

Further report

on an investigation into
complaint no 10 004 884 about
Bishop Vesey's Grammar School

12 March 2012

Investigation into complaint no 10 004 884 against Bishop Vesey School

1. In September 2011 I issued a report on a complaint by Mrs K about how Bishop Vesey School and an Independent Appeal Panel dealt with her appeal for her child to have a place at the selective grammar school. The investigation found maladministration in the way the appeals were arranged and conducted. I concluded that the Clerk to the governing body of the School was involved to a far greater extent in the appeal process than he should have been. The lack of training provided for the Clerk and Panel members were significant factors in the maladministration that occurred in the appeal hearing.
2. The maladministration by the School and the Independent Appeal Panel caused Mrs K the injustice of her appeal not being treated properly, fairly and in accordance with the law. It is likely other parents who appealed also suffered similar injustice.
3. I recommended that the School offer fresh appeals to all the parents who appealed in 2010 and whose child achieved a mark above 318. It should also pay £200 to Mrs K in recognition of the additional time and trouble she had as a result of its failures to provide her with the information she requested in order to prepare her appeal and in pursuing her complaint.
4. The School's governing body considered my report at its meeting on 30 January 2012. It decided unanimously to take no further action on the Ombudsman's recommendations.
5. The governing body does not accept that any injustice was caused to Mrs K as they say she did not put forward any substantive grounds that would support an appeal.
6. The governing body says that the alleged faults I found fall into three main categories:
 - a. Trivial breaches of the Appeals Code which made no difference to the decision.
 - b. Matters where there is a difference of opinion, for example the governing body says it answered Mrs K's reasonable requests for information but not her unreasonable ones, and the Ombudsman disagrees.
 - c. Matters where the governing body disagrees with my findings, for example whether the prejudice case was heard at each appeal or not.

7. The School also says that its problems with the admission arrangements stem from changes in the Appeals Code in 2008 and 2009, which were drafted with large admissions authorities, not small single schools, in mind. The School had asked the local authority to take over responsibility for its appeals in the past but it had declined. The local authority has dealt with appeals from 2011.
8. I am not satisfied with the response of Bishop Vesey School's governing body. It has failed to understand that it is not for the governing body to judge the strength of Mrs K's case for appeal or the decision made by the Independent Appeal Panel. The purpose of having an Independent Appeal Panel is for people independent of the School to make a decision on the merits of an appeal, having followed the correct process and given proper consideration to all relevant information. The Ombudsman's role in investigating complaints is to ensure that an Independent Appeal Panel has followed the correct process and given proper consideration to all relevant information. A governing body cannot substitute its opinion for one made properly by a Panel or substitute its view on how a Panel has operated for my view.
9. In my report I criticised the Clerk to the governing body. He appears to have played a significant role in advising the governing body on how to respond to the report. This strongly suggests the governing body did not have impartial advice and so I am not satisfied that it considered my report properly.
10. I deal with many complaints about education admission appeals each year. I am well aware of the range of practice and of what can be considered reasonable and unreasonable actions by an admissions authority and independent appeal panel. The faults in this case were so many and significant that they destroyed any faith Mrs K might have had in the fairness of the appeal process. It is established law that if a body in jurisdiction wants to challenge the Ombudsman's findings it must do so by applying for a judicial review. The governing body has not done so and is not entitled to act on the governors' opinions.
11. I am satisfied that my findings of fact are robust and based on the written evidence and the information obtained from formal interviews.
12. The School says that the Appeals Code is not suited to a small single school. The Appeals Code is statutory guidance intended to ensure that both parties to an appeal feel there has been a fair and transparent consideration of the issues. The School is not entitled to ignore parts of the Code because it is difficult for them to follow.
13. Section 31(2A) of the Local Government Act 1974 provides that if the Ombudsman is not satisfied with the School's response to her recommendations a further report shall be issued. I have therefore issued this further report on

Mrs K's complaint and call on the School to reconsider its position and agree to my recommendations.

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