



## DETERMINATION

**Case reference:** ADA3249

**Referrer:** A parent

**Admission Authority:** The academy trust for Saint Ambrose College, Altrincham, Trafford.

**Date of decision:** 7 December 2016

### Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998 I have considered the admission arrangements for September 2017 determined by the Saint Ambrose College Edmund Rice Academy Trust for Saint Ambrose College and find there are matters which do not conform with the requirements relating to admission arrangements as 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 a deadline of 28 February 2017.

### The referral

1. The admission arrangements for September 2017 (the arrangements) for Saint Ambrose College, a selective Catholic academy school for boys between the ages of 11 and 18, were brought to the attention of the Office of the Schools Adjudicator (OSA) by an objection dated 29 April 2016 to the arrangements by a parent. The objection was that the priority formerly given to a brother of an existing student had been changed so as to be limited only to priority for a Catholic brother; and the criterion previously given to a boy with a letter of support from a minister of religion had changed so as to limit priority to a boy with a letter from a Christian minister of religion.
2. The arrangements for the school had not been determined and so the objection was not in the jurisdiction of the adjudicator and not considered further at that time. The trust provided the determined arrangements on 28 September 2016 and evidence that they had been determined at a meeting on 22 September.
3. In this determination the organisations referred to are:
  - a. Saint Ambrose College Edmund Rice Academy Trust (the trust) which is the admission authority for the school;
  - b. Saint Ambrose College (the school);
  - c. the parent who made the original objection (the referrer);
  - d. the Diocese of Shrewsbury (the faith body); and

- e. Trafford Council (the local authority).

### **Jurisdiction**

4. The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the trust, which is the admission authority for the school, on that basis.

5. The arrangements were determined after the deadline for making objections which was 15 May 2016. As the arrangements had, however, come to my attention, I have used my power under section 88I of the School Standards and Framework Act 1998 (the Act) to consider the arrangements as a whole, including those matters brought to my attention by the referrer, as it appeared to me that there may be matters which do not conform with the requirements for admission arrangements.

### **Procedure**

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

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

- a. the referrer's form of objection dated 29 April 2016;
- b. the trust's response to the referral and supporting documents;
- c. the comments of the local authority on the referral and supporting documents including a map showing the home locations of boys admitted to the school in September 2015;
- d. the funding agreement for the school dated 11 July 2011;
- e. confirmation of when consultation on the arrangements last took place and information on the consultation;
- f. copies of the minutes of the meeting at which the trust determined the arrangements; and
- g. copies of: the arrangements for 2016 as originally determined and subsequently varied; the arrangements determined for 2017 on 22 September 2016; and draft arrangements for 2018.

I have also taken account of information received during a meeting I convened on 10 October 2016 at the school with representatives of: the trust; the Congregation of Christian Brothers, which is the religious order by which the school was founded and which holds its site on trust; and the local authority (the meeting).

### **Matters of concern**

8. The referral was that the trust had altered two of the oversubscription criteria so that the priority given to a brother of an existing student had changed so as to be limited to priority for a Catholic brother; and that the criterion giving priority to boys with a letter of support from a minister of religion had been changed to be limited to require a letter of support from a Christian minister of religion. The referrer says that the changes mean that two brothers who are of a faith other than Christian are now

unlikely to be able to attend the same school.

9. In addition, as the arrangements came to my attention, I noted that (with relevant paragraph of the Code in brackets):

- a. the trust had not determined the arrangements for 2017 by 28 February 2016 (1.46);
- b. it is not clear that a child with a statement of special educational need (SEN) or an Education, Health and Care (EHC) plan that names the school will be admitted (14 and 1.6);
- c. the priorities in the oversubscription criteria for all previously looked after children may not be clear;
- d. criterion 4 of the oversubscription criteria is "*Baptised Roman Catholic boys who live in a nominated Local Pastoral Areas (sic).*" The catchment area may not be clear to parents (14 and 1.14);
- e. it may not be clear how to satisfy oversubscription criteria 6, 7 and 8, which relate to boys of the Christian faith and letters of support from Christian ministers (14 and 1.37);
- f. the arrangements explain that distance is measured "*As defined by Trafford.*" This may not be clear to parents (14 and 1.13);
- g. it may not be clear to parents how the home address is defined where parents have shared responsibility for their children and live at different addresses (14 and 1.13); and
- h. there appears to be no information on the admission of children outside their normal age group (14 and 2.17).

## **Background**

10. Saint Ambrose College converted to become an academy on 1 May 2012. It is a very popular Catholic boys' grammar school in Altrincham, Trafford, with a published admission number (PAN) of 140 for admissions in September 2017. There were 380 applications received for places in 2016, of which 222 were first preferences, and 170 boys were admitted as a 'bulge' year. The map provided by the local authority shows that boys were admitted to the school from a wide geographical area in 2015 with a large proportion from within Trafford. At the meeting it was explained that responsibility for determining the arrangements is delegated to the admissions committee of the trust.

11. In 2015 an objection was made to the arrangements for admissions in 2016; the objection was then withdrawn. The adjudicator had already looked at the arrangements before the objection was withdrawn and noted matters that did not comply with the Code and he issued a determination (ADA3020) under section 88I of the Act on 21 September 2015.

12. Following the determination the trust varied its arrangements for 2016. The admissions committee on behalf of the trust then determined similar arrangements to 2016 for 2017 on 22 September 2016. Applicants to the school take a selection test because the school is a designated grammar school. If the number of applicants achieving the required standard exceeds the PAN, the following oversubscription criteria apply:

- 1) *“Baptised Roman Catholic boys who are designated ‘looked after children’ and all previously looked after children.*
- 2) *Baptised Roman Catholic boys who have a brother attending the school.*
- 3) *Baptised Roman Catholic boys who live in a nominated Local Pastoral Areas (sic).*
- 4) *Baptised Roman Catholic boys.*
- 5) *Other Boys who are designated ‘looked after children’ and all previously looked after children.*
- 6) *Baptised Christian boys who have a brother attending the school.*
- 7) *Other Baptised Christian boys whose application is supported by a letter from a minister of Christian religion.*
- 8) *Other boys whose application is supported by a minister of Christian religion.*
- 9) *Other boys.”*

13. The arrangements include a list of the “*Nominated Local Pastoral Areas*” as referred to under criterion 3, which are arranged in two groups under the headings, ‘*Diocese of Shrewsbury*’ and ‘*Diocese of Salford*’. Further information on a variety of matters is provided including definitions for “*brother*” and “*Roman Catholic boy*”.

### **Consideration of case**

14. Changes to admission arrangements to prioritise those who are Catholic or Christian: The referrer raised a concern that the oversubscription criteria had changed so that the priority previously given to a brother of a boy already attending the school was now only for a Catholic brother; and also changed another priority so that a letter of support was required from a Christian minister of religion when previously it had been from a minister of religion. The referrer said that as a result their two sons, one of whom was already attending the school, would not be able to attend the same school as they were of another faith and the second son would be in the last category, “*other boys*”.

15. I have looked at the arrangements for 2015, 2016 and 2017. The relevant criteria have not changed in that time. It is possible that the arrangements changed before 2015 but the trust and the local authority have both told me that these aspects of the arrangements had not been changed. In addition, an admission authority has the right to change its arrangements, provided that it consults as required by the Code and the new arrangements determined comply with the Code.

16. The Code permits an admission authority to give priority in the oversubscription criteria to a sibling; this does not mean that siblings must be given priority. The only requirement is that an admission authority **must** clearly state “*what they mean by ‘sibling’*”; this is explained in paragraph 1.11 of the Code. The arrangements contain a clear definition of what is meant by “*brother*” and so conform with the Code in this regard.

17. Paragraph 1.36 of the Code says that “*Schools designated by the Secretary of State as having a religious character (commonly known as faith schools) may use*

*faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed.*” The school, which is in the trusteeship of the Congregation of Christian Brothers, is designated as a school with a Catholic religious character by the Secretary of State under the Act and is recognised by the Diocese of Shrewsbury as a Catholic school.

18. At the meeting the trust explained that the school’s *“fundamental ethos was to educate Catholic Christian boys.”* The law permits the trust to give priority on the basis of religion. In this context I see no conflict with the requirements of the Code that the arrangements give priority to Roman Catholic brothers of boys already attending the school; and to boys whose applications are supported by a Christian minister of religion. There are other matters relating to this that I will consider below but the trust is compliant with the Code in giving priority to Catholic boys and boys of the Christian faith before boys of other faiths or none.

19. Determination of arrangements: Paragraph 1.46 of the Code says, *“All admission authorities **must** determine (i.e. formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required. Admission authorities **must** determine admission arrangements for entry in September...by **28 February** in the determination year.”* The trust had not determined its arrangements for 2017 by 28 February 2016 and so did not conform with the Code.

20. Paragraph 1.47 of the Code says, *“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 school year in which offers for places are made).”* The annual determination of the arrangements gives an admission authority the opportunity to consider its arrangements. The publication of the arrangements as soon as they are determined gives the opportunity for parents, the local authority and others to look at the arrangements and consider whether the arrangements meet the requirements of the Code. If any person or body believes that the arrangements do not meet the requirements of the Code then they can make an objection to the OSA. Any such objection has to be made by 15 May. If the arrangements have not been determined and published then this is not possible.

21. The admission committee, on behalf of the trust, determined the arrangements for 2017 on 22 September 2016. Parents started making their applications for admissions in 2017 from September 2016. By determining at such a late stage there has been no opportunity for parents and others to review the arrangements in time to make an objection if they had felt that there was a reason to do so. In this case it also means that parents are making applications on the basis of arrangements that may be flawed. This is not fair to parents. The trust has not met the requirements of the Code in this regard.

22. Child with a statement of SEN or EHC plan: 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.”*

23. Paragraph 1.6 of the Code says, *“All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school **must** be admitted.”* I was told at the meeting that the trust does admit children who have achieved the required standard for entry and whose statement of SEN or EHC plan names the school. It does not, however, make this clear in its

arrangements. The arrangements are therefore not clear and do not comply with the Code.

24. Priority for all previously looked after children: Paragraph 1.7 of the Code says, “*All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children.*”

25. The arrangements include definitions of looked after and previously looked after children which are based upon those in the Code. The first priority in the oversubscription criteria is “*Baptised Roman Catholic boys who are designated ‘looked after children’ and all previously looked after children.*” Paragraph 1.37 of the Code permits a school designated as having a religious character to give priority to looked after and previously looked children of the faith. However, it appears that criterion 1 includes “*all previously looked after children*” and not just those, as for looked after children, who are baptised Roman Catholic boys. It is not clear if this is what was intended.

26. Criterion 5 of the oversubscription criteria says, “*Other Boys who are designated ‘looked after children’ and all previously looked after children.*” This repetition of “*all previously looked after children,*” implies that something different is meant in the two criteria. The arrangements are unclear in this regard and so do not meet the requirements of the Code.

27. Catchment area: Criterion 3 of the oversubscription criteria is “*Baptised Roman Catholic boys who live in a nominated Local Pastoral Areas (sic).*” The arrangements therefore give a priority to those who live in a catchment area called the “*nominated Local Pastoral Areas.*” Paragraph 1.14 of the Code says “*Catchment areas **must** be designed so that they are reasonable and clearly defined.*”

28. The arrangements include a list of the “*Nominated Local Pastoral Areas*” arranged in two groups under the headings, St Ambrose Deanery (Diocese of Shrewsbury) and Our Lady’s Deanery (Diocese of Salford). There are 15 pastoral areas named. A parent may not know what areas are meant by the names for these pastoral areas and whether they live within them. There is no further information provided, such as a map, to define the catchment area. At the meeting the trust explained that the catchment area was similar to that of the local authority area of Trafford but was not exactly the same. The trust had asked the Dioceses to provide maps of the areas covered but these were not yet available when I held the meeting and were not part of the arrangements.

29. The lack of a clear definition for the catchment area used in criterion 3 of the oversubscription criteria means that the admission arrangements may not be clear to parents and that they do not meet the requirements of paragraph 1.14 of the Code for the catchment area to be clearly defined.

30. Understanding faith-based criteria: Paragraph 1.37 of the Code says, “*Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.*” Criterion 6 is “*Baptised Christian boys who have a brother attending the school.*” Criterion 7 of the oversubscription criteria is, “*Other Baptised Christian boys whose application is supported by a letter from a minister of Christian religion.*” There is no further information on these criteria in the arrangements.

31. In contrast the arrangements say “*The definition of a Roman Catholic boy is a boy who has received the Roman Catholic sacraments of Baptism, Confession*

*(Reconciliation) and Holy Communion. All applicants claiming to be Roman Catholics will be required to produce documentary evidence of reception of (sic) baptism when they complete the registration form.*” This makes it clear how to satisfy the faith based criteria if the boy is a Roman Catholic.

32. It is not clear what is expected in the “*letter of support from a minister of Christian religion.*” It is therefore not clear how to satisfy this faith-based criterion. Criteria 6 and 7 refer to baptism but there is no clarity as to whether evidence of this is required. There is no indication of what evidence will be considered. Parents need to know whether or not their child can satisfy a faith criterion. The current wording makes what is meant by a letter of support from a minister of Christian religion completely subjective. It is not clear what a letter of support should prove and so it is not clear how the criterion can be met.

33. Similarly, criterion 8 of the oversubscription criteria is, “*Other boys whose application is supported by a minister of Christian religion.*” Again it is unclear how this faith-based criterion can be satisfied. In criteria 7 and 8 there is no basis for an objective decision. In criterion 8 it is not clear even if the boy has to be a Christian to be supported by the minister. At the meeting the trust acknowledged that there was great diversity in the evidence provided to them. These criteria are ambiguous and so do not meet the requirements of the Code to be clear.

34. Distance: Paragraph 1.13 of the Code says “*Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the ‘home’ address will be determined and the point in the school from which all distances are measured.*” The arrangements only say that distance is measured “*As defined by Trafford.*” It is reasonable for the trust to have the same system as the local authority but it still retains the duty to explain how distance is measured to parents. The arrangements do not do this. Therefore, they will not be clear to parents and so do not conform with the Code.

35. Definition of home address: Paragraph 1.13 of the Code continues to say that when admission authorities make it clear how distance is measured this should include, “*provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*” The arrangements do not explain how this will be addressed and so are not clear in this regard.

36. Admission outside of the normal age group: Paragraph 2.17 of the Code says, “*Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health....Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*” There is no information in the arrangements and so this is not clear to parents. The arrangements do not comply with the Code in this regard.

### **Summary of findings**

37. I find that the referral which brought these arrangements to my attention does not have substance and that the trust has conformed with the Code in this regard. The arrangements for admission to the school do not conform with the Code in several other matters as detailed above.

### **Date for the revised arrangements**

38. Paragraph 3.6 of the Code says that once determined, arrangements cannot be revised save in limited circumstances one of which is *“to give effect to ... a determination of the Adjudicator.”* This is the case here. Paragraph 3.1 of the Code says that *“The admission authority **must**, where necessary, revise their admission arrangements to give effect to the Adjudicator’s decision within two months of the decision (or by 28 February following the decision, whichever is sooner), unless an alternative timescale is specified by the Adjudicator. An Adjudicator’s determination is binding and enforceable.”*

39. I have considered carefully what date to set in this case. The closing date for admissions for 2017 was 31 October 2016 and parents will have made their applications before this determination is published. Changes to the faith based criteria 6, 7 and 8 and defining how they are satisfied will require consultation. At the meeting the trust said that it intended to consult on its arrangements for 2018 and so it seems sensible to consult on these matters at the same time. I have therefore decided that the arrangements should be revised by 28 February 2017.

### **Determination**

40. In accordance with section 88I(5) of the School Standards and Framework Act 1998 I have considered the admission arrangements for September 2017 determined by the Saint Ambrose College Edmund Rice Trust for Saint Ambrose College and find there are matters which do not conform with the requirements relating to admission arrangements as set out in this determination.

41. 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 a deadline of 28 February 2017.

Dated: 7 December 2016

Signed:

Schools Adjudicator: Deborah Pritchard