



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2938

Referrer: Surrey County Council

Admission Authority: The governing body of Holy Trinity Church of England (Aided) Junior School, Guildford, Surrey and Pewley Down Church of England (Aided) Infant School, Guildford, Surrey

Date of decision: 17 September 2015

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 Holy Trinity Church of England (Aided) Junior School and Pewley Down Church of England (Aided) Infant School, for admissions in September 2016.

I have also considered the arrangements in accordance with section 88I(5). I determine that the schools' arrangements for September 2016 do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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

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 Surrey County Council, the local authority (the LA), (the objector), about the admission arrangements (the arrangements) for Holy Trinity Church of England (Aided) Junior School, (Holy Trinity) for pupils aged seven to 11 years and Pewley Down Church of England (Aided) Infant School (Pewley Down), for pupils aged four to seven years, for September 2016. As the names suggest both schools are voluntary aided schools with a Church of England religious character.**
- 2. The objection is to oversubscription criteria 2 and 7 of the arrangements for Pewley Down and oversubscription criteria 3 and 6 of the arrangements for Holy Trinity, that give priority for admission to the children of staff recruited to posts that are defined as difficult to fill and to the children of**

staff who have been employed by the governing body for two years at the time of the application for admission. This is said to contravene paragraph 1.39 of the School Admissions Code (the Code).

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the governing body, which is the admission authority for both schools. The objection to these determined arrangements was submitted on 26 June 2015. 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.

4. Having reviewed the arrangements for 2016 and concluded that there were matters that did not comply with the Code I am using my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the Code.

6. The documents I have considered in reaching my decision include:

- the objection from the LA dated 26 June 2015;
- the governing body's responses dated 20 July 2015, with 13 supporting documents; 22 July 2015; and a response to my enquiry, dated 30 July 2015;
- documents relating to the consultation on the admission arrangements held between 19 December 2014 and 1 March 2015;
- a response from the Diocese of Guildford (the diocese) which is the schools' religious authority, dated 15 July 2015, with supporting documents;
- minutes of meetings of the governing body held on 19 March 2015 at which the arrangements for admission to the schools in September 2016 were determined;
- a copy of the determined arrangements for 2016; and
- the LA's composite prospectus for parents seeking admission to primary schools in the area in September 2015;

The objection

7. The objection is that the governing body has introduced new oversubscription criteria into the arrangements of both schools which give priority to children of staff employed by the HTPD (that is Holy Trinity Pewley Downs) federation. The higher priority is given in each case to the children of staff recruited to a post that is said to be difficult to fill and a lower priority is

given to the children of any member of staff who has been employed by the federation for two or more years. “*Member of staff*” is defined within the arrangements as “*a person who is employed by the HTPD Federation*” and this is said to contravene paragraph 1.39 of the Code which requires that the member of staff must have been “*employed at the school*”.

Other Matters

8. Having reviewed the arrangements as a whole for admission to the schools in September 2016, I considered matters in the arrangements of each individual school that may contravene the Code and note these separately. However, as there is a single set of definitions and explanatory notes for the two sets of arrangements, my comments will therefore apply to the arrangements of both schools.

9. Matters to consider in the arrangements of Pewley Down include the request on the supplementary information form (the SIF) for the names of both parents; for an additional address if different from the child; and the inconsistencies in terminology used in the oversubscription criteria and on the SIF.

10. The SIF for Holy Trinity requests a work telephone number; an additional address if different from the child; and there is a variation in terminology used in the oversubscription criteria and on the SIF.

11. In the ‘Definitions and Explanations’ for both schools matters include the adequacy of the definition of siblings; and the lack of information for cases where parents have shared responsibility for a child and where the child lives for part of the week with each parent.

Background

12. The schools are organised in a federation (known as the HTPD federation) with an executive head teacher who leads both schools and with a single governing body. It is this single governing body which is the admission authority for both schools. The schools are located on different sites and each school is a separate establishment with its own unique reference number.

13. The arrangements for Pewley Down consist of twelve oversubscription criteria of which two give priority to the children of staff. After the admission of looked after and previously looked after children the second oversubscription criteria gives priority to, “*Children of a member of staff of the HTPD Federation recruited to fill a difficult to recruit position.*” Priority is then given in criteria 3 to 6 to two different groups of siblings and to children living closest to the school. Oversubscription criterion 7 states, “*Children of a member of staff who has been employed at the school for two or more years at the time at which the application for admission to the school is made.*” There are then a further five oversubscription criteria.

14. The arrangements for Holy Trinity comprise 10 oversubscription criteria. They too give first priority to looked after and previously looked after children and the second priority is afforded to children who are currently attending Pewley Down. Oversubscription criterion 3 then states, "*Children of a member of staff recruited to fill a difficult to recruit position.*" Criteria 4 and 5 give priority to siblings and to those living within the designated catchment area. Oversubscription criterion 6 states, "*Children of a member of staff who has been employed by the HTPD Federation for two or more years at the time at which the application for admission to Holy Trinity School is made*" A member of staff is defined as, "*a person who is employed by the HTPD Federation*".

Consideration of factors

15. The governing body proposal to introduce priority for the children of staff into the arrangements for 2016 was included in an extensive consultation that took place between 19 December 2014 and 1 March 2015 and which met the requirements as to the timing and duration of such consultations. In its response, the LA advised the governing body that the arrangements would not be compliant with the requirements of the Code if priority was given to the children of staff working at an alternative school to the one to which an application for admission was being made. The school responded explaining that all staff were employed by the federation and could be required to work at either or both schools and that they were moved from year to year. Some members of staff worked across both schools and these included the senior leadership team and subject co-ordinators. Having considered the Code it was the view of the governing body that the arrangements would comply with its requirements in relation to priority for children of members of staff.

16. The LA has explained that it sought clarification from the DfE regarding paragraph 1.39 of the Code and received a response which said, "*...the intention of this paragraph is to allow schools to prioritise applications from children of members of staff working at the specific school to which the applicant was applying. Increasing the chances of a child attending the school at which their parent teaches is thought to remove the logistical difficulty which these teachers might face in transporting their children to an alternative school, thus improving staff retention and removing a potential barrier which might hinder staff recruitment..... the priority was not intended to relate to a member of staff at any school other than the school to which the application relates, meaning it should not relate to any member of staff working at one of an extended chain of schools, whether this be an academy chain, federation or other group of schools...*" This advice was shared with the governing body as part of the LA's response to the consultation.

17. The diocese says that it has advised the governing body that no school in any other diocese gives priority to children of staff working at federated schools.

18. In its response to the objection the school says that the federation is uniquely set up and that staff are contracted to work at either of the two schools, with the flexibility to move between schools as required. Template

documents of contracts for teaching and support staff were provided to me and they list 'the school' as 'Holy Trinity Pewley Down', but provide the addresses of the two separate schools.

19. The view of the governing body is that there are strong and cogent reasons for oversubscription criteria that operates across both schools and that they reflect the wording and spirit of the Code, which does not expressly or implicitly prohibit in any way the approach taken. In summary the reasons are that:

- there is a single governing body;
- senior leaders employed by the federation lead and manage both schools in an integrated manner;
- teachers are deployed across the two schools which make up the federation;
- subject leaders are responsible for leading their subject across the primary phase in both schools;
- weekly INSET meetings are shared by the whole teaching staff; and
- a number of teaching assistants, administrative staff, technicians and the librarian work across both sites.

20. Paragraph 1.39 of the Code say, "*1.39 Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances:*

a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or

b) the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage."

21. The Code is very clear that priority can be given to the admission of the children of staff employed *at* the school. It does not give permission to the admission authority to afford priority in the oversubscription criteria to children of staff employed by the governing body at any school.

Other Matters

22. Having reviewed the arrangements as a whole for admission to each school in September 2016, I considered matters in the arrangements of school that may contravene the Code.

23. The SIF for Pewley Down asks for the names and addresses of both parents; the form refers to "*Name of Parent(s)/Legal Guardian(s).*" The SIF for Holy Trinity asks for an additional address if different from the child and also requests a work telephone number. The school's view is that this gives

parents the option of providing information about one or both parents. Paragraph 1.9 of the Code says, "*It is for admission authorities to formulate their admission arrangements, but they **must not**: f) give priority to children according to the occupational, marital, financial or educational status of parents applying.*" I accept that the school's stated intention is to provide an option to parents but some parents may feel obliged to provide this information in case it is taken into account by the school when considering an application for admission.

24. Oversubscription criteria 10 and 11 of the arrangements of Pewley Down and oversubscription criteria 7 and 8 of Holy Trinity refer to "*active membership*" of a Christian church but both SIFs ask parents to confirm "*regular attendance*". The school says that the notes explain that active membership means "*regular attendance*" and that this is defined as "*...attendance by at least one parents or the child, on average at least once a month over the preceding year.*" In my view it would be more straightforward and easier for parents to understand if the terminology that is used is consistent on both. Paragraph 14 says, "*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*"

25. In the "*Definitions and Explanations*" for both schools, the definition of siblings, does not mention brothers and sisters. The school says, "*We have never had any queries as to whether the term sibling includes brothers and sisters (the explanation is more aimed at ensuring that the reader understands it is wider than brother and sister of same parents), and we perhaps erroneously adopted the approach that ordinary dictionary meaning for words in common parlance need not be spelt out.*" The school must ensure that the explanation of definitions leaves no room for doubt. It is possible that parents new to admissions procedures or families for whom English is not the first language may not be familiar with the term "sibling" and explanations must be very clear.

26. There is no information about provision for cases where parents have shared responsibility for a child and where the child lives for part of each week with a different parent. The governing body says it will include the requisite information in a variation to the arrangements as permitted by paragraph 3.6 of the Code.

Conclusion

27. The objector says that the priority afforded to the children of staff who have been employed by the federation for two years at the time of the application for admission, or to a position that it is difficult to recruit to, contravenes paragraph 1.39 of the Code. The requirement set out in the Code applies to staff employed *at* the school and not *by* the school and I therefore uphold the objection.

28. Having reviewed the arrangements as a whole for admission to the school in September 2016, I have concluded that there are matters within the arrangements that do not comply with the Code. These include information requested on the SIFs of both schools; a lack of consistency in the terminology of the arrangements and on the SIF; and the adequacy of the definition and explanatory notes as detailed above.

Determination

29. 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 Holy Trinity C of E (Aided) Junior School and Pewley Down C of E (Aided) Infant School, for admissions in September 2016.

30. I have also considered the arrangements in accordance with section 88I(5). I determine that the school's arrangements for September 2016 do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

31. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months.

Date: 17 September 2015

Signed:

Schools Adjudicator: Mrs Carol Parsons