied that it is within my jurisdiction under section 88I(5) of the Act to consider the school's arrangements.

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 referral with supporting documents dated 3 September 2014, received by the Office of the School's Adjudicator on 12 September 2014;
- the school's response dated 12 November 2014 and a further submission dated 2 December 2014;
- an email dated 20 November 2014 from the Diocese of Chelmsford (the diocese);
- minutes of the meetings of the school's admissions committee held on 26th February 2014 at which the arrangements for 2015 were determined and of the meeting held on 6 November 2014;
- the determined arrangements for admission to the school in September 2014 and 2015;
- an email from the LA dated 4 December 2014;
- the composite prospectus "Starting School - 2015" for families living in the London Borough of Newham, the local authority (the LA); and
- a Local Government Ombudsman's (LGO) report and decision dated 16 October 2014.

5. I considered the arrangements and sought a meeting with the school, the diocese and the LA to discuss the matters brought to my attention and my concerns about aspects of the arrangements which I considered might not be fully compliant with the Code.

6. I have taken account of information received during the meeting I convened at the school on 26 November 2014 and further information which has been submitted since that meeting by the school and the LA.

The referral

7. The matters brought to my attention are: the way the admission authority allocates places in that the arrangements do not make clear how looked after children and previously looked after children are admitted; the SIF asks for some information that is outside the school's Church of England designation and which refers to other faith groups, and other information that is not required to apply the oversubscription criteria; and the faith-based oversubscription criteria are difficult to understand. The referrer contends that the arrangements breach the requirements set out in paragraphs 1.8 and 2.4 of the Code

Other Matters

8. Having reviewed the arrangements as a whole for admissions in September 2015, I considered other issues which may contravene the Code in addition to those brought to my attention. These include the requirement to ensure that arrangements published on the school's website are correctly dated; the need for further clarification about the admission of children whose statement of special educational needs (SEN) or Education, Health and Care Plan names the school; information about how the school will deal with requests to defer admission, request part-time attendance or request full-time attendance from September; a final tie-breaker; detail about the operation of the school's waiting list; the provision of a map of the catchment area; and clarity of note 'e' in relation to criterion 3 which refers to 'the allocation of additional criteria' and is insufficiently clear.

Background

9. The school, located in Canning Town in the London Borough of Newham, is a voluntary aided primary school for pupils aged 4 to 11 years, within the Diocese of Chelmsford. Education was first provided for the poor of the parish of St Luke's at Sunday school until 1863 when a school was opened for boys and girls living within the parish. When determining arrangements, governors take account of the Trust Deed by giving priority to families who worship and/or live in the parish of St Luke's. The school's total catchment area consists of St Luke's parish and the adjoining parishes.

10. A one-form-entry school, the school has a published admission number of 30. There are approximately 250 pupils on roll and there is a nursery class of 26 full-time equivalent places. Canning Town is a regeneration area and as housing has been demolished to make way for new developments there have been times when the total number of applications fell in some years and when all applicants were admitted without reference being required to the oversubscription criteria. However, for the past few years the school has been oversubscribed with 46 first preferences in 2013 and 36 in 2014.

11. A Local Government Ombudsman (LGO) report was submitted to me by the diocese and by the school who said that following one of the unsuccessful admission appeals, a complaint had been made to the LGO. The decision was issued on 16 October and concluded that there had been no fault in the way the independent appeal panel had considered the appeal. Following receipt of the LGO decision, the governing body met with officers from the LA and the Diocese on 24 November 2014. They considered the arrangements to review whether or not greater clarity was required to assist families in the area to assess their chance of gaining admission to the school.

12. Although the school's admission arrangements are published on the school's website as required and are easy to find through the route 'About Us/ Admissions', when I looked on 6 November 2014 I found that they were undated. There are 10 oversubscription criteria, nine of which give priority to families who live within the catchment area of the school. The oversubscription criteria are as follows:

- 1) *Children whose parents/ guardians have a practising membership of St Luke's Church, Victoria Dock, which meets in the school every Sunday and who live within the school catchment area. A church reference must be provided.*
- 2) *Children whose parents/ guardians have a practising membership of Fife Road Methodist Church, the River Church or St Margaret's and All Saints RC Church and who live within the school catchment area. A church reference must be provided.*
- 3) *Children who will have a brother or sister at St Luke's School when they start and who live within the school catchment area.*
- 4) *Children of parents/guardians who live within the school catchment area and have a practising membership of the adjoining Parish Churches of the Church of the Ascension, Victoria Dock; St John the Evangelist, North Woolwich; the Parish of the Divine Compassion of Plaistow and North Canning Town (St Martin, St Mary, St Matthias, St Philip and St James). A church reference must be provided.*
- 5) *Children of parents/guardians who live within the school catchment area who have a practising membership of other Christian Churches in the area. A church reference must be provided.*
- 6) *Children whose parent/guardian live in the Parish of St Luke's, Victoria Dock who have a practising membership of another Christian church outside the school catchment area or practice another faith. A religious reference must be provided.*
- 7) *Children whose parent/guardian live within the school catchment area who have a practising membership of another Christian church outside the school catchment area or practice another faith. A religious reference must be provided.*
- 8) *Children whose parents/guardians live within the school catchment area and attend worship at least monthly or are new members. A religious reference must be provided. Priority order will be as per above criteria.*

9) *Any remaining places to be allocated to children whose parents/guardians live within the school catchment area on the proximity of the front entrance of the home address to the school's front entrance measured by the shortest walking distance.*

10) *Any remaining places to be allocated to children whose parents/guardians live outside the catchment area on the proximity of the front entrance of the home address to the school's front entrance measured by the shortest walking distance.*

13. For admissions in September 2014 offers were made to applicants up to and including criterion 9. No offers were made to applicants under criterion 10, that is, to families living outside the catchment area.

Consideration of factors

14. The first matter of concern brought to my attention is that the arrangements do not make clear how looked after children and previously looked after children are admitted. The school is designated by the Secretary of State as having a religious character and paragraph 1.36 of the Code says that such schools, *".....may have faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed."* Paragraph 1.37 of the Code adds that, *".....Admission authorities for faith schools may give priority to all looked after and previously looked after children whether or not of the faith, but they **must** give priority to looked after and previously looked after children of the faith before other children of the faith....."*. The governing body has decided to give the highest priority to all looked after and previously looked after children regardless of their faith and the arrangements state in note 'a', *"Children in Care and formerly Children in Care and Children with statements will be admitted ahead of categories."*

15. Although the stated intention of the governing body is for looked after and previously looked after children to have the highest priority for admission, account has not been taken of the requirement set out in paragraph 1.7 which states, *"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 and previously looked after children....."* There is no reference to the admission of these children in the oversubscription criteria but instead, reference is made to their admission in the notes to the arrangements; and so I conclude that the arrangements contravene paragraph 1.7 of the Code in this regard.

16. The school accepts that its arrangements do not meet the mandatory requirement of the Code and has readily agreed to make the necessary amendment to give the highest priority in its arrangements, oversubscription criterion 1, to looked after and previously looked after children. The school will work with the LA to ensure

that the explanation about the admission of these groups of children is clear and easy for parents to understand.

17. The second matter of concern is that the SIF requires some information that is not related to the school's Church of England designation, but to other faith groups and other information that is not required to apply the oversubscription criteria. Paragraph 2.4 of the Code states, *"In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria...."*

18. Part 1 of the SIF asks, *"Do you have any other children who attend school?"* and *"If yes please state the name of the child and of the school."* The school accepts that it does not require this information in order to process applications and said that the questions would be removed. The SIF also asks for information about the frequency of attendance and includes two options, weekly or monthly. The school acknowledged that what it needs to know in order to rank applications is whether or not attendance is at least fortnightly and following advice from the diocese, the school will now clarify that the requirement is for attendance at least twice per month. The form also asks for information about the attendance of the mother, father and child yet the school does not take account of the fact that either or both parents attend church; and at our meeting governors acknowledged that children may be accompanied to church by other relatives and that this would be acceptable and therefore needed to be clarified for families.

19. Part 2 of the form is for completion by religious leaders. There are tick boxes for completion which read:

- *"Members of church/mosque/temple"*
- *Attends church activities but are not frequent worshippers*
- *Known through a family connection"*

20. In its earlier meeting with the LA and the diocese, the school had concluded that it was not helpful to refer to buildings or rather vaguely to 'church activities' and that no account should be taken of whether the applicant was known through some family connection.

21. The form also asks, *'How long have the family been members of this church/mosque/temple'*. As the school gives priority to children of other Christian denominations and other faiths it is entitled to ask for information to assess whether a child has priority provided the way it does so complies with the Code. On reflection the school considers that the wording on the SIF is not sufficiently specific as the information required relates to whether or not an applicant has been a practising

member of the religious community at least twice per month for a period of at least six months

22. A SIF **must** only request information that has a direct bearing on decisions about applications but there are several aspects of the SIF that contravene this requirement. For this reason I have concluded that the arrangements do not conform with the mandatory requirements of the Code.

23. The third matter of concern is that the faith-based oversubscription criteria are difficult to understand. The Code says in paragraph 1.37, "*Admission authorities must ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.....*" There were several areas of discussion with the school and the first of these was that the arrangements did not state clearly enough that different priorities are given in the arrangements to families worshipping at St Luke's Church and to other families who live in St Luke's parish but have a practising membership of another Christian church, before families who worship at other local churches or who live in the wider catchment area, that is, in the parishes that adjoin St Luke's and which form the catchment area of the school. The diocese explained that the priority for families living within the parish of St Luke's was designed in order to meet the terms of the trust deed. The school agreed to address this matter in order to provide clarify for parents.

24. The first criterion then refers to "*a practising membership of St Luke's which meets in the school every Sunday*" but the arrangements only ask for fortnightly attendance so the added reference to the frequency of services in the school is not relevant. The school agreed that this required revision. We also considered at the meeting whether it would be helpful to refer applicants to a note, whenever a new term was introduced, for example in the current criterion 1, it refers to "*Children whose parents/guardians have a practising membership of St Luke's.....*" and a note could be added "(see note a)" so that parents are directed immediately to an explanation of the definition of "*practising membership*". Paragraph 1.8 sets out the requirement that, "*Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.*" The school has confirmed that it intends to make these changes to its online arrangements at the earliest opportunity.

25. In criterion 5 the arrangements refer to "*other Christian churches in the area*" but the area in this instance is not defined. Apparently this was a misprint and the text should read, "*Children of parents/guardians who live within the school catchment area who have a practising membership of other Christian Churches in that area.*" This criterion is designed to include any new places of worship which are established within the current catchment area, during this time of rapid re-development, to take account of the period after arrangements are determined.

Other Matters

26. Having reviewed the arrangements as a whole for admissions in September 2015, I considered other issues which may contravene the Code.

27. The first of these relates to the need to ensure that when arrangements are determined they are published as required by paragraph 1.47 of the Code, on the school's website, and they are dated with the correct academic year. When arrangements remain unchanged over a period of several years it is particularly important to remember to change the dates of documents published on the school's website as well as those retained in the school office.

28. The school must clarify for parents that children with a statement of special educational needs (SEN) that names the school will be admitted and will count towards the 30 places available. The admission of children with statements of SEN should not be included in an oversubscription criterion, as a separate statutory process will be completed for these children. Paragraph 1.6 says, "*All children whose statement of special educational needs (SEN) names the school **must be admitted**. ...*" and the arrangements need to be clear for parents in order to meet the requirements of paragraph 14 of the Code.

29. The arrangements must include information for parents about deferred admission, part-time attendance until a child reaches compulsory school age and the option of full-time admission from September of each academic year if parents want this for their child. At present the arrangements are not clear on these matters. Paragraph 2.16 says, "*Admission authorities **must provide for the admission of all children in the September following their fourth birthday. The authority **must make it clear in their arrangements that:*****

- a) parents can request that the date their child is admitted to school is deferred until later in the academic year or until the term in which the child reaches compulsory school age, and*
- b) parents can request that their child takes up the place part-time until the child reaches compulsory school age."*

30. The arrangements do not contain a final tie-breaker. The school said it relied on distance to separate two applicants for the final place. We discussed the possibility that two applicants may live in a multi-occupancy dwelling such as a block of flats in which case they would live the same distance from the school. It would be necessary to have a method for separating them. Paragraph 1.8 of the Code says "*Admission arrangements **must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.***" The school agreed that it would use random allocation to decide which applicant would be offered the final place.

31. Although the arrangements include notes about the school's waiting list, they do not meet the requirements to explain how the waiting list operates and the priority that must be given to looked after and previously looked after children has been omitted. Paragraph 2.14 states, "*Each admission authority **must** maintain a clear, fair and objective waiting list for at least the first term of the academic year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not** be given to children based on the date their application was received or their name was added to the list. Looked after children, previously looked after children, and those allocated a place at the school in accordance with a Fair Access Protocol, **must** take precedence over those on a waiting list.*"

32. I could not find a map of the catchment area which would help all parents, but particularly those new to the area, to understand where the boundary lines are situated. A clear map was provided at the meeting in the school and governors said they thought there was already a link on the school's website to the map as the LA had provided one. The LA will now provide another online link for parents at the school so that they can view a map of the catchment area which provides detail of the boundary around St Luke's parish and the surrounding area that are contained within the catchment area.

33. Note 'e' to the arrangements states, "*If oversubscribed in category 3 then additional criteria are allocated to each applicant and then ranked in order...*" Criterion 3 refers to the admission of siblings. When I enquired about the additional criteria the school said it was not sure what this text referred to in practice and the governors would remove this statement.

34. In the separate document "Admission Procedure" there are notes that would be better placed with the oversubscription notes, as these include important information about the priority given to those living nearest to the school if the school is oversubscribed and provides the full definition of siblings.

35. The school expressed its willingness to make immediate changes to the wording of the arrangements to provide greater clarity and to meet the mandatory requirements of the Code; and to update the SIF for applications for admission in 2015 to remove requests for any information that is not required to process applications. Paragraph 3.6 says, "*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, the admissions law, a determination of the adjudicator or any misprint in the admission arrangements.*" The governing body is therefore entitled to make these changes to their determined arrangements.

Conclusion

36. Having considered the matters brought to my attention and examined the arrangements in the light of the requirements of the Code I have concluded for the reasons detailed above that the arrangements for admission to the school in September 2015 , do not conform with the requirements of the Code in respect to how looked after children and previously looked after children are admitted; in the request for some information on the SIF that is not required in order to process applications; and that some parents may find the faith-based oversubscription criteria difficult to understand. Published arrangements must: be dated with the correct year; provide absolute clarity about the admission of children with statements of special educational needs; about the option to defer entry or to request part-time attendance; include a final tiebreaker; provide full information about the operation of a waiting list; and include a map of the catchment area. Other minor issues related to the clarity of drafting and detailed above must be reviewed. The Code requires the admission authority to revise its arrangements as quickly as possible.

Determination

37. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of St Luke's Church of England Primary School, for admissions in September 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements.

38. By virtue of section 88K(2) of the Act the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

Date: 12 January 2015

Signed:

Schools Adjudicator: Carol Parsons