



## Determination

<b>Case reference:</b>	<b>ADA3725</b>
<b>Objector:</b>	<b>An individual</b>
<b>Admission authority:</b>	<b>Cranmer Education Trust for The Blue Coat School, Oldham</b>
<b>Date of decision:</b>	<b>13 October 2020</b>

## Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2021 determined by Cranmer Education Trust for The Blue Coat School, Oldham.**

**I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the 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 the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2021.**

## 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 an individual (the objector), about the admission arrangements (the arrangements) for The Blue Coat School (the school), an academy school in Oldham, with a Church of England religious character, for boys and girls aged 11 to 18, for September 2021. The objection is to the faith-based oversubscription criteria.

2. The local authority (the LA) for the area in which the school is located is Oldham Council. The LA is a party to this objection. Other parties to the objection are Cranmer Education Trust (the trust), a multi-academy trust, the Diocese of Manchester (the diocese), which is the religious authority for the school, and the objector.

## Jurisdiction

3. The terms of the Academy agreement between the multi-academy 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 academy trust, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 15 May 2020. The objector has asked to have his identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of his name and address to me. 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## 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. a copy of the minutes of the meeting of the academy trust at which the arrangements were determined;
- b. a copy of the determined arrangements, including the supplementary information form (SIF);
- c. the objector's form of objection dated 15 May 2020, supporting documents and subsequent responses;
- d. the academy trust's response to the objection, supporting documents and subsequent responses;
- e. details of the allocation of places at the school for admission in September 2020 and previous years;
- f. information on the LA's website showing how places were allocated at secondary schools in Oldham for admission in September 2020;
- g. the diocesan guidance for secondary schools on admissions and the diocese's response to the objection;

- h. the Department for Education advice for schools on the Equality Act 2010, published in May 2014; and
- i. a determination of an adjudicator relating to Canon Slade School, Bolton (ADA2576), published in April 2014.

## The Objection

6. The objector argues that the high level of church attendance “required to gain a place” has the effect of discriminating against single-parent and low income families, who might have difficulty in achieving such a level of attendance. He cites paragraph 1.8 of the Code, which stipulates that,

“Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.”

7. The objector also says that, “45 times a year [Church attendance] is too high a frequency of attendance to show membership of a Christian Community.” Furthermore, he believes that the requirement that a church must be a member of “Churches Together” in order for children to qualify under oversubscription criteria 9 to 13 (see below) excludes “minority, particularly Pentecostal churches.” He states that a number of Roma Pentecostal congregations meet in the Oldham area. The objector does not refer to specific sections of the Code in respect of either of these elements of his objection, but I note that paragraph 1.8 requires oversubscription criteria to be “reasonable” and paragraph 14 requires the practices and the criteria used to decide the allocation of places to be “fair”.

8. Finally, the objector says that the SIF does not properly allow applicants to demonstrate that they have maintained the required level of attendance at more than one church over the specified period.

## Other matters

9. In relation to previously looked after children, the arrangements make reference to “residence orders.” Residence orders were replaced by child arrangements orders in 2014.

10. Contrary to paragraph 2.4 of the Code, the SIF appears to seek information that is available from the common application form and, in addition, asks clergy and worship leaders to confirm matters that do not have a direct bearing on the faith based aspects of the oversubscription criteria, that is, whether a child who is not a member of the Church of England is looked after or previously looked after or whether a child has a parent who is a member of the staff at the school. While there is no reason why the SIF should not ask for information about matters other than faith if necessary, it is not reasonable for a faith leader to be required to attest to the matter of whether or not a child’s parent works at the school.

11. In practice, the arrangements give a higher priority to 24 children who are active members of a faith other than Christian than to looked after and previously looked after

children who are not members of the Church of England. This is contrary to paragraph 1.37 of the School Admissions Code, which reads (final sentence),

“Where any element of priority is given in relation to children not of the faith they must give priority to looked after children and previously looked after children not of the faith above other children not of the faith.”

## Background

12. The school is located in the large town of Oldham in Greater Manchester. It is part of Cranmer Education Trust, a multi-academy trust that also includes two primary schools in the town. Historically, the school is heavily oversubscribed. The Published Admission Number (PAN) for admission to year 7 in September 2021 is 243. Following consultation, the PAN was reduced by one from the figure for admission in September 2020, when parents of 683 children made the school their first preference.

13. The oversubscription criteria are more complex than those for the majority of schools. Those determined for admission in September 2021 are summarised below.

The first 219 places are offered as follows:

1. Looked after children and previously looked after children who are members of the Church of England.

Criteria 2 to 6 are for children whose parent(s) provide evidence that the child and one parent are active members of the Church of England, by:

2. Weekly worship attendance over a minimum period of four years as of 31 August 2020. “Weekly” is defined as at least 45 weekly services per year in separate weeks.
3. Not less than fortnightly worship attendance over a minimum period of four years as of 31 August 2020. “Fortnightly” is defined as at least 24 weekly services per year in separate weeks.
4. Not less than fortnightly worship attendance over a minimum period of three years as of 31 August 2020
5. Not less than monthly worship attendance over a minimum period of three years as of 31 August 2020. “Monthly” is defined as at least 12 weekly services per year in separate weeks.
6. Weekly worship attendance for at least one full year as of 31 August 2020.
7. Other looked after children and previously looked after children.
8. Children of staff.

Criteria 9 to 13 are for children whose parent(s) provide evidence that the child and one parent are active members of a church that is a member of Churches Together

in Britain and Ireland, including membership of local Churches Together groupings, and Councils of Churches, by:

9. Weekly worship attendance over a minimum period of four years as of 31 August 2020. "Weekly" is defined as at least 45 weekly services per year in separate weeks.
10. Not less than fortnightly worship attendance over a minimum period of four years as of 31 August 2020. "Fortnightly" is defined as at least 24 weekly services per year in separate weeks.
11. Not less than fortnightly worship attendance over a minimum period of three years as of 31 August 2020
12. Not less than monthly worship attendance over a minimum period of three years as of 31 August 2020. "Monthly" is defined as at least 12 weekly services per year in separate weeks.
13. Weekly worship attendance for at least one full year as of 31 August 2020.
14. Children whose parent(s)/ legal guardian(s) show evidence that the child and family are active members of a faith other than Christian which are members of the UK Inter-Faith Network
15. Other children.

The additional 24 places are allocated to children whose parent(s)/ legal guardian(s) show evidence that the child and family are active members of a faith other than Christian which are members of the UK Inter-Faith Network. If any places remain, these are allocated to other children.

Within each of the first 13 criteria, priority for places is given first to siblings and then on the basis of geographical proximity to the school. Within criteria 14 and 15, and the additional 24 places, priority is determined by random allocation.

## Consideration of Case

### Do the arrangements unfairly disadvantage a child from a particular social or racial group?

14. The objector argues that "single parent families where only one parent can be available to take the child to church, rather than two" and "less well-off families where the parent(s) have less choice to determine their own working hours" constitute social groups that are disadvantaged by the criteria giving priority for what he describes as "high level of church attendance (of parent/guardian and child) required to gain a place through the school's oversubscription criteria." He says, for example, that "an Anglican single mother might work shifts, and occasionally have to do so on a Sunday morning. This would mean the child cannot attend church with the parent frequently enough." He also mentions that he has,

“noticed a significant increase in church attendance of families with a black African background moving into the parishes via Southern Europe: often the mother comes with the children but without the father. She may have few qualifications and must take shift work or zero-hours work with very little choice over when she works, and often has to do so on a Sunday morning or Saturday night. This makes it hard (if not impossible) to satisfy the oversubscription criteria in a way that would enable the child to gain a school place.”

The objector submits that the arrangements are therefore in breach of paragraph 1.8 of the Code as they unfairly disadvantage particular social groups.

15. In its response, the academy trust points out that schools designated with a religious character are exempted by paragraph 5 of schedule 11 of the Equality Act 2010 from the prohibition of discrimination “relating to religious belief”, contained in Section 85 (1) of that Act. It concludes,

“Accordingly, our view is that it is not possible for the School’s faith-based oversubscription criteria to be discriminatory in a legal sense given there is a clear exception in the Act for faith school admission arrangements.”

With respect to paragraph 1.8 of the Code, the trust comments,

“Given that Parliament has made an exception in the Equality Act 2010 to say that schools with a religious character are not caught by the provisions in s85(1), we do not consider that it was Parliament’s intention that paragraph 1.8 should apply where a school lawfully applies a faith based oversubscription criteria [sic]; the admission arrangements cannot be unfair if they are permissible under Schedule 11 of the Equality Act 2010.”

16. Before continuing to consider further detail in the trust’s response, I will address the trust’s assertion that paragraph 1.8 of the Code does not apply to faith based oversubscription criteria. The objector disagrees with the trust. He says that it is possible for faith based oversubscription criteria to be discriminatory “between different ethnic communities...[or]...against certain social groups within the Anglican or another Christian denomination.” He continues,

“The right to admit on the basis of faith does not preclude all other forms of discrimination...The argument from Paragraph 5 Section 11 [sic] does not apply. Because these forms of discrimination are not “relating to religious belief”.

17. I agree with the objector. There is no question that the trust has the right to discriminate, in terms of priority for admission to the school, on the basis of religious belief. However, this does not protect faith-based oversubscription criteria from any further scrutiny, which is, in effect, what the trust argues. The Department for Education advice on the Equality Act 2010 makes clear that while the exception referred to by the trust allows schools with a religious character to “conduct themselves in a way which is compatible with their religious ethos”, it does not,

“permit them to discriminate in relation to other protected characteristics, for example a school with a religious character would be acting unlawfully if it refused to admit a child because he or she was gay – or their parents were.”

18. Of course, this school’s criteria do nothing of that sort, but it is alleged that they unfairly disadvantage members of certain social groups who would identify themselves as being of the religion of the school. The fact that socio-economic status (and I consider that those who have such a status in common can constitute a social group for the purpose of paragraph 1.8 of the Code) is not a protected characteristic under the Equality Act does not remove the requirement for admission authorities to ensure that their arrangements do not have the effect of producing unfair disadvantage to those from particular social groups. This is not a matter of discrimination relating to religious belief and therefore is not covered by the exemption in Schedule 11 of the Equality Act 2010. To put it another way, the fact that something is lawful in terms of the Equality Act 2010 does not mean it is automatically also in accordance with paragraph 1.8 of the Code. Accordingly, I am required to make a judgment as to whether the arrangements comply with the requirements of paragraph 1.8.

19. The trust does not consider that the arrangements place any child from a particular social or racial group “at a disadvantage.” It says,

“By virtue of the fact that any oversubscription criteria [sic] seeks to sift people and place them in a rank order, and by virtue of the fact that obtaining a school place at what is perceived as a ‘good’ school will always be highly emotive for families, someone will always feel that it is unfair or that they are disadvantaged.”

20. The objection does not state directly that the arrangements unfairly disadvantage a child from a particular racial group, but it does mention families from a Black African background, as I quoted in paragraph 14 above. In response, the trust emphasises that it takes community cohesion “very seriously”. It points to the 24 places that are reserved for children of faiths other than Christian and to the fact that the proportion of pupils at the school from minority ethnic groups has risen from 7.9 per cent in 2011 to 25.1 per cent in Spring 2020 as evidence of the “genuine desire by the school to satisfy its obligations under PSED [Public Sector Equality Duty] with the needs of the wider faith community which the School serves.” Specifically, the proportion of Black African pupils attending the school is significantly higher than the proportion of Black African pupils in the local authority area as a whole. The objector suggests the correct comparison would be with the local Anglican community, but he does not provide any figures to this effect. Indeed, the objector concedes,

“I lack data to demonstrate the specific ethnic dimensions of this disadvantage.”

I do not consider that it has been demonstrated that the arrangements unfairly disadvantage a child from a particular racial group and I do not uphold the objection on this ground.

21. I turn now to consider whether the arrangements unfairly disadvantage a child from a particular social group, which is the main element of this part of the objection. Paragraph

1.38 of the Code requires admission authorities for schools designated as having a religious character to have regard to guidance from their religious authority when constructing faith-based admission arrangements. The diocese provides comprehensive guidance for Church of England Schools. The guidance states that where faith commitment is used as an oversubscription criterion, schools should “use regular attendance at worship as the measure of faith commitment.” It continues,

“it may be a variable system which distinguishes between levels of commitment based on attendance at worship, with higher priority being given to those with the most frequent or longer duration of attendance... The Diocese recommends that where attendance at worship is used as the measure of faith commitment, the attendance should be by the child... It is not acceptable to require the attendance of both parents or guardians, and it is important that single-parent families are not disadvantaged.”

Later in the guidance, in an example admissions policy, it is stated that schools “may wish to specify regular attendance by one of the child’s parent(s)/guardian(s) as well as or instead of the child.”

22. In her comments on the objection, the Diocesan Director of Education says,

“the Diocese considers that the school has had regard to Diocesan guidance, even though it has not adopted the specific recommendations about worship attendance by the child... It is a recommendation, not a requirement. The school only requires the attendance by the child and one parent/guardian.”

I agree with this assessment. The diocese makes no direct comment as to whether it considers that single-parent families are disadvantaged by the school’s arrangements, which its guidance specifically states would not be acceptable.

23. The objector draws attention to the determination of an adjudicator relating to Canon Slade School, Bolton (ADA2576), published in April 2014. Canon Slade is also a Church of England Secondary School in the Greater Manchester area. Its admission arrangements gave priority to applicants who scored most points awarded for attendance at worship of the parent and child over the past four years, with an additional, smaller, number of points given for attendance prior to that period. In the years prior to the determination, the number of points required for an applicant to be allocated a place ranged from 252 to 332. By way of comparison, attendance by the child and a parent on 45 occasions per year over four years (the second oversubscription criterion at The Blue Coat School) would equate to 360 points; attendance on 24 occasions per year over four years (the third criterion) equals 192 points.

24. In the determination, the adjudicator commented,

“The stringency of the attendance requirements means that families who face constraints on their ability to attend worship so frequently but who are nonetheless committed Christians are much less likely to secure a place for their child at the

school. This could include families where one or both parents may have to work shifts which affect their ability to attend services every week or families with caring responsibilities such as an elderly relative or sick child who cannot be left. These challenges are likely to be especially pronounced in families where there is only one adult or where one parent works away from home.”

25. The academy trust for The Blue Coat School also takes account of attendance at worship other than on Sundays. It says,

“In recognition of the changes to society and the fact that some may work on a course of the week for worship. Families therefore have access to a variety of services (often of different length) and can fit busy lives around worship or choose to travel to somewhere that does provide this. The admissions policy has therefore needed to clarify that in counting the weekly attendance it will count only one attendance per week to prevent abuse of the oversubscription criteria.”

In response, the objector comments,

“not all parishes, and especially those in more deprived areas where clergy might serve more than one parish and there might be a shortage of people licensed to conduct such services, are in a position to offer additional midweek services; not all families are able to afford to travel to attend these services; and not all families will be able to access them due to time constraints.”

The admission authority for Canon Slade School also emphasised that attendance at worship on days other than Sunday would qualify for points. However, the adjudicator in that case concluded,

“I do not consider that allowing worship of any day of the week is an adequate measure to counteract the resulting disadvantage to families on lower incomes.”

I take a similar view.

26. Canon Slade School attracted pupils from a wide geographical area. The adjudicator drew attention to the very low proportion of children at the school entitled to free school meals (a measure of disadvantage) compared to other Church of England Schools in the diocese, and to local and national averages. In her view, families with higher incomes would be better placed to meet the “stringent” faith-based criteria required to obtain a place for their child:

“Families with higher incomes can use that income to mitigate or overcome those challenges. They can pay for extra support with caring responsibilities and are much less likely, for example, to be reliant on public transport to reach church every week.”

The objection was upheld as the adjudicator found that the arrangements were unfair and disadvantaged a particular social group, in this case those from a disadvantaged background, and were therefore in breach of paragraph 1.8 of the Code.

27. There are striking similarities between Canon Slade School and the current case. However, I am not required to come to the same conclusion as the adjudicator in ADA2576. Adjudicators consider each case on its own merits and weigh the arguments that are put forward by the parties. There is, in fact, a significant difference in the operation of the oversubscription criteria relating to attendance at worship. At Canon Slade, applicants were ranked according to the points awarded for attendance and those with the highest scores were allocated places. At The Blue Coat School, the criteria are, in effect, a series of thresholds. Applicants achieving each threshold are then prioritised on their distance from the school. Data provided by the school, published in its “Admissions: guidance for parents” document, indicate that between 2007 and 2019, every year, with one exception, all applicants meeting the requirements of the fourth oversubscription criterion were allocated places. The exception was in 2017, when only applicants meeting the third criterion were admitted. For admission in 2020, the places were offered as shown in Table One.

**Table One: Allocation of places for admission in September 2020**

<b>Criterion</b>	<b>Places allocated</b>
Children with an Education, Health and Care Plan naming the school	8
1. Church of England looked after and previously looked after children	6
2. Attendance at worship 45 times a year over four years.	113 (42 siblings; 71 non siblings)
3. Attendance at worship 24 times a year over four years.	73 (42 siblings: 31 non siblings)
4. Attendance at worship 24 times a year over three years.	22 (5 siblings; 17 non siblings)*
Criteria 5 to 13	Nil
14. “Interfaith” places	24

\*The distance from the school of the last applicant offered a place under this criterion was 6.031 miles.

Maps provided by the trust demonstrate that its intake covers a wide geographic area, across Oldham and extending to other areas including Rochdale to the north and Tameside to the south.

24. In summary, since 2007 it has never been necessary for applicants to attend worship 45 times a year for four years in order to be offered a place at the school. In 2017, it was necessary to attend worship 24 times a year for four years, as it was in 2020 for non-siblings living more than six miles from the school. In all other years, all applicants attending 24 times a year for three years were offered places. This pattern of attendance would equate to 144 points under the system used at Canon Slade School in 2014.

25. The objector offers anecdotal evidence but does not quantify the scale of the disadvantage he believes that the arrangements cause. He points out that a smaller

proportion of the pupils at The Blue Coat School are eligible for Pupil Premium, compared with the average for secondary schools in Oldham as a whole (17 per cent and 36 per cent, respectively). He continues,

“However, I still maintain that there are clearly identifiable groups that are disadvantaged by the arrangements: low-skill, low-income families where those workers are likely to be work on shifts or on zero-hour contracts, and so not able to be as free to attend church services as those in 9-5 Weekday patterns of employment. Single parent families are particularly disadvantaged by the arrangements.”

At no point does the objector attempt to put a figure on the number of families who are active members of the Church of England, who would fall into the groups he describes. I recognise that it would, in fact, be impossible for him to do so.

28. Nevertheless, I accept that there will be some families in the position that the objector describes and that they are members of a “social group” within the meaning of paragraph 1.8 of the Code. I agree with the adjudicator in ADA2576 that overly-stringent requirements for attendance at worship will unfairly disadvantage this group, for the reasons that both she and the objector describe. I consider that a requirement to attend worship 45 times a year constitutes a threshold that is likely to have such a disadvantageous effect.

29. However, it is the case that it has never been necessary for applicants, that is, the child and a parent, to attend 45 times a year for four years in order to obtain a place at the school. Attendance for 24 times a year for three, or on one occasion, four years, has proved sufficient. In his objection and subsequent responses, the objector does not suggest that this level of attendance would cause the disadvantage that concerns him. Indeed, in his response to the consultation on the school’s admission arrangements submitted in December 2019 (which he appended to the objection), he suggested, “An alternative might be to reduce the top band to 36 times a year.” In a later submission, he refers to “a genuine, church-attending family who would normally attend 30 times a year.”

30. It is not possible to predict with absolute certainty the outcome of admission applications. However, I consider it entirely reasonable to expect that attendance for 24 times a year for the past four years will be sufficient for an applicant to be offered a place at the school in September 2021, especially for those living close to the school, for whom the objector appears to be most concerned. Therefore, while the arrangements may, in theory, unfairly disadvantage a social group by requiring attendance at worship for 45 times a year, in practice, it is almost certain they will not, if it is accepted, as the objector appears to, that attendance for 24 times a year does not cause unfair disadvantage. In this respect, this case is different to ADA2576, where the ranking of applications demonstrated that each year a level of attendance in excess of fortnightly was necessary to obtain a place at the school. For this reason, I do not uphold the objection on the ground that the arrangements breach the part of paragraph 1.8 of the Code cited by the objector, by unfairly disadvantaging a particular social group. I should make clear that, if it were necessary for

the child and a parent to attend worship for 45 times a year for four years in order to obtain a place, I would have upheld the objection on this ground.

Is the second oversubscription criterion reasonable?

31. This is not the end of my consideration of the second oversubscription criterion. Paragraph 1.8 also states, in its first sentence, that,

“Oversubscription criteria **must** be reasonable.”

In a separate part of his objection, the objector says,

“In this day and age, with many pressures on families (changing working patterns (shifts and zero hours contracts), looking after elderly relatives who might be at a distance), proof of an attendance of 45 times a year is too high a threshold to indicate membership of a Christian Community: life is just much more complicated than it was.”

Although he does not specifically cite the sentence from paragraph 1.8 above, I take the objector to mean that the oversubscription criterion requiring attendance at worship for 45 times a year is unreasonable.

32. Some oversubscription criteria are self-evidently ‘reasonable’, for example, those that give priority to siblings of pupils attending the school or to children who live nearby. Where this is not the case, the admission authority needs to be able to provide a reason or reasons for the criterion that are not irrational or illogical. In its response to the objection, the admission authority says that requiring attendance at 45 services a year,

“is clearly with the aim of identifying those who have a full/high commitment to the Christian Faith.”

In my view, this is an extremely high threshold: there may be many circumstances, some of which are identified by the objector, that make it impossible for people of a very high commitment to the Christian faith to maintain such a level of attendance at worship either on a regular basis or for a particular period of time. The diocese does not provide explicit guidance on this matter, but I note that in the “Sample Admission Policy” included in its admissions guidance for secondary schools, “regular attendance at worship” is defined as,

“a minimum of fortnightly attendance at church at public worship for at least the year immediately prior to application for admission to the school.”

The guidance does recognise, however, that admission authorities may wish to “decide on a different definition of regular attendance.”

33. The admission authority points to the fact that, for admission in September 2020, 141 applicants met the requirements of the second oversubscription criterion (113 of these applicants were offered places as some will have been able to attend a higher preference school). It concludes that this figure,

“indicates that the attendance criteria bar is not set too high because it is achieved by so many.”

The admission authority also says,

“if there are compassionate considerations, then the clergy normally attach a letter explaining these and use the Appeals Process.”

34. I agree with the admission authority that the requirement of the second oversubscription criterion is not unattainable; this does not necessarily mean that it is reasonable. There is another factor to take into account. As noted above, since 2007, the earliest date for which information is provided, it has never proved necessary for families to achieve the level of attendance specified in the second criterion in order to be offered a place. Every year, all applicants up to and inclusive of those meeting the third criterion have been admitted. As I commented earlier, I do not expect the situation to be different for admission in September 2021. The second criterion has never been used to determine which applicants are offered places. I can see no reason why the admission arrangements should include a criterion that is effectively redundant and which, if it were not, would render the arrangements unfair for the reasons set out at paragraph 30 above. In response to the objection, the academy trust suggests that,

“If the criteria for attendances were reduced from 45 to a lower figure, this would have the impact of merely increasing the number of families who achieve Criteria [sic] 2”

This is, as it happens, the point I am making. If all applicants who have attended worship 24 times a year for four years are always allocated places, there is no reason to have a criterion that sets a higher threshold. Indeed, I am concerned, although it is impossible to confirm, that the inclusion of this criterion may have the effect of dissuading families that are not able to attend worship 45 times a year from applying for a place at the school. It is, in my view, illogical for the admission authority to include an oversubscription criterion that will play no specific part in the allocation of places as, by definition, all applicants meeting the second criterion will also meet the third criterion. Therefore, I conclude that the second oversubscription criterion does not meet the test of reasonableness in paragraph 1.8 and I uphold the objection on this basis. For the avoidance of doubt, it is not within my jurisdiction to recommend how this breach of the requirements relating to admissions should be rectified. My conclusion should not be taken to endorse a “points-based” system of priority, which I understand that the trust is keen to avoid.

#### Are some Christian churches unfairly excluded from the oversubscription criteria?

35. The other aspects of the objection can be addressed rather more briefly. The objector says that bona fide members of certain “minority” churches cannot be considered under oversubscription criteria 9 to 13 as their congregations are not members of Greater Manchester Churches Together. He specifically mentions Roma Pentecostal churches in the Oldham area. The objector says that the effect of the arrangements is to exclude

members of these churches. My assumption is that he considers this to be unfair, in breach of the requirement for fairness in paragraph 14 of the Code.

36. In specifying that churches at which attendance can be considered under criteria 9 to 13 must be members of a Churches Together (CT) group, the admission authority is following clear guidance from the diocese. The trust says that all applications are carefully checked to ascertain if an individual church or its parent denomination is listed “on the Churches together grouping.” An “internal list of known worshipping groups” is kept. In response, the objector asks,

“Has the Diocesan guidance in this situation become outdated, given the number of members of the Roma community that have moved into the Diocese in recent years, and this specific community’s particular ambivalence towards involvement in wider society, given their fear of persecution”, as in my previous correspondence?”

37. Whether its guidance requires amendment is a matter for the diocese; I do recognise the need for admission authorities to give a clear definition of which worshipping groups it recognises for the purposes of its oversubscription criteria. These arrangements provide such a definition. One may have sympathy for Christian churches that, perhaps for good reasons, do not choose to become members of a CT group, but the use of CT membership as the basis for that definition is widespread in the arrangements of Church of England schools nationwide. It is not, in my view, a restriction that can be considered unfair. I do not uphold this aspect of the objection.

38. Before leaving this topic, I should mention that the objector also draws attention to another sentence in the diocese’s guidance, that reads,

“the school must make clear in its admissions information where a list of Churches in Membership of a local Churches Together organisation can be viewed.”

The academy trust refers to “an internal list” and its admissions guidance says,

“where the church is part of a Greater Manchester Churches Together grouping, it is the responsibility of the applicant’s parents or guardians to provide evidence of this membership.”

This runs contrary to the diocesan guidance and does not sit well with paragraph 1.37 of the Code, which begins,

“Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.”

Although it is the case that no places have been allocated to applicants under criteria 9 to 13 for several years, I consider that the admission authority should make information about membership of CT groupings more readily available.

## Does the SIF allow for attendance at more than one church?

39. The objector argues that the SIF does not readily allow applicants to indicate either that they have attended more than one church during the period specified in the oversubscription criteria, for example, due to house move, or that they currently attend more than one church. He is also concerned for children who have moved from overseas within the past four years. He says,

“I doubt that it would be possible to verify church attendance in a foreign country: I doubt such records would be kept, even if they were able to be communicated.”

40. The SIF asks the parent to name the church or place of worship attended and the dates during which their attendance has taken place. In a second section of the SIF, the oversubscription criteria are set out with a box by each one. The priest, minister or leader of worship is asked to indicate the frequency and duration of attendance by initialling the box “that most closely describes the applicant.” The SIF also tells parents,

“If you have moved into this parish/place of worship within the last four years (ie., 2016-2020) or attend more than one church/place or worship, please obtain an additional application form(s) for completion with your previous vicar/leader of worship.”

41. The trust believes that this statement, which is repeated in the admissions guidance provided by the school, answers the objector’s concern. It also submits that,

“there is no evidence, just mere speculation, that an applicant who has worshipped in whole or in part abroad cannot evidence their attendance. The Admissions Authority has never received a complaint or concern raised in such circumstances.”

I am inclined to agree with the trust but I also recognise the point made by the objector that the approach used does not readily give parents the opportunity in one place to state the dates and level of attendance at each church. Although the arrangements are not ideal in this respect, I do not consider that there is any breach of the requirements relating to admissions and I do not uphold this aspect of the objection.

## Other matters

42. The trust recognised the out-of-date reference to residence orders and undertook to amend it.

43. The section of the SIF described in paragraph 40 above includes oversubscription criteria 7 and 8, that is, respectively, whether a child is a looked after or previously looked after child or the child of a member of staff. These are not faith-based oversubscription criteria and the priest, minister or leader of worship should not be asked to confirm whether they apply to an applicant. A child’s looked after or previously looked after status can be ascertained from the common application form and cannot therefore lawfully be requested on the SIF as the Code makes clear that the SIF can only be used where additional information is needed. So far as children of staff are concerned, it is in order to ask about

this on the SIF. What is not reasonable is to ask for the fact that a child is a member of school staff to be confirmed by a faith leader. This is not a matter in which faith leaders can be expected to have any knowledge and some who may apply for a place for their child under this criterion may not attend worship.

44. In relation to the priority for looked after children and previously looked after children not of the faith of the school, the trust agreed that the arrangements should be amended to make clear that these children are allocated places before places are allocated to children of faiths other than Christian.

## Summary of Findings

45. There is no clear evidence that the admission arrangements unfairly disadvantage a child from a particular racial group. The second oversubscription criterion, requiring 45 attendances at worship each year for four years, could have the effect of disadvantaging certain social groups, including single-parent families, but it has never done so, as this level of attendance has not been necessary to obtain a place at the school. I do not uphold this part of the objection.

46. As the second oversubscription criterion has never been applied, it is illogical to include it in the arrangements. It may also be off-putting to families considering applying for a place at the school. It is therefore not a reasonable criterion and is in breach of paragraph 1.8 of the Code. I uphold the objection on this basis.

47. I do not find that that some Christian groups are unfairly excluded from having priority for places at the school or that the SIF does not allow applicants to demonstrate attendance at more than one church.

48. There are other ways in which the arrangements do not comply with the requirements relating to admissions.

### Timescale for revision

49. Sufficient time needs to be given to allow the trust to consider the revision of its arrangements and to undertake a period of consultation in line with the process set out in the Code. I note that the trust plans to open a second Church of England secondary school in Oldham in 2022. It may be that the establishment of this school will need to be taken into account in revising the arrangements for The Blue Coat School.

50. I therefore determine that the required revision must be made by 28 February 2021, which is the deadline for determining arrangements for admission in September 2022.

## Determination

51. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2021 determined by Cranmer Education Trust for The Blue Coat School, Oldham.

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

53. 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 determine that the arrangements must be revised by 28 February 2021.

Dated: 13 October 2020

Signed:

Schools Adjudicator: Peter Goringe