



## **DETERMINATION**

**Case reference:** ADA2917

**Objector:** The London Borough of Redbridge

**Admission Authority:** The governing body of Trinity Catholic High School

**Date of decision:** 20 November 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 Trinity Catholic High School, Woodford Green, Essex.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that they 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 of the date of this determination.**

### **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 the London Borough of Redbridge (the objector) which is the local authority (LA) for the area in which the school is located, about the admission arrangements for September 2016 (the arrangements) for Trinity Catholic High School (the school), a voluntary aided (VA) Catholic school for children aged 11 to 18 in Woodford Green in Essex.

2. The objection concerns the supplementary information forms used by the school and the information which the school includes when publishing its admission arrangements.

### **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by the school's governing body which is the admission authority for the school. The objector submitted the objection to these determined arrangements on 19 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. I am also 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 School Admissions Code (the Code).

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

- a. the objector's email and form of objection dated 19 June 2015;
- b. the objector's email of 13 July 2015 detailing the objection concerning the school's arrangements;
- c. the school's response to the objection and supporting documents;
- d. the response of the Catholic Diocese of Brentwood (the diocese), which is the faith body for the school, to the objection;
- e. comments on the objection made by the Catholic Education Service (the CES);
- f. a copy of the determined arrangements as they appeared on the school's website on 7 July 2015 and as obtained through the council's website on 28 July 2015;
- g. a copy of the Priest's reference form (the PRF), the associated diocesan guidance for parents and that for priests provided by the diocese;
- h. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
- i. confirmation of when consultation on the arrangements last took place;
- j. a copy of the minutes of the meeting of the governing body at which the arrangements were determined, and
- k. the school's comments on matters of concern regarding the arrangements which I had raised.

### **The Objection**

7. The objection made on 19 June 2015 by the LA was to the admission arrangements of nine Catholic schools, of which three are secondary schools and six are primary schools. Each of the schools is located in the area of the LA and has the same religious body.

8. Since the objection was expressed in terms which were not specific to the schools individually, and since each of them is a separate admission authority,

the objector was asked to provide the detail for each school in order that there should be no doubt as to the objection in each case. The objector did so and this was circulated to each school in addition to the objection in the form in which it was originally expressed.

9. The clarification of the objection concerning the school's arrangements was set out in the following terms:

*"1. The admission authority failed to determine a priest's reference form that is in accordance with the requirements of the Code. The form used – which they say belongs to the Diocese and they have not determined – establishes parents' marital status by asking both parents to sign and provide their home addresses. It also asks parents to give the reasons they want a Catholic school. This is not included in the admission arrangements.*

*2. The arrangements fail to say how the information gathered on the priest's reference form on other parish activities will be used in determining their Catholicity. This is not included in the admission arrangements.*

*3. The guidance to priests on completing the form isn't considered part of the published admission arrangements and hasn't been made clear to parents. Again, the admission authority has failed to determine this and include it in the information published for parents.*

*4. The SIF used requires that parents provide proof of residence which has already been provided to the Local Authority. This is an unnecessary requirement and duplication.*

#### Parts of the Code breached

*Paragraph 2.4*

*Paragraph 1.9*

*Paragraphs 1.8 and 1.37"*

10. Although the LA did not say here which parts of the Code it believed were breached specifically in respect of the four parts of the objection relating only to the school, it had done so in the original form of objection concerning all nine schools. The first matter set out above was said to breach paragraph 2.4 of the Code, the second paragraph 1.9a) and the third was said to be a breach of both paragraph 1.8 and paragraph 1.37. No specific reference was made to the Code in respect of the fourth part of the objection in the original objection. The LA also said on the form of objection that the request contained in the PRF for information concerning any involvement in parish activities may also breach paragraph 1.9i) of the Code.

#### **Other Matters**

11. Having viewed the school's admission arrangements as a result of considering the objection, I was concerned that they contained further matters which may constitute breaches of the requirements in the Code. I wrote to the school seeking its comments on these matters, which were:

## **A. Concerning admissions to Year 7**

(i) the definition of practising Catholic given in the arrangements states that this is related to the “established practice” of the child. The phrase “established practice” is not defined in terms of the length of time involved and this may fail to meet the requirement of paragraph 1.8 of the Code that oversubscription criteria are clear and objective and that of paragraph 1.37 that admission authorities for schools with a religious character ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied;

(ii) children of other Christian traditions and of other faiths “*whose parents are in sympathy with the aims and ethos of the school*” are given priority within the arrangements. I was initially concerned that this stipulation might be a condition applied to the consideration of such applications and so in breach of paragraph 1.9a of the Code which forbids conditions from being placed on the consideration of applications. It also seemed to be incapable of being assessed objectively and thus to contravene paragraph 1.8 which requires that oversubscription criteria are reasonable, clear and objective;

(iii) the arrangements state that the waiting list will be maintained until the half-term of the autumn term. The requirement of paragraph 2.14 of the Code is that waiting lists are maintained until at least 31 December of each school year of admission; and

(iv) the arrangements do not state that all children whose statement of special educational needs or Education, Health and Care plan names the school will be admitted and it appeared to me that this may be a breach of paragraph 1.6 of the Code and that it made the arrangements unclear and so not compliant with paragraph 14.

I also sought clarification concerning the forms which are used by the school. The purpose and nature of supplementary information forms (SIFs) as part of admission arrangements are set down in paragraph 2.4 of the Code. The school had been asked to provide copies of all the forms which are used in connection with its admission arrangements and its responses had not included a document identified as a SIF. The objector had referred to the existence of a SIF in correspondence with the adjudicator and the school's admission arrangements which I accessed through the council's website on 28 July 2015 provided a link to a document which was referred to as a SIF and which is the PRF. I asked the school to confirm whether or not it employs a SIF for Y7 in addition to the PRF, and if so to provide a copy.

## **B. Concerning admissions to the sixth form (Year 12, (Y12))**

(i) although the school provided the admission arrangements for its sixth form for September 2016 when it responded to the objection, I had been unable to find them when I looked at the school's website on 7 July 2015. Paragraph 1.47 of the Code requires admission authorities to publish their arrangements on their website once they have been determined;

(ii) the school's arrangements refer to “*oversubscription (either to the sixth*

*form or to one or more of the courses on offer in the sixth form)*” as the reason for employing oversubscription criteria to allocate places. Oversubscription criteria are concerned with admission to the school, not with the course or courses of study which individuals can be offered. They may only be employed when there are more applicants than the stated number of places available for the relevant age group. In the case of admissions to Y12, this refers to the number of places made available to external applicants and not the cohort as a whole, or individual courses. If places in the sixth form for external candidates are not oversubscribed, all applicants who meet the academic entry requirements must be offered places at the school (paragraph 2.6 of the Code). This does not mean that they will necessarily be able to follow their chosen course of study and some may in consequence choose not to take up the places offered. I was concerned that the school’s arrangements were inconsistent with and in breach of these requirements;

(iii) the arrangements state as an oversubscription criterion that priority will be given to existing students of the school. Such students are already students at the school and their transfer to year 12 should have no bearing on the application of oversubscription criteria to external students. I was concerned that the arrangements may render the position unclear and fail to meet the requirements concerning the clarity of arrangements set out in paragraph 14 of the Code, and

(iv) concerning the application form used for sixth form admissions:

a. the school’s form is a SIF and must comply with the requirements of the Code concerning them, and so must ask only for additional information which has a direct bearing on decisions about oversubscription criteria (Code, paragraph 2.4). The form requests information concerning two parents, which appears to be contrary to this stipulation;

b. the form seeks a reference from a previous school, which appears to be contrary to the prohibition in paragraph 1.9g of the Code; and

c. applicants are required to provide a personal statement. This appeared to be contrary to the prohibition on seeking information not directly bearing on the application of oversubscription criteria set out above.

## **Background**

12. Trinity Catholic High School is a large non-selective secondary school located in Woodford Green in Essex. Its published admission number (PAN) for Year 7 (Y7) in September 2016 is 240. The school is designated under section 69(3) of the Act as a school with a Roman Catholic religious character.

13. The school was last inspected in March 2015, when it was judged by Ofsted to be outstanding.

14. The school’s admission arrangements say that a baptised Catholic is a person who has received baptism and who is therefore a member of the Catholic Church, but who is “non-practising”. They state that a practising Catholic is a “baptised person who is in full communion with the Catholic

Church” and that this status is conferred by a Priest. The arrangements for Y7 state that in the event of the available places being oversubscribed, priority will be given in the order:

1. Looked after and previously looked after children from Catholic families.
2. Children of practising Catholic families who live within nine named parishes, with priority given in the order in which the parishes are listed by the school.
3. (i) siblings from practising Catholic families of children on roll at the school who do not live within one of the named parishes;  
  
(ii) baptised Catholic applicants living in one of the nine parishes;  
  
(iii) applicants from practising Catholic families who live outside the nine parishes;  
  
(iv) baptised Catholic applicants living outside the nine parishes.
4. Children who are not baptised or practising Catholics in the following order:
  - (i) looked after and previously looked after children;
  - (ii) those of other Christian traditions whose parents are in sympathy with the aims and ethos of the school;
  - (iii) those of other faiths whose parents are in sympathy with the aims and ethos of the school
  - (iv) other applicants.

15. The arrangements provide suitable tie-break arrangements to distinguish between otherwise equally qualified applicants if there are insufficient remaining places in any of the above categories, and state that a waiting list will be maintained until the half-term of the autumn term. Concerning the status of practising Catholic they state that:

*“a priest will confer the status of practising Catholic, where a child has been baptised in accordance with the teachings of the Church and where compliance with the Sunday obligation is the established practice of the child and their family.”*

To be considered as either a practising or baptised Catholic, applicants are required to provide a completed PRF. Those seeking priority as a member of another Christian denomination or because they are a member of another faith are asked to return a separate form which, like the PRF, is a SIF. The school has told me in response to my request that it clarify for me its use of additional forms, that it does not employ a SIF. In fact, both the PRF and the “Other Christian traditions and Other Faiths Reference Form” are SIFs within the meaning of the Code. I understand what the school has said to mean that

it does not use a further form which is referred to as “the SIF” and which it has also told me is used by other Redbridge Catholic schools but not by itself.

16. The school’s admission arrangements for Y12 state that the school plans to *“admit a minimum of 200 students to Year 12 in the academic year commencing September 2016 and to make available a minimum of 20 places to applicants currently on roll at other schools”*.

Oversubscription criteria for Y12 places refer to oversubscription in relation to *“the sixth form as a whole or to one or more of the courses on offer”*, and are:

1. Looked after or previously looked after children from Catholic families who meet the school’s academic admission criteria.
2. Practising Catholics currently on roll at the school whose estimated GCSE grades indicate that they will meet the school’s academic entry requirements.
3. Other practising Catholics, with the same stipulation concerning estimated GCSE grades.
4. Baptised Catholics, with the same stipulation concerning estimated GCSE grades and for whom there are places remaining in their chosen courses. Tie breakers of higher predicted GCSE grades followed by distance from the applicant’s home to the school are provided.
5. Non-Catholic looked after or previously looked after children from Catholic families who fulfil the school’s academic entry requirements.
6. Other applicants, with the same stipulations as set out for baptised Catholics (above).
7. Applicants whose estimated GCSE grades indicate that they will meet the entry requirements for their chosen subjects but who are willing to accept a place on an alternative course.
8. Applicants whose estimated GCSE grades indicate they will meet the entry requirements for three out of four of their choices and who are willing to accept a place on an alternative course.
9. Applicants whose estimated GCSE grades indicate they will meet the entry requirements for two out of four of their choices and who are willing to accept places on alternative courses.

17. The application form provided for Y12 applications asks for details of both parents of the applicant and provides a proforma for a reference from the applicant’s current school which asks for details of attendance, punctuality, effort/application and whether the applicant has ever been the subject of any disciplinary matter or investigation, details of which are requested. The applicant is also asked to provide a personal statement which the form suggests might cover the applicant’s involvement in or contribution to school life, their academic interests, their out of school activities, career aspirations and what the applicant hopes to get out of sixth form life.

Applicants seeking priority on the grounds of their Catholic faith are asked to complete the PRF.

### **Consideration of Factors and Other Matters**

18. I shall set out firstly my consideration of the different elements of the objection, followed by that concerning the matters which I have raised with the school.

#### The Priest's reference form (PRF)

19. The school has taken the position that the PRF is a diocesan document *"for use by Priests in the Diocese as the only mechanism permitted to determine the question as to whether a particular child is from a practising Catholic family"*. The school appears to be of the view that it has no responsibility for the form, since this does not belong to the school but to the diocese, and has told me that the objections which have been made are accordingly not about the school's admission arrangements.

20. I have taken this last comment to imply that the school is of the belief that its admission arrangements are its oversubscription criteria, or as it calls them, its "admissions criteria", and the associated notes and definitions. I note that in response to a request for a copy of the determined admission arrangements, the school provided oversubscription criteria together with a form to be used by "other faith" applicants, which it says is not a diocesan document, but did not provide the PRF.

21. Paragraph 1.38 of the Code says that schools with a religious character:

*"must have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based admission arrangements, to the extent that this guidance complies with the mandatory provisions and guidelines of this Code."*

The Code therefore makes it clear that diocesan guidance to admission authorities may not comply with the Code, which emphasises what is set out in paragraph 5 of the Code, which says:

*"It is the responsibility of admission authorities to ensure that admission arrangements are compliant with this Code."*

22. Whatever the guidance of the diocese concerning the form which the school uses as part of its admission arrangements, the responsibility for its compliance with the Code rests with the school itself, since it is the admission authority.

23. The Code gives the definition of a school's admission arrangements as being:

*"...the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered"*.



24. It is plain that places at the school are offered as a priority to practising Catholics. It is also plain, as the school has said, that the only means the it has for deciding whether a particular child's application is to be prioritised on this basis is the PRF. This evidently therefore constitutes "*a device which is used to determine whether a school place is offered*", and as such is part of the school's admission arrangements.

25. The diocese has also stated to me its view that the PRF and the guidance which it gives to Priests on its completion are "diocesan property" and that they therefore do not have to comply with the Code. It does not matter whether the PRF is designed or in some way authorised by another body, only whether it is used by an admission authority to determine the allocation of school places. If it does this, the PRF constitutes part of the school's admission arrangements. It must therefore meet the requirements of the Code both generally and as they apply to SIFs specifically.

26. The CES was asked by the diocese to reply on its behalf to a request for copies of the PRF and its guidance to schools and to priests concerning the completion of the PRF. It provided a link to the PRF and the associated guidance for priests and parents, but did not provide any guidance which the diocese gives to schools concerning their faith-based oversubscription criteria and no such document can be found on the diocese's own website. I have to conclude that no such guidance is provided.

27. The CES offered its own comments on the status of the PRF. It said that a doctor's letter which gives evidence of exceptional medical need is not part of a school's admission arrangements and that a priest's reference is comparable to such a letter and therefore also not part of the admission arrangements.

28. However, if a school gives priority in its arrangements on the basis of a social or medical need, it is required by paragraph 1.16 of the Code to "*define this need and give clear details about what supporting evidence will be required (eg a letter from a doctor or social worker) and then make consistent decisions based on the evidence provided*".

29. The Code requires the basis on which priority is given to be clear, whether it is a social or medical need or on the basis of faith. If the evidence which is needed by the admission authority that a child satisfies the criterion can be gathered using a proforma, such a form is subject to the provisions of the Code as I have explained above. By their nature, medical and social need are individual in nature, and the Code sanctions evidence of the child's need being provided in the form of a letter from the relevant professional for that reason.

30. The school gives priority to practising Catholics and is required under paragraph 1.37 of the Code to make clear how this criterion is satisfied. I shall return to this point to consider the extent to which it has met this requirement below. The school gathers the evidence that children satisfy this criterion using its PRF. This is an appropriate approach in the case of a faith-based oversubscription criterion since, if it is clear how the criterion is to be satisfied as it should be, this will be in the same way for each child and not on an

individual basis as in the case of medical or social need. So I do not accept that the argument that the CES makes has any relevance to the issue of whether the PRF is part of the school's arrangements. The school uses a form to gather information which is used to assess applications against the requirements of its oversubscription criteria, and this form therefore is part of its admission arrangements.

31. The objector has complained that the PRF breaches the Code by asking for the details of two parents and in asking for a reason why they wish their child to attend a Catholic school. Paragraph 2.4 of the Code says that admission authorities "...**must** only use supplementary forms that request additional information that has a direct bearing on decisions about oversubscription criteria...", and paragraph 2.4e) specifically forbids the use of forms that ask both parents to sign. Information about two parents, or their reason for wanting a place at the school, is not needed to process an application for a place at the school but the PRF asks for both and for two parental signatures. It is in breach of paragraph 2.4 in each of these respects, and I uphold this part of the objection.

32. Paragraph 1.47 of the Code requires the publication by admission authorities of admission arrangements and therefore of any form which is part of those arrangements. It is clear from a statement made by the school to me that it has not asked the council to publish the PRF, and from my own viewing of the contents of the school's website on 7 July 2015, that this publication does not take place as far as the PRF is concerned. It is the case that this document is publicly available from the diocesan website, but that is not the same thing as publishing it as part of the school's admission arrangements. This failure is a breach of paragraph 1.47, and I uphold this part of the objection.

33. Paragraph 1.9a) of the Code says:

*"It is for admission authorities to formulate their admission arrangements, but they **must not**:*

*a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements."*

The objector believes that the arrangements fail to comply with this requirement because they do not state how Catholicity is determined using the information which is provided by applicants who complete the PRF. The arrangements give priority when the school is oversubscribed to practising Catholics and the PRF is used to decide whether an applicant is a practising Catholic. The arrangements may fail to say how a Priest decides that a family are practising Catholics, and I have raised this with the school and will set out below my consideration of their response to me on this point. However, the school uses the fact that applicants are practising Catholics to prioritise applications and its oversubscription criteria say so. I do not consider that there is a breach of paragraph 1.9a) of the Code as a result. However, the objector has complained about the inclusion in the PRF of a request that parents indicate their involvement or that of their child in parish activities.

Such information has no bearing on the application of any of the school's oversubscription criteria and so may not be asked for as part of a SIF. The fact that the PRF (which – despite the school's assertions to the contrary – is a SIF within the meaning of the Code) does so is therefore a further breach of paragraph 2.4, and I uphold this part of the objection but on these grounds rather than those put forward by the objector.

34. The PRF allows applicants to indicate whether either they or the child for whom a place is sought participates in parish activities and the LA said in making the objection that this may breach paragraph 1.9i of the Code which forbids admission authorities from giving priority to children based on their own or their parents' hobbies or activities, but that *“schools which have been designated as having a religious character may take account of religious activities, as laid out by the body or person representing the religion or religious denomination.”* The effect of this is that a faith school may only take into account religious activities which the faith body has laid out. To the extent that “parish activities” are laid out by virtue of the wording of the PRF, which has been provided by the diocese as the faith body for the school, I do not think that this provision is breached. However, it is not clear from the school's admission arrangements or from the form what use would be made of an involvement in parish activities in considering the application. Since the purpose of the PRF is to determine whether a child is a practising Catholic, which forms the basis of oversubscription criteria used by the school, it is therefore unclear how these faith-based criteria are satisfied, which is a breach of paragraph 1.37 of the Code and also paragraph 1.8 which requires oversubscription criteria to be clear. As a result, the arrangements as a whole are not clear, which is a requirement of paragraph 14 of the Code.

#### Guidance to Priests

35. The school's arrangements contain a section following the oversubscription criteria which provides definitions of terms which are used within them. In the definition given for the term “practising Catholic”, the arrangements state that a Priest will use the information provided by an applicant on the PRF to *“confer the status of practising Catholic”* and the guidance to Priests which the diocese provides says that *“For the purposes of admission to school, the definition to be applied by all priests is set out in this guidance”*. It is therefore clear to me that this aspect of the guidance to Priests is an essential part of the process of applying the school's oversubscription criteria, and for the reasons set out above concerning the PRF it is also part of the school's admission arrangements.

36. While the guidance is available to enquirers through the diocesan website, the school does not publish any part of it in its admission arrangements, and it is required by paragraph 1.47 of the Code to publish its admission arrangements in their entirety. As a result it is not possible to read the published arrangements and have a clear understanding of how the school's faith-based oversubscription criteria will reasonably be satisfied, which is a requirement of paragraph 1.37 of the Code. This renders the oversubscription criteria unclear and in breach of paragraph 1.8 of the Code. I therefore uphold this part of the objection.

### Supplementary Information Form (SIF)

37. The final part of the objection concerns another SIF used by the school. When I looked at the school's website there was no document with such a title, and the arrangements do not refer to any such form. When accessed via the LA's website, there is a link within the school's arrangements to a "SIF", which is a link to the PRF, but to no other document. The school does use a form which it asks those who seek to have their application for a place at the school prioritised on the grounds that they are members of another Christian denomination or of another faith to complete. This form is a SIF and the school asks those completing it to provide proof of their place of residence in line with paragraph 2.5 of the Code. However for the majority of applicants, this will already have been provided to the LA when the applicant completed the common application form (CAF). Neighbouring authorities do not all obtain proof of residence through their CAF, but paragraph 2.4 of the Code says that supplementary information forms may only seek relevant additional information to that already provided through the CAF, and the school's "Other Christian Traditions and Other Faith Applicants Reference Form" breaches this requirement for the majority of those who will apply for a place at the school. I therefore uphold this part of the objection.

I now move from those matters which were included in the objection, to those which I have raised with the school.

### Practising Catholic

38. The PRF is used by the Priest, in the light of the guidance issued by the diocese, to tell the school whether or not an applicant is a practising Catholic. The arrangements state that this will be *"where a child has been baptised in accordance with the teachings of the Church, and where compliance with the the Sunday obligation is the established practice of the child, and their family."*

39. The diocesan guidance to Priests states that it wishes to establish a test of whether a person is a practising Catholic which is *"capable of being observed objectively"* and of *"being applied consistently by many different priests"* and which is *"susceptible to proof by reasonable evidence based on observation"*. It is clear in stating that observation of the Sunday obligation requires attendance at Mass on Sundays and *"holidays of obligation"* (sic). However, it has the following to say about the length of this observation which is required to be considered a practising Catholic:

*"Priests cannot judge whether a person's pattern of attendance at Mass corresponds to that required by the Church unless it has continued for a substantial period of time. Priests should enquire very carefully into the circumstances where the pattern of practice has not continued over several years. A person is certainly not to be regarded as a practising Catholic if that practice has started recently solely in order to fulfil the requirement of entry into a Catholic school."*

40. Neither of the words "substantial" or "several" is given any definition, and each is therefore capable of being given a different interpretation by different individuals. My view of this statement is therefore that it does not meet the

diocese's intention of providing an objective test which is capable of consistent application and proof by reasonable observation. It is simply not clear what length of practice is required.

41. The school has responded to my concern that the term "established practice" which appears on the face of the admission arrangements and again in the definition of practising Catholic contained within them is nowhere defined within the arrangements by explaining the reason why practice should be "established". The school also referred again to the desire that a short period of practice "*for the purpose of qualifying for a Priest Reference in support of an application for Catholic schooling*" should not be accepted. It goes on to say that "*this judgement will of course reside with the Priest*".

42. In the case of this school, significant priority within the oversubscription criteria is given to those who are "*practising Catholics*", which in turn depends upon their "*established practice*". The Code requires that oversubscription criteria are clear and objective (paragraph 1.8) and that parents can easily understand how any faith-based criteria will be satisfied (paragraph 1.37). The school has offered to remove the phrase "established practice" from its arrangements. However, this would in my view do nothing to improve their compliance with the Code. It is not the presence of the phrase itself but the lack of clarity as to the meaning which is attached to it within the arrangements as a whole, which is the source of their failure to be compliant. The arrangements are not clear as to what is meant by "practising Catholic" because there is no clear and objective definition of "established practice". This means that parents cannot understand whether their family's practice would lead them to be considered practising Catholics and so have any application which they might make for a place at the school given the priority afforded to this group. For these reasons, the arrangements fail to comply with paragraphs 1.8 and 1.37 of the Code.

43. The school's arrangements give priority to looked after and previously looked after children "*from Catholic families*". The arrangements themselves provide no definition of a Catholic family and so are not clear as to what is meant although the diocesan guidance to Priests says that "*a family is normally to be regarded as a practising Catholic family where at least one parent is a practising Catholic and is doing his or her best to hand on the faith to his or her children*". Paragraph 1.37 of the Code also makes it clear that schools with a religious character must give priority to looked after and previously looked after children "*of the faith*" above other children of the faith. Whether a child's foster or adoptive family are themselves baptised or practising Catholics is not of relevance, only whether the child is of the faith for which the school is designated, and so in the case of the school whether the child is a baptised Catholic. If they are, and if the school gives priority to Catholic children, such a child must have first priority irrespective of the religious practice of the family with whom they live. Equally, a looked after or previously looked after child who is themselves not a baptised Catholic may only have priority over Catholic children if the school has decided that all looked after and previously looked after children are to have first priority in its arrangements. The school's practice of giving priority to looked after and previously looked after children on the basis of the Catholicity of the family is a further breach of the requirements set out in paragraph 1.37.

### Sympathy with the aims and ethos

44. The school has told me that the presence of the phrase “*whose parents are in sympathy with the aims and ethos of the school and whose application is supported by a Minister of Religion*” in two of the oversubscription criteria which it uses “*has been included for clarity for the applicants and does not represent a condition*”.

45. I accept that the school does not place a general condition on the consideration of applications by including this phrase in some of its oversubscription criteria. However, I do not see how sympathy with aims and ethos, as part of these oversubscription criteria, could be assessed objectively. It is also not clear on what basis a minister of religion would support the application. Clarity and objectiveness are requirements placed on all oversubscription criteria by paragraph 1.8 of the Code. Again, the school has offered to remove reference to support for the school’s aims and ethos from its arrangements, but as these have been determined they are in breach of paragraph 1.8.

### Waiting list

46. The school has told me that it will amend the statement in its arrangements so that it complies with the stipulation in paragraph 2.14 of the Code that waiting lists are maintained until at least 31 December of each school year of admission. However, as determined, the arrangements state that a waiting list is kept only until the half term of the autumn term, and as a result they fail to comply with what the Code requires.

### Children with a statement of special educational needs or education, health and care plan

47. The arrangements contain the following:

#### ***“Stated or Education, Health and Care Plan Children***

*The Governors recognise that the law provides an entirely separate process for the admission of such children, and they will work with the various agencies in the processing of such applications.”*

48. Paragraph 1.6 of the Code says:

*“The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied. All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school **must** be admitted.”*

The school has told me that it is open to making a change to the wording of its arrangements, but as determined they do not reflect the mandatory requirements contained in paragraph 1.6 of the Code, which means that the arrangements are not clear, as they are required to be by paragraph 14.

### Admissions to the school’s sixth form (Y12)

49. The school has expressed itself grateful for all of the points which I have raised concerning its sixth form admission arrangements and has said that each will be acted upon. As determined, however, the arrangements fail to comply with the Code:

(i) at paragraph 2.6 by not applying oversubscription criteria solely in the event of oversubscription of the number of places available to external candidates by students who meet the school's sixth form academic entry requirements,

(ii) at paragraph 14 by not recognising the position of existing students of the school and so making the arrangements unclear;

(iii) at paragraph 2.4 by employing a SIF which asks for the details of two parents and which asks for information which has no bearing on decisions about oversubscription criteria, and

(iv) at paragraph 1.9g by taking into account a reference from a previous school.

50. The school also failed to publish admission arrangements for its sixth form on its website as it is required to do by paragraph 1.47 of the Code.

## **Conclusion**

51. I have explained in the preceding paragraphs my reasons for upholding each part of the objection. The arrangements do not comply with the Code by:

(i) not including and publishing either the PRF or that part of the diocesan guidance to Priests which relates to its completion as part of the school's admission arrangements, and also failing to make clear the meaning of oversubscription criteria which it employs or how its faith-based criteria can be satisfied, and

(ii) using SIFs which ask for information which has already been provided by applicants, which is not needed for the application of oversubscription criteria within the schools arrangements, or which is not permitted.

52. I have also considered the school's admission arrangements as a whole, and for the reasons which I have explained they do not comply with the requirements which are set out in the Code by:

(i) failing to set out clearly how applicants who seek to have their application given priority on the grounds that they are a practising Catholic can reasonably satisfy this criterion;

(ii) including oversubscription criteria which cannot be assessed objectively, and

(iii) not including statements concerning a waiting list or the admission of children whose statement of special educational need or EHC plan names the school that conform to those that are required.

53. I have also explained why the school's admission arrangements for its

sixth form are in breach of the requirements which the Code makes concerning them.

### **Determination**

54. 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 Trinity Catholic High School, Woodford Green, Essex.

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

56. 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 this determination.

Dated: 20 November 2015

Signed:

Schools Adjudicator: Dr Bryan Slater