



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2163**

**Admission authority: the governing board for St Hilda's Church of England High School in Liverpool**

**Date of decision: 22 September 2021**

## Determination

**In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board for St Hilda's Church of England High School for September 2022.**

**I determine that for admission in September 2022 the faith-based oversubscription criteria will be as described in this determination.**

**I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the way 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 of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I specify that the arrangements must be revised by 28 February 2022.**

## The referral

1. The governing board for St Hilda's Church of England High School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 to the adjudicator. The school is a voluntary aided school for children aged 11 to 18 in Liverpool and the local authority area of Liverpool City Council. The school has a Church of England religious character. The proposed variation makes changes to the faith-based oversubscription criteria and is made in the light of the Covid-19 pandemic.

## Jurisdiction

2. 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”.

3. I have been informed that the required notification has taken place and I am satisfied that the proposed variation is within my jurisdiction. I am also satisfied that it is within my jurisdiction to consider the determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention and determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

## The proposed variation and consideration of the proposed variation

4. Where the school is oversubscribed priority may be given on the basis of faith. The school’s arrangements take account of attendance at places of worship. During the Covid-19 pandemic places of public worship have at some times been closed altogether and at other times not available for public worship or access to such worship has been restricted in the interests of public health. It is against that background that the request for a variation is made. Since the school’s oversubscription criteria include attendance at public worship of a specified frequency over a specified period of time, parents and their children are unable to meet this criterion under the terms of the school’s current admissions arrangements. In consequence the proposed variation provides that attendance at church will only have been required at times when places of public worship are open for such public worship.

5. The oversubscription criteria in the admission arrangements include priorities for those who regularly attend worship at a Christian church which I shall refer to as the Christian places. A point system is used for the Christian places so that the more frequently a parent and/or child has attended worship over a period of up to three years then the more points are allocated.

6. The proposed variation is that the words I agreed in a previous variation (case reference VAR1426) for admissions in 2021 are deleted and replaced. The words would have remained as part of the arrangements unless the governing board had consulted to change them, or another variation request was made as has occurred in this case.

7. The variation I agreed for 2021 was the insertion of the words, “In the event that during the period specified for attendance at worship the church or, in relation to those of other faiths, relevant place of worship has been closed for public worship and has not provided alternative premises for that worship, the requirements of these admissions arrangements in relation to attendance will only apply to the period when the church or, in relation to those of other faiths, relevant place of worship or alternative premises have been available for public worship.”

8. The proposed replacement words relate to the criteria for the Christian places and are, “During the period specified for attendance at worship churches have been closed or limited capacity for public worship has been in effect, so it is not possible to calculate fairly or accurately the points available for attendance at worship. Therefore, where points are allocated the points for 2020 will be given until 20th March 2020, with no points available for any applicant for 2021.” The governing board proposed that the point system on this basis would be as shown below:

	“Anglican	Other Christians
<b>1 year’s attendance</b>		
Weekly attendance	36	24
Attendance 3 times a month	27	18
Fortnightly	18	12
Monthly	9	6
Occasionally	2	2
Never	0	0
<b>2 years’ attendance</b>		
Weekly attendance	72	48
Attendance 3 times a month	54	36
Fortnightly	36	24
Monthly	18	12
Occasionally	4	4
Never	0	0”

9. This excludes the points which would have been given for attending for at least three years in the determined arrangements and the proposed arrangements explain that “The maximum possible score for attendance would be 72 points for two years’ weekly

attendance at an Anglican church. The maximum possible score for other Christians would be 48 points for two years' weekly attendance." The supplementary information form simply asks for the dates of attendance at worship, as opposed to attendance at the time of application, and so the proposed variation is practicable. It is beyond question that the Covid-19 pandemic represents a major change of circumstances. I am satisfied that the proposed variation is a pragmatic and appropriate response. I approve the variation.

## Consideration of the arrangements

10. The oversubscription criteria include criteria for those of other faiths than Christianity. These are:

"There are up to 10 places for Muslim children, regular worshippers confirmed by the faith leader"; and

"There are up to 10 places for other world faiths children, regular worshippers confirmed by the faith leader."

11. As it happens, an objection was made to the admission arrangements for the school for 2022. That objection concerned the relative levels of priority given to Anglican and non-Anglican Christians and was considered by another adjudicator under case reference number ADA3877. I have not needed to consider that aspect of the arrangements or indeed another matter identified by the adjudicator in ADA3877 which concerned asking for details of a child's primary school on the school's supplementary information form. I am considering here only the oversubscription criteria which afford priority for children of other faiths.

12. Initially, it had appeared to me that the variation requested for the oversubscription criterion giving priority to Christian children was also to be applied to the criteria giving priority to children of other faiths. Following discussion with the governing board, the governing board clarified that the proposed variation did not include these criteria because there was no period or frequency specified for worship in those criteria and so the proposed wording was redundant and would make no sense in those contexts. However, this leads to the inescapable conclusion that there are no definitions in the arrangements of what is meant by "regular worshippers" for Muslim children or children of other world faiths. In addition, "other world faiths" is not defined.

13. Paragraph 14 of the Code 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." Similarly, paragraph 1.8 of the Code says (in as far as is relevant here), "Oversubscription criteria must be reasonable, clear [and] objective." Paragraph 1.37 of the Code says that "Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied."

14. I therefore raised my concern that the criteria did not meet the requirements of the Code. The governing board explained that as a Christian school it did not feel that it could provide definitions of regular worship for other faiths and that it was for the relevant religious leaders of the other faiths to decide on these matters. I was also given to understand that the school has made several attempts to agree such definitions with the local leaders of other faiths. I understand the governing board's view and I can see the challenges it faces as it seeks to be inclusive of children of other faiths. It is, moreover, extremely sensible to seek to involve the relevant faith leaders in deciding what is meant by regular worship in each faith.

15. However, it is equally the case that the term "other world faiths" is not defined and whether a child would meet the threshold of being a regular worshipper cannot be discerned from the arrangements and is in fact at the discretion of relevant faith leaders. The arrangements are not clear and do not meet the requirement that parents can easily understand faith-based criteria will be reasonably satisfied. As different people could come to different conclusions based on similar evidence the criteria are also not objective. I therefore conclude that the requirements of paragraphs 14 and 1.8 of the Code are not met because the criteria are not clear and not objective. They also fail to meet the requirements of paragraph 1.37.

16. I am conscious that the governing board will want to consider carefully how to address my findings. I expect that they will wish to talk to local faith leaders and that they will want to consult on how best to revise the arrangements so that these two criteria meet the requirements of the Code. I am conscious too that applications for school places for 2022 have already begun to be made. In the light of these factors, I have set 28 February 2022 as the latest date by which the arrangements must be revised as this is the date by which arrangements for 2023 must be determined. This means that the changes to these two criteria will not affect the normal round applications for admissions for 2022. This does not in any way affect the variation I have agreed for the arrangements for 2022 as described above which can come into force immediately and apply for 2022 admissions.

## Determination

17. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board for St Hilda's Church of England High School for September 2022.

18. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the way set out in this determination.

19. 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 of the date of the determination unless an

alternative timescale is specified by the adjudicator. In this case I specify that the arrangements must be revised by 28 February 2022.

Dated: 22 September 2021

Signed:

Schools Adjudicator: Deborah Pritchard