



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

- Case reference:** ADA3097/3104/3105/3131/3132/3146/3147/3148/  
3186/3187/3188/3189/3190/3191/3192/3225/3230/  
3233
- Objectors:** A parent, representatives of a school and of a  
church, and 15 members of the public
- Admission Authority:** The Governing Body of St Peter's Catholic  
School, Solihull
- Date of decision:** 28 June 2016

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements for September 2017 determined by The Governing Body of St Peter's Catholic School, Solihull.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), 18 objections has been referred to the adjudicator by a parent, a representative of a school, a representative of a church and 15 members of the public about the admission arrangements for September 2017(the arrangements) for St Peter's Catholic School, a voluntary aided Catholic non-selective mixed secondary school for pupils aged 11 to 19 in the local authority area of Solihull and in the archdiocese of Birmingham, which is the religious authority for the school. The objections are to the removal from the arrangements of designated parishes, one of which has previously given priority to applications from families' resident there; and to the consultation process concerning this change.

### **The parties**

2. The parties in this case are as follows:
  - a. the governing body (the admission authority) of St Peter's Catholic School, Solihull (the school);
  - b. a parent, a representative of a school, a representative of a church and 15 others who have asked to have their identities withheld; (the 15 objectors). References in this determination to "the objectors" are to all of the objectors;

- c. Solihull Metropolitan Council, the local authority (the LA); and
- d. the Archdiocese of Birmingham (the diocese).

### **Jurisdiction**

- 3. The arrangements were determined by the governing body, which is the admission authority for the school, on 26 February 2016. The objectors submitted their objections to these determined arrangements on dates between 21 April and 19 May 2016. Fifteen of the objectors have asked to have their identities kept from the other parties and have met the requirement of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations by providing details of their names and addresses to me. Although one objection was received after 15 May, the deadline for objections to arrangements for September 2017, it raises no issues additional to those in the objections previously received and I have decided to consider it using my power under section 88I of the Act to consider arrangements which come to my attention. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction. I am similarly satisfied that it is within my jurisdiction under section 88I to consider the case which came to my attention after the deadline for the submission of objections.

### **Procedure**

- 4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
- 5. The documents I have considered in reaching my decision include:
  - a. the objectors' forms of objection;
  - b. the admission authority's response to the objections and supporting documents, and replies to my further enquiries;
  - c. the comments of the LA on the objections and supporting documents, and replies to my further enquiries;
  - d. the LA's composite prospectus for parents seeking admission to schools in the area;
  - e. comments on the objections and supporting documentation submitted by the diocese and replies to my further enquiries;
  - f. maps of the area identifying the locations of relevant schools, local authority areas and parish boundaries;
  - g. copies of the minutes of meetings on 18 December 2014, 16 January 2015 and 22 January 2016 at which governors of the school discussed the proposed changes to the arrangements and responses to the consultation;

- h. a copy of the minutes of the meeting on 26 February 2016 at which the governing body of the school determined the arrangements for September 2017;
- i. a copy of the determined arrangements for September 2016 (the 2016 arrangements); and
- j. a copy of the determined arrangements for September 2017 (the 2017 arrangements).

I have also consulted the websites of the school and its named feeder schools, the LA and the diocese.

### **The Objections**

6. All 18 objections concern a change in the school's arrangements for 2017. This change, while retaining previously named feeder schools, has removed an additional priority previously given to children living in named or "*designated*" parishes. While the area formed by the parishes was not named as a catchment area, I am satisfied that it did indeed form a catchment area for the purposes of paragraph 1.14 of the Code. Fifteen of the objectors contend that this change reduces opportunities to be allocated places at the school for children attending St Thomas More Primary School, which is not a named feeder school but which is situated in a previously "*designated*" parish. Although not all the objections make specific reference to the Code, I shall consider these objections against paragraphs 1.14 and 1.15 concerning feeder schools and catchment areas, and the general requirements of paragraphs 1.4 and 1.8 concerning reasonableness and clarity both in arrangements generally and in oversubscription criteria specifically. Of the 15 objections, 12 contend that the consultation process that resulted in the change to the school's arrangements for 2017 did not meet the requirements set out in paragraphs 1.43-1.45 of the Code. Specifically, several objections mention the "*short notice*" given of the change, while another contends that the minimum period for consultation was not observed and further contends that paragraph 1.44f) of the Code was breached as the admission authority did not consult the "*body or person representing the religion or religious denomination.*" Three objections referred to perceived shortcomings in the consultation process only, and made no explicit mention of the removal of the "*designated parishes*" criterion.

### **Background**

7. The school, which is a non-selective voluntary aided Catholic school, has more than 1200 boys and girls between the ages of 11 and 19 on roll. It is a specialist science college and was judged outstanding in all aspects when last inspected by Ofsted in November 2014. It is a popular, oversubscribed school; there were 579 applications in total for the 205 places available for 11 year-olds in September 2016, of which 224 were first preferences. Pressure on places has increased in recent years. Although the nature and sequencing of the oversubscription

criteria has not always been the same as those for 2017 listed below, the greatest distance between the home and the school for the last applicant allocated a place has decreased year by year: in 2013, it was 4.151 miles; in 2014, it was 3.087 miles; and in 2015, it was 2.439 miles.

8. For entry to the school in September 2017, the published admission number (PAN) is 205. If the number of applications exceeds this number, after places have been allocated to children with a statement of special educational needs (SEN) or an Education, Health and Care (EHC) plan that names the school, there are nine oversubscription criteria, as detailed below. Within each criterion, priority is given to those with a sibling in the school at the time of admission; if there is then oversubscription within a criterion, priority is given to children living closest to the school, determined by the LA's computerised system of measurement. In the event of there being more than one candidate for a final place, either a random choice is made using the LA's computerised system or, if siblings from a multiple birth are involved, the admission authority may offer one or more places above the PAN, at its discretion.
9. The oversubscription criteria in the 2017 arrangements are, in summary:
  1. baptised Catholic looked after or previously looked after children;
  2. baptised Catholic children who currently attend a named Catholic feeder school;
  3. baptised Catholic children of permanent staff appointed two or more years before the date of the application, or of a member of staff recruited to fill a vacant post for which there is a demonstrable skill shortage;
  4. other baptised Catholic children;
  5. non-Catholic looked after or previously looked after children;
  6. non-Catholic children who currently attend a named Catholic feeder school;
  7. non-Catholic children of staff where the requirements of criterion 3 above are met;
  8. other non-Catholic children.
10. Catholic applicants are required to provide written proof of baptism and parents making an application on behalf of a Catholic child must complete a simple supplementary information form (SIF) as well as the LA's common application form (CAF). The school's admissions policy follows almost exactly current diocesan guidance as exemplified by its model policy and SIF. The only departure from the diocesan policy is

criterion 3 in the above list. In the diocesan model, there is no criterion that references teachers' children, but instead one that prioritises baptised Catholic children who live in a feeder school parish area. A similar criterion was included in the school's previous arrangements, and its removal from the 2017 arrangements is the issue that has resulted in the objections here considered.

11. Five Catholic feeder primary schools are named in the school's arrangements. These are: St Augustine's (PAN 30), which is adjacent to the school; Our Lady of the Wayside (PAN 60), which is about 1.7 miles from the school; Our Lady of Compassion (PAN 45), which is about 2.8 miles from the school; St George & St Teresa (PAN 30), which is about 3 miles from the school; and St Andrew's (PAN 30), which is about 3.4 miles from the school. The combined PANs of the named feeder schools thus total 195, potentially leaving relatively few places for applicants not attending one of these schools.
12. The objections have been made with reference to children attending St Thomas More Catholic primary school. While this school was not a feeder primary school, children who lived in the St Thomas More parish and attended St Thomas More Catholic Primary School received a degree of priority under the "*designated parish*" criterion which has been removed from the school's 2017 arrangements. The priority had arisen by virtue of St Thomas More Catholic primary being within the parish of St Thomas More, a parish in which one of the named feeder schools, St Andrew's, is also located. St Thomas More Catholic primary school, which has a PAN of 45, is about 4.2 miles from the school and is in a different LA area. It is therefore further from the school than any of the named feeder schools and has not been previously named as a feeder school in the school's arrangements; were it to be added to the list of named feeder schools, the combined PANs of these schools would exceed the school's PAN by some 35 places.

### **Consideration of Factors**

13. I shall begin my consideration of the objections by describing the process by which the admission authority reached its decision to propose a change in the 2017 arrangements. The school has supplied minutes of the meeting of the pupil support and admissions committee on 18 December 2014, at which the pattern of applications for admission in September 2015 was analysed. These showed that, of the potential 195 applications from named feeder schools, 173 had been submitted, a high proportion (almost 89 per cent of potential applications). Under the "*designated parish*" criterion included in the 2016 arrangements, there were 71 applications, 17 of which were siblings. "*Serious concerns*" were raised regarding the operation and effect of this criterion, discussed further at a subsequent meeting of the committee on 16 January 2015, attended by the diocesan admissions and governance officer. It was noted that in the parish area of St Thomas More there are two Catholic primary schools, St Thomas More and St Andrew's; while the latter is in Solihull LA and is a named feeder

school for St Peter's, St Thomas More is in the Birmingham LA area and is a named feeder school for both John Henry Newman Catholic College in Solihull LA and Archbishop Ilesley Catholic School in Birmingham LA<sup>1</sup>. As the parish of St Thomas More straddles the two LAs, the committee felt that the 2016 "*designated parish*" criterion had two potentially undesirable outcomes: (1) that a significant number of children residing in the Birmingham LA area were being allocated places at the school ahead of children residing in Solihull LA, some of whom had siblings at the school and were living closer to it than some successful applicants from St Thomas More Primary School; and (2) that the school was admitting Catholic children from Birmingham LA at the expense of both the John Henry Newman and Archbishop Ilesley schools, thus having a potentially adverse effect on the intake numbers at those schools.

14. The diocese's response to these objections explains that "*historically, this had not been an issue as all Catholic applicants ... were able to secure a place in the school. However, over the previous two years, demand on places at St Peter's from Catholic applicants had increased and the school had not been able to accommodate all Catholic applicants.*" A full discussion, involving the diocesan admissions and governance officer, took place at the previously mentioned committee meeting on 16 January 2015 and it was decided to consult on changing the arrangements for 2017 by removing the "*designated parish*" criterion. Applicants who would have been considered against this criterion would in future be considered against the "*other Catholic children*" criterion, with places allocated according to a distance measurement after priority had been given, as with other criteria, to those with siblings currently attending the school.
15. The admission authority's response to the objections shows that, in an email of 9 June 2015, it had sought guidance from the LA regarding timescales and deadlines for consulting on arrangements; a reply the following day, copied to the diocese, pointed out changes in the revised Code of December 2014, meaning that the consultation must run for a minimum of six weeks between 1 October and 31 January and that final admission arrangements must be determined by 28 February in the year before the year of admission (Code, paragraphs 1.43 and 1.46). A further email exchange in late July concerned which of the admission authority, the LA and the diocese would be informing whom regarding the proposed changes to the 2017 arrangements. On 10 August 2015, the LA told the school that it would, on its behalf, "*send consultation documents by email to our neighbouring local authorities, all ... primary and secondary schools in Solihull and I will publish a notice in the local press.*"

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<sup>1</sup> St Thomas More primary school is located about two miles from Archbishop Ilesley Catholic School and just under three miles from John Henry Newman Catholic College, both distances considerably less than to St Peter's, which is more than four miles distant, as noted above.

16. The school also publicised the consultation: its newsletter for October/November 2016 briefly outlined the envisaged change and indicated that the proposed arrangements were available to view in full on its website from 15 October 2015, together with an invitation to send comments to the clerk to the governing body. An email dated 10 December from the school to the headteachers and chairs of governors at John Henry Newman Catholic College and Archbishop Ilsey School and St Thomas More Primary School again drew this information to their attention and asked for it to be communicated to parents. In addition to the emails and press notice mentioned in the previous paragraph, a screenshot from the LA's website shows that the proposed new arrangements for the school, along with consultation documents relating to four other schools in the LA, had been displayed with a clear invitation for anyone to submit comments by 31 January 2016. The LA stated in a letter of 11 May 2016 that it "*believes that the consultation was carried out correctly and in accordance with the ... Code*". I have seen copies of all the emails, together with the press notice and the newsletter mentioned here, and have no reason to doubt that the Code's requirements concerning the timing and distribution of information were met.
17. For its part, the diocese reports that the "*consideration given to the responses [to the consultation] was measured and balanced. All responses were considered in detail and there was much sympathy with many of the comments made by parents.*" A minute of the committee meeting on 22 January 2016, at which responses to the consultation were considered, contains full details of all concerns raised and of the governors' discussions around each matter; the minute shows that all issues were seriously debated and that none was dismissed out of hand. It is perhaps unfortunate that this meeting was held before the end-date of the consultation period published on the LA's website, but nonetheless the required six-week period had elapsed since notices were first issued in respect of this school's proposed change. Forty-two objections covering a wide range of concerns were considered at this meeting and I do not believe that any materially different issues could have been raised in later submissions, or that the decision taken by members of the committee would have been any different a few days later.
18. The contention in one objection that "*The minimum 8 week consultation period specified in section 1.43 of the [C]ode was not followed*" is founded on an erroneous reading of the Code: in the revised Code of December 2014, the eight week period was reduced to six weeks for admission arrangements determined in 2016 for entry in September 2017 and thereafter. Despite several other objections contending that "*we were not given enough time to consider the changes*" I find that the admission authority sought guidance on, and followed the requirements of, the Code concerning consultation on changes to admission arrangements, and so I do not uphold this aspect of the objections to the consultation process.

19. With regard to the specific objection from a representative of a local church that the consultation contravened paragraph 1.44f) of the Code by not consulting him as “*a person representing the religion or religious denomination*” for a faith school, it is clear that the “*body or person*” with whom the admission authority had to consult was the representative of the diocese, and not a local priest. It is also clear from the detail I have given in the preceding paragraphs that the diocese was fully involved in the consultation and in discussions around any proposed and actual changes. I therefore do not uphold this aspect of the objection to the consultation.
20. I move now to consider the issue of access to the school for applications on behalf of children attending St Thomas More Catholic primary school. As part of its preliminary considerations of the proposed change to the arrangements, a thorough exercise was carried out by the pupil support and admissions committee in which applications received for entry to the school in September 2016 were ranked twice over, first according to the oversubscription criteria then in place (that is, including the “*designated parishes*” criterion) and second, according to the changed criteria proposed in the 2017 arrangements (that is, with named feeder schools as before but no additional “*designated parishes*” criterion). This showed that, under the current (2016) arrangements, 15 Catholic siblings would be denied places at the school whereas, were the proposed amended arrangements to be adopted, all Catholic siblings would be allocated places. It was decided, partly on this basis but also having duly considered formal responses to the consultation and other factors including historic admissions data, that the proposed amendment to the arrangements would be fair not only to Catholic siblings but also to Catholic applicants without siblings living close to the school. The change would therefore meet the admission authority’s stated rationale, which was “*to keep families together and to cater for local children.*”
21. In connection with that aim, the diocese has confirmed that there have been Catholic children living closer to St Peter’s than children attending St Thomas More school who have not been able to secure places at St Peter’s. This is because there are Catholic primary schools not named as feeder schools for St Peter’s, nor in a former “*designated parish*”, but which are geographically closer to St Peter’s than is St Thomas More school; in recent years, as the pressure on places has increased, it has been mostly siblings from one of those nearby schools who have been refused places at St Peter’s.
22. One of the most significant factors that I have had to consider is that the school stated, in its response to the objections, supported by the LA and the diocese, that St Thomas More had never been a named feeder school, despite many of the objectors referring to it as such. However, St Thomas More School has been, and remains, a named feeder school for two other Catholic secondary schools, one in Solihull LA and one in Birmingham LA, from which it is almost equidistantly situated, and to both of which it is closer than to St Peter’s, as noted above.

23. I accept this response as factually accurate, but can understand that, when in the school's arrangements there was a system of "*designated parishes*", in one of which St Thomas More is located, together with named feeder schools, it might well have appeared to parents that children attending St Thomas More could expect the same level of priority in their applications as those attending one of the named feeder schools. I agree that this was based on a misconception, albeit an understandable one, given patterns of allocation in recent years. This misunderstanding may have been compounded by the fact that St Thomas More is the only Catholic primary school in one of the previously "*designated*" parishes not to be a named feeder school. While understandable, the misconception illustrates a certain lack of clarity in the previous arrangements which was rectified in the changed arrangements for 2017 by removing the mismatch between parishes and named feeder schools that had clearly caused some confusion among applicants for places at St Peter's. I note moreover that the committee meeting of 22 January 2016, previously mentioned, discussed the possible need to amend the proposed policy to protect St Thomas More siblings, given expectations among applicants. However, an analysis of applications showed that, under the new arrangements, all Catholic siblings would be "*protected*". This further illustrates the care and seriousness that underpinned the committee's deliberations.
24. For its part, the LA had no objection to the proposed change and considered it compliant with the Code. Moreover, the LA stated in its response to the objections that it believes "*the change provides clarity ... The result of the change means that all children who do not attend a feeder school are given priority in straight line distance order, with priority to those with a sibling attending [the school] at the time of admission.*" The LA's response is supportive of the reasoning behind the change, of the improved clarity it establishes, and of the fairness of the outcomes for the school's immediate community. In brief, the change removes a mismatch between catchment areas and feeder schools that had a potentially adverse effect on Catholic families living in the immediate community of the school.
25. I take the view that, when considered against paragraph 1.14 in the Code, which says that catchment areas must be "*reasonable*", the 2017 arrangements meet the test of reasonableness. I consider the naming of feeder schools in the arrangements to be "*transparent*" and "*made on reasonable grounds*" as required by paragraph 1.15 in the Code, since to name those schools meets the admission authority's stated aims of "*keep[ing] families together and ... cater[ing] for local children.*" Furthermore I believe that, when considered against paragraph 14 in the Code, which says of admission arrangements overall that "*parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*" and paragraph 1.8, which states that oversubscription criteria "*must be reasonable, clear, objective, procedurally fair ...*" the 2017 arrangements meet these requirements better than those for 2016, as is shown by the misunderstandings about feeder schools revealed by many of the

objections. I therefore do not uphold the objections to the removal of designated parishes from the 2017 arrangements.

### **Summary of Findings**

26. After considering the points raised by the objectors and the responses from the admission authority, the LA and the diocese my decision is that I do not uphold the objections to the change in the school's 2017 arrangements, or to the consultation process leading to that change. I have reached this decision because:

- the objection to the removal of St Thomas More as a feeder school for St Peter's is not based on fact, as it never has been named as a feeder school;
- St Thomas More is a named feeder school for two other secondary schools and so parents have priority in the allocation of places at those schools;
- the removal of "*designated parishes*" from the arrangements improves clarity and aids ease of understanding of how places will be allocated at St Peter's;
- the change is reasonable, objective and procedurally fair in that it improves opportunities for Catholic families living near to St Peter's to be allocated places for their children in their local school;
- the consultation concerning the proposed change was properly conducted and involved all necessary parties; all responses were thoroughly considered before any decision was taken.

### **Determination**

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements determined by the governing body of St Peter's Catholic School, Solihull.

Dated: 28 June 2016

Signed:

Schools Adjudicator: Andrew Bennett