



DETERMINATION

Case reference:	ADA2638
Objector:	a member of the public
Admission Authority:	The Governing Body of St Michael's Catholic Secondary School, Cornwall.
Date of decision:	21 July 2014

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 St Michael's Catholic Secondary School, Cornwall.

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 as quickly as possible.

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 a member of the public, the objector, about the admission arrangements (the arrangements) for St Michael's Catholic Secondary School, (the school), a Catholic academy free school for pupils of age range 11-16 years for September 2015. The objection is that the school has not published admission arrangements for 2014 nor 2015; and the published policy, dated 2012 does not correctly allocate 50 per cent of places without reference to faith.

Jurisdiction

2. The terms of the Academy agreement between the St Michael's Free School Trust and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. The arrangements were determined by the governing body of St Michael's Free School Trust which is the admission authority for the school, on that basis.
3. The objector submitted the objection to these determined arrangements on 19 May 2014. The objector has met the condition of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admissions Arrangements) (England) Regulations 2012, which requires that any person or

body making an objection who wishes to remain anonymous must provide their name and address so that they are known to the Office of the Schools Adjudicator. 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.

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 objector's email of objection dated 19 May 2014 and subsequent correspondence;
 - b. the school's response to the objection and supporting documents;
 - c. the response of the faith body, the Diocese of Plymouth (the diocese);
 - d. Cornwall County Council's the local authority,(the LA) comments and composite prospectus for parents seeking admission to schools in the area in September 2014;
 - e. a map of the area identifying relevant schools;
 - f. copies of the minutes of the meeting of the governing body at which the arrangements were determined;
 - g. a copy of the determined arrangements; and
 - h. the report by Ofsted into provision and standards at the school (May 2014).

The Objection

6. The objector argues that the admission arrangements are in breach of the Code in a number of ways;
 - I. At the time of the objection the admission arrangements for 2104 and 2015 were not published on the school's website contrary to paragraph 1.47 of the Code;
 - II. The published policy splits applicants into two groups, strand A for faith applicants and strand B for those who are not Roman Catholics. This is contrary to footnote 30 of the Code which says 50 per cent of places should be without reference to faith
 - III. The waiting list arrangements are similarly flawed;(with reference to paragraph 2.14 of the Code);
 - IV. There is a supplementary information form (SIF) for all applicants but should only be for applicants of faith (paragraph 2.4 of the Code);
 - V. There is no proper priority for children looked after (paragraph 1.7 of the Code).

Background

7. The school opened as a free school academy on 3 September 2012 in Camborne, having previously been a small independent school in Truro. At the time of the Ofsted Inspection in May 2014 there were 125 pupils on roll.
8. Having received the objection, the OSA corresponded with the school over some weeks to obtain the admission arrangements for 2015 and evidence of their determination. On 10 June 2014 the governing body determined the arrangements for 2013 and 2014. Further correspondence followed and the 2015 arrangements were determined 24 June 2014. The arrangements in each case were unchanged from those to which the objector referred.

Consideration of Factors

9. I consider the matters in the order raised by the objector and the matter of determination.

Publication and determination

10. The objector argues that the arrangements are not published on the school's website as required by the Code. On 20 May 2014 when the objector looked at the website the link indicated the 2013 arrangements but the document was titled 2011/12 policy. When I looked on 5 July 2014, after correspondence with the school this was still the case.
11. The school's response is that the policy is current but needs to be retitled. The diocese is of the view that the policy displayed is the current policy, but wrongly dated.
12. The Code says, at paragraph 1.47 "*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 displaying them for the whole offer year (the academic year in which offers for places are made.*" The school has not done this and therefore does not comply with the Code. At the time of the objection, the school's website should have shown the arrangements for admissions in September 2014 and in September 2015.
13. Before publishing the arrangements the school must first determine them and must do so annually as required by paragraph 1.46 of the Code "*All admission authorities **must** determine admission arrangements by 15 April every year, even if they have not changed from previous years and a consultation has not been required .*"
14. The school had not determined its arrangements as required; indeed, it determined three years' admission arrangements in June 2014 and was in breach of the Code in respect of not having determined the arrangements by the specified dates.

Allocation of places by faith

15. The school admits pupils under two 'strands'. Strand A is for pupils of faith, giving priority in the order of baptised Catholic pupils; pupils of another recognised Christian denomination and children of a faith community other than Christian. Strand B is for all other children, in the order siblings and "*All other applicants who are not baptised Catholics prioritised by distance from the school.*"
16. The objector argues that strand B places should be allocated without reference to faith, that there should be no reference to baptised Catholics in the criteria and that children of the Catholic faith or any other faith are entitled to be considered within strand B but should not be given priority.
17. The school explains that when drawing up the criteria it was concerned to ensure that no more than 50 per cent of pupils would be allocated on the basis of faith and "*to meet the possible criticism that faith applicants might be given an added advantage. Arguably Clause B3 of the policy is weighted against baptised Catholics and should be deleted.*" The diocese agrees that the strand should not detail "*who are not baptised Catholics*".
18. Footnote 30 of the Code says "*Funding Agreements for entirely new Academies (i.e. not convertors from the maintained or independent sectors, or those sponsored Academies with a predecessor school) and Free Schools with a religious character provide that where the school is oversubscribed at least 50% of places are to be allocated without reference to faith.*" I agree with the parties that there should be no reference to faith in the criteria for strand B, those places should be open to all children regardless of faith and admitted in the priority order of the school's admission arrangements. The waiting list makes the same references and should also be addressed.
19. However, if there are places available, that is if 60 or fewer pupils apply, every child must be offered a place as required by paragraph 1.36 of the Code; "*As with other maintained schools, these schools are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available.*" The admission arrangements do not make this clear and therefore are in breach of the Code.
20. Similarly, the arrangements must make clear that all children whose statement of special educational needs names the school will be admitted, as required by paragraph 1.6 of the Code. It is not sufficient to give "*priority over all other in both strands*" as the school's admission arrangements state. The Code says "*All children whose statement of special educational needs (SEN) names the school **must** be admitted*".
21. The objector argues that the school requires a SIF for all pupils regardless of strand and this is not correct. The school and the diocese agree with this view.
22. The relevant paragraph of the Code is 2.4 "*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”.*

23. I agree with the parties that the use of the SIF for applicants for strand B does not comply with the Code.
24. A further area of agreement by the parties is that the school’s reference to ‘A child in public care/ looked after child’ was incorrect in the arrangements as shown on the website; in the arrangements now provided to me this has been corrected. However when I checked the website again on 17 July the arrangements were still labelled 2011/12 and were still showing the arrangements incorrectly. Also, as the school may not give more than 50 per cent of places on the grounds of faith it should be clear how that will be achieved when giving first priority to children looked after and previously looked after, for example by having such children as the first oversubscription priority before the operation of the two strands.
25. The admission arrangements, now retitled still refer to previous years in the accompanying notes.

Conclusion

26. The school has been undersubscribed since opening and it has had no need to use its oversubscription criteria. However, compliance with the Code is a legal requirement regardless of numbers of applicants. I find the school is in breach of the Code for the reasons given above.

Determination

27. 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 St Michael’s Catholic Secondary School, Cornwall.
28. 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 as quickly as possible.

Dated: 21 July 2014

Signed:

Schools Adjudicator: Miss Jill Pullen