



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA 2838, 2839 and 2840

**Objectors:** Southwell and Nottingham Diocesan Board of Education, The Nottingham Emmanuel School and South Wilford Endowed Church of England Voluntary Aided Primary School

**Admission Authority:** The governing body of the West Bridgford School acting for the East Midlands Education Trust

**Date of decision:** 5 June 2015

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements for admissions in September 2016 determined by the governing body of the West Bridgford School in Nottinghamshire.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), objections have been referred to the adjudicator by the Southwell and Nottingham Diocesan Education Board( the diocese), by The Nottingham Emmanuel School (Emmanuel) and by South Wilford Endowed Church of England Voluntary Aided School (South Wilford) (the objectors), about the admission arrangements (the arrangements) for the West Bridgford School (West Bridgford), an academy school for pupils aged 11 – 18 in Nottinghamshire, for September 2016. The local authority (LA) for the area is Nottinghamshire County Council. West Bridgford has determined to include a part of the Nottingham City Council area within its catchment area and in consequence the comments of Nottingham City Council have been sought as the neighbouring local authority. The three objections are concerned with the consultation process that West Bridgford used to seek views on its proposal to extend its catchment area before coming to a decision. The objectors state that the consultation has not been conducted in compliance with the School Admissions Code (the Code).

## **Jurisdiction**

2. The terms of the funding agreement between the academy trust, in this case the East Midlands Education Trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined on 2 March 2015 by the governing body of the West Bridgford School on behalf of the East Midlands Education Trust, which is the admission authority for the school, on that basis.
3. The objectors submitted their objections to these determined arrangements on 10 March 2015, 17 March 2015 and 19 March 2015. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

## **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the Code.
5. The documents I have considered in reaching my decision include:
  - a. the objectors' forms of objection and subsequent comments;
  - b. West Bridgford's responses to the objections, supporting documents and subsequent comments;
  - c. the LA's comments on the objections;
  - d. Nottingham City Council's comments on the objections;
  - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - f. Nottingham City Council's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - g. a map of the area identifying relevant schools and showing the additional catchment area set out in the school's 2016 admission arrangements;
  - h. details of the consultation on the arrangements that took place, together with copies of the consultation documents and responses to the consultation;
  - i. extracts from the minutes of the meetings of West Bridgford's governing body held on 13 October 2014 and 1 December 2014 when the proposal was considered and then 2 March 2015 when the governing body determined the arrangements; and

- j. copies of the determined arrangements for 2015 and for 2016 including the relevant maps of the catchment areas.

## **The Objection**

6. There are three objections that been submitted making the following points about the school's proposal to include the area including Wilford village within its catchment area. The points are :
  - the tone of the consultation was heavily weighted towards parents leaving a positive response;
  - there was no clear box for negative responses on the response form;
  - the information on letters that were sent to South Wilford and Emmanuel following the consultation contained misleading and inaccurate information;
  - it was not clear whether the views expressed by South Wilford and Emmanuel had been considered by the consulting governing body following the consultation process;
  - the consultation document did not comply with paragraph 1.45 of the Code because it did not make clear to whom comments may be sent;
  - it was not clear how West Bridgford would be able to accommodate the additional pupils that may apply for places if it was not increasing its published admission number (PAN); and
  - the proposal would have a detrimental effect upon the admissions to Emmanuel.

## **Background**

7. West Bridgford is an 11 – 18 co-educational school that became an academy in April 2011. The school has a PAN of 210 for Year 7 for 2015 and for 2016. In 2012 the school reduced its PAN from 226 to 210. The school is located in West Bridgford, which is in the region of two miles from Nottingham City Centre and has Nottinghamshire County Council as its local authority.
8. West Bridgford is one of four secondary schools in the West Bridgford area. Taking the school as a central point, Rushcliffe School is located a few streets to the east and has a catchment area defined by a group of feeder primary schools in the east and north of West Bridgford. The Beckett Roman Catholic secondary school is located within a mile to the north-west and gives priority to children who have attended named Catholic primary schools. Emmanuel is located close to the Beckett Roman Catholic School to the north of West Bridgford and it gives priority to children living within a 10 mile radius with oversubscription criteria that include some faith-based criteria.

9. West Bridgford has been oversubscribed in recent years and allocates places using its oversubscription criteria. The oversubscription criteria for the school give priority to:
- Looked after and previously looked after children;
  - Children living in the catchment area and who attend one of the four linked primary schools and who have a sibling in the school in years 7 – 11;
  - Children living in the catchment area and who attend one of the four linked primary schools;
  - Children living in the catchment area with a sibling in year 7 – 11;
  - Children living in the catchment area;
  - 21 places (10 per cent) are offered to those who demonstrate aptitude for technology;
  - Children who live outside the catchment area and who attend a linked primary school with a sibling in years 7-11;
  - Children living outside the catchment area and who attend a linked primary schools;
  - All other children.
10. The school consulted on its proposal to increase the catchment area to include the area of Wilford village, which is outside the Nottinghamshire county boundary and within the Nottingham City Council area. The effect of this change is to give those children who live in the area priority further up the oversubscription criteria. South Wilford is not a linked school but any applicants in the area would now be in the catchment area and some may have siblings at the school. West Bridgford has also stated that it will offer a place to any child who lives within its catchment and will increase its PAN temporarily if required in order to admit these children.
11. At present the western boundary to the current catchment area is the county boundary which goes in a straight line through the Wilford housing area. West Bridgford has argued that the River Trent and the A52 road make a more logical geographical boundary. The school's governing body considered the proposal at a meeting in September 2014 and agreed to undertake an informal consultation to gather views that could be considered at a subsequent meeting in December 2014.
12. At its meeting in December the governing body considered the views expressed and decided to initiate a formal consultation on the proposal. This consultation took place between 3 December 2014 and 31 January 2015, which complies with the requirement in the Code for an eight week period of consultation. The comments made during the

consultation were then brought together and considered by the governing body at a meeting on 2 March 2015. At this meeting it determined that it would proceed with the change to the catchment area and amended its admission arrangements accordingly with effect from September 2016.

### Consideration of Factors

13. The three objections that have been submitted make a series of points about the school's decision to include the area around Wilford village within its catchment area. I set out below the relevant sections from the Code.
14. Paragraph 1.14 of the Code says "*Catchment areas **must** be designed so that they are reasonable and clearly defined. Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for that school.*"
15. Paragraph 1.42 "*When changes are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year.*"
16. Paragraph 1.43 says "*for admission arrangements determined in 2015 for entry in September 2016, consultation **must** be for a minimum of eight weeks and **must** be completed by 1 March 2015.*"
17. Paragraph 1.44 says "*admission authorities **must** consult with:*
  - a. *parents of children between the ages of two and eighteen;*
  - b. *other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
  - c. *all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
  - d. *whichever of the governing body and the local authority who are not the admission authority;*
  - e. *any adjoining neighbouring local authorities where the admission authority is the local authority; and*
  - f. *in the case of schools designated with a religious character the body or person representing the religion or religious denomination.*"
18. Paragraph 1.45 says that "*for the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website together with details of the person within the admission authority to whom comments may be sent and the areas on which comments are not sought. Admission authorities **must** also send upon request a copy of the proposed admission arrangements to any of the persons or bodies listed above inviting comment. Failure to consult effectively may be grounds for subsequent complaints and appeals.*"

19. The first point within the objections concerns the tone of the consultation, which the objectors assert was heavily weighted towards parents leaving a positive response. I have looked at the consultation document, which was displayed on the school website. The document described the proposal to include Wilford village as part of the catchment area and explained why the governing body was proposing it. It explained that, if agreed, the inclusion of the area within the catchment area meant that if parents applied to the school, the governors were committed to ensuring that all children who would like a place at the school and who reside within the catchment area at the time of the common application form submission for secondary school, would be offered a place. At the bottom of the form it says "*if I want this to happen is there anything I need to do?..... Please complete our online form and express your opinion. If you want this to happen we need you to say so or it might not.*" Further down is the question "*are you in favour of the proposal to include Wilford village as part of the catchment area of West Bridgford School?*" There is then a space titled "*comments*".
20. The Code does not specify how consultation documents must be phrased. Paragraph 1.46 of the Code quoted above refers to "*effective consultation*". The objectors feel that the tone of the consultation was positively skewed in favour of accepting the proposal. I have considered this point. The consultation explains the proposal and sets out the benefits for families who live in that area. Irrespective of the views of a potential respondent, there is the opportunity for these views to be recorded by either answering yes or no to the question "*are you in favour...*" and space to expand upon this in the section titled "*comments*". I note that in the responses submitted there are comments from those who do not support the proposal. I do not consider that West Bridgford has prevented a range of views being expressed about the proposal.
21. The next point made by the objectors is that there was no clear box for negative responses on the response form. However, I consider that this point is similar to the point that I have covered above. If a respondent does not agree with the proposal they may answer no to the question "*are you in favour...*". The Code does not specifically require a box for negative responses and I do not consider that a reasonable person who was responding to this proposal was prevented from making their view known in the consultation if they had seen the consultation document.
22. Following the consultation the school made the decision to adopt the proposal and the headteacher wrote to the parties with whom the school had consulted to inform them of the decision, as required by paragraph 1.47 of the Code. West Bridgford has provided me with copies of the letters that were sent. The objectors say that the information on letters that were sent to South Wilford and Emmanuel following the consultation contained misleading and inaccurate information. The letters said that "*one school objected but others in the area chose not to express an objection.*" The objectors say that this

comment *“gives rise to concerns that the governing body of the school may not have considered all the responses before making their decision.”* The letter goes on to say *“we understand that this statement has been related to parents and are concerned that it gives an implicit assumption that all of the schools in the area were happy with the proposal whilst, as our evidence clearly shows, they were not.”*

23. In response to this point West Bridgford said *“we do note and apologise for the error which was sent to some of the consultees, but not all, in stating to them that one school objected whilst all others in the area chose not to express an objection. What was meant by that was that one secondary school objected, whilst we acknowledge that in fact two schools objected in total namely the Nottingham Emmanuel School and South Wilford Endowed Church of England Primary School.”* The school has subsequently written to all consultees correcting the error.
24. I have considered the points made by the objectors and West Bridgford. There is no disagreement that an error was made and there is no disagreement that it was subsequently corrected. I have concluded that the error does not invalidate the decision made by the governing body. The error was made after the decision had been taken. The Code requires, in paragraph 1.47 that *“once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website...”*. The appropriate bodies in this context are the other admission authorities, the local authority and the adjoining local authority as well as all governing bodies for community and voluntary control schools in the area. West Bridgford provided the evidence that this had been done and also provided a copy of the correction letter. I do not consider that the school has failed to comply with the Code in this respect.
25. The objectors then say that it was not clear whether, following the consultation process, the consulting governing body had considered the views expressed by South Wilford and Emmanuel. In its response, West Bridgford provided extracts from the minutes of the three meetings where the proposal was discussed. Copies of correspondence with the schools concerned were also provided. Minutes of the meeting held on 2 March 2015, where the governors reviewed the consultation and determined the arrangements, state that *“the results of the consultation have been supplied for all governors to read and the objections by South Wilford Endowed School, The Emmanuel School and the Diocese of Southwell and Nottingham were duly noted in the letters to us from both informal and formal consultation. Governors debated the possible detrimental impact of this change on both schools...”* The governors were of the view that *“The Emmanuel School is an OFSTED rated good school, offers a distinctive religious ethos...has an excellent reputation and is oversubscribed. On balance the governors did not think that we would recruit children in numbers large enough to detrimentally impact upon The Emmanuel School....and consequently.... South Wilford Endowed schools”*. In

addition to this discussion, the minutes record that the governors considered the other comments made in the consultation and reaffirmed that the proposal would not mean that anyone on the existing catchment area would be displaced. The governors then decided to adopt the proposal. The evidence provided leads me to conclude that the school did consider the objections when it made its decision.

26. The next part of the objection is that the consultation document did not comply with paragraph 1.45 of the Code because it did not make clear the person to whom comments may be sent. I have looked at the consultation document and note that it says "*this is a formal consultation and our governors would like to hear from those parents who reside in the area of Wilford village..... To express your views visit our website at...*" In addition, West Bridgford has provided copies of letters sent to the local schools and local authorities by the headteacher of the school on behalf of the governing body, which were addressed personally to the headteachers, chairs of governors and chief officers. In these letters it was made clear that responses could be made to the headteacher on behalf of the governors.
27. The Code in paragraph 1.45 is explicit in saying "*details of the person within the admission authority*". Although the headteacher is named in the letters, the consultation form on the website refers to "*the governors*". In normal usage the word "person" refers to a single individual. However, the word also has a legal sense. This is set out clearly in the Oxford dictionary which states that "*a person in the legal sense can be an individual, a company or other entity which has legal rights and is subject to obligations*". The governors are such an entity and so in this respect West Bridgford has met the Code's requirement for "*the person*" to be named. It is my view that any reasonable person looking at the consultation document would understand clearly who was consulting and how they could respond.
28. The next part of the objection is that the consultation was not clear how West Bridgford would be able to accommodate the additional pupils that may apply for places if it was not increasing its published admission number (PAN). West Bridgford responded to this point by saying that it would temporarily increase its PAN in order to ensure that any child who lived in the catchment area could be offered a place. In considering this part of the objection I noted a copy of correspondence that West Bridgford exchanged with its LA in the informal phase of the consultation. This correspondence demonstrates the school is fully aware of its obligations under paragraph 1.4 of the Code where it says "*if, at any time following determination of the PAN, an admission authority decides that it is able to admit above its PAN, it **must** notify the local authority in good time to allow the local authority to deliver its coordination responsibilities effectively. Admission authorities may also admit above their PAN in year.*" The Code permits a school to increase its PAN and West Bridgford is aware that if it does so then it must inform the LA. The decision about how and when to increase the PAN is a decision that the Code allows an admission authority to make.

West Bridgford has decided that it has sufficient capacity to be able to implement its decision and must take responsibility for ensuring that it can carry this through.

29. The last part of the objection is that the area under discussion is already part of the catchment areas for local secondary schools and the change will be detrimental to Emmanuel and to South Wilford. Nottingham City Council provided information about the secondary schools that pupils from South Wilford have moved to in recent years.

Secondary School Places offered	2012	2013	2014
East Leake Academy	2	4	2
The Nottingham Emmanuel School	18	16	29
Farnborough School	2	1	0
Nottingham High School For Girls	1	0	0
Nottingham high school	0	2	0
Rushcliffe school	3	1	0
The Beckett school	3	1	0
The West Bridgford school	1	3	1
Toot Hill School	0	1	0

It commented that *“there is a consistent pattern of pupil export from South Wilford primary school to Nottingham Emmanuel School with an average of 68 per cent of the primary cohort moving on there. In 2014, 91 per cent of the cohort opted for Nottingham Emmanuel School. In our view the data demonstrates that there is no unmet demand at secondary level for Wilford Village residents, children were able to access the local and good provision offered by Nottingham Emmanuel School.”*

30. Nottinghamshire County Council, in its comments on the objections, said that *“the additional area to be included within the West Bridgford school catchment area would be a shared catchment with other schools that already have this area assigned. This is not uncommon in Nottinghamshire.”*
31. West Bridgford’s response to this part of the objection was that it was simply offering a further choice for parents. In agreeing the proposals, governors had judged that it would not have a detrimental effect on neighbouring schools because the range of options open to parents had not changed. The change gave parents a realistic expectation of gaining a place if they applied for one and this was not the case before.

32. The LA observed that the Code requires a catchment area to be “*reasonable and clearly defined*”. In considering this matter I observe that this area is already within the catchment area of Emmanuel and that parents in the area choose to apply for places in a wide number of schools. In recent years more parents have opted for Emmanuel than other schools but the table shows that there is spread of preferences. There is an existing relationship between South Wilford and Emmanuel and parents will weigh the merits of the options open to them when deciding which schools to make applications to. It is for parents to decide for which schools they wish to express a preference.
33. West Bridgford has given reasons for the change of catchment area within the correspondence exchanged between the parties as a result of these objections. The main reason has been that the new boundary is the river rather than the boundary between Nottingham City and Nottinghamshire County. The river gives a logical and clear edge to the catchment instead of the straight line across the South Wilford area. Emmanuel includes the area under discussion within its catchment area and this catchment area covers a circle of radius ten miles and includes the whole of West Bridgford School’s catchment area. I have not been given a reason to persuade me that this change to the catchment area is unreasonable and so I conclude that it is both “*reasonable and clearly defined*” in compliance with the Code.

### **Conclusion**

34. I have looked carefully at the submissions made by the objectors and the further comments from the school and other parties. West Bridgford has undertaken its consultation thoroughly and has presented evidence of communication before, during and after the consultation period with the appropriate parties. A mistake was made after the determination of the arrangements, but this was rectified and I have judged that this did not have a material effect upon the outcome of the consultation or the decision made to change the arrangements.
35. I have considered the objections and the actions the school has taken before determining its arrangements for 2016. I am satisfied that the arrangements do not contravene the Code and I do not uphold the objections to the school’s arrangements for the reasons given above.

### **Determination**

36. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements for admissions in September 2016 determined by the governing body of the West Bridgford School in Nottinghamshire.

Dated: 5 June 2015

Signed:

Schools Adjudicator: David Lennard Jones