



DETERMINATION

Case reference:	ADA 2773
Objector:	The Fair Admissions Campaign
Admission Authority:	The governing body of St Mary Redcliffe and Temple School, Bristol
Date of decision:	13 February 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body of St Mary Redcliffe and Temple School for admissions in September 2015.

I have also considered the arrangements in accordance with section 88I(5). I determine that the school's arrangements for September 2015 do not conform with the requirements relating to admission arrangements.

By virtue of section 88K(2), the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible, and no later than 15 April.

The referral

1. The admission arrangements (the arrangements) for St Mary Redcliffe and Temple School (the school), a voluntary aided school for children aged 11 to 18 have been brought to the attention of the adjudicator by the Fair Admissions Campaign (the objector).

2. The objector complained that either the school's arrangements for September 2015 had not been determined or that they had not been published since they could not be accessed on the school's website, and in their apparent absence referred to aspects of the school's arrangements for September 2014. The complaints concern principally:

- (i) a number of matters which the objector says make the arrangements unclear;
- (ii) issues to do with the school's supplementary information form (SIF);
- (iii) matters concerning looked after and previously looked after children and those with special educational needs; and
- (iv) the objector's belief that the "*school's religious selection criteria causes socio-economic selection*".

3. I established that the admission arrangements for September 2015 were determined on 12 March 2014 under section 88H(2) of the School Standards and Framework Act 1998 (the Act). The arrangements for 2015 are essentially identical to those for 2014 and I have therefore treated the objection of the Fair Admissions Campaign as an objection to the arrangements for admission in 2015.

Jurisdiction

4. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. The objector submitted the objection to these determined arrangements on 30 June 2014. 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.

5. I have also used my power under section 88I(5) of the Act to consider the arrangements as a whole.

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 objector's email of objection and a supporting paper dated 30 June 2014 and subsequent correspondence;
- b. the responses of the school, of Bristol City Council (the local authority, the LA) and of the Diocese of Bristol (the diocese) to the objection and supporting documents and subsequent correspondence;
- c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
- d. a copy of the determined arrangements for September 2014 and September 2015;
- e. copies of the minutes of the meeting of the governing body at which each of the arrangements were determined; and
- f. confirmation of when consultation on the arrangements last took place.

I have also taken account of information received during a meeting (the meeting) I convened on 2 October 2014 at the school, and of information and submissions subsequently received from the objector, the school and the LA.

The Objection

8. The objector made its objection in the following terms:

“Details of objection:

- *either 1.46 (admissions policy for 2015 not decided yet) or 1.47 (admissions policy for 2015 not published yet). The rest of the complaint is therefore about the 2014 policy*
- *1.47 (the school’s sixth form admission policy is not on its website)*
- *2.4 (the statement on page 1 of the admissions arrangements do not make clear that those not applying under a faith criterion should not complete the SIF, and the website says ‘In addition to applying to your Local Authority you must complete our School Supplementary Form.’ The guidance notes also presume that the SIF will be completed/applicants will be applying under a faith criteria*
- *1.8/14 (the oversubscription criteria are generally a bit unclear in having ‘Admission Criteria’ then ‘Oversubscription Criteria’ then ‘Notes’ with all three needing to be read in conjunction to get a full understanding of the order of priority)*
- *1.6/1.8/14 (criterion A implies that statemented children are admitted as part of the oversubscription criteria and not through a separate process)*
- *1.6/1.36/2.8 (criteria B and C do not make clear that up to 16 and 4 places will be allocated – if there are insufficient applicants then fewer than 16 and 4 will be)*
- *1.8/14 (criterion C – it is ambiguous whether this criterion includes Baha’i, Jains, Zoroastrians, pagans and so on. And what about Christians whose church is not a member of Churches Together in England or the Evangelical Alliance?)*
- *1.37 (criteria B/C – the Code says ‘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.’ But only some looked after/previously looked after children not of the faith are given priority, namely those who live within 500m or are of other faiths – and only up to a certain number of places. We find it a bit ambiguous as to whether this is consistent with the Code or if the Code requires all looked after/previously looked after children not of the faith to be treated equally and would appreciate the adjudicator’s advice on this front)*
- *1.8 (we believe that the school’s religious selection criteria causes socio-economic selection – see separate briefing paper)*

- 1.8 (there is no tie-breaker for two children living the same distance from the school)
- 1.8/1.37/14 (criteria D1-3 – the statement ‘The Parent/Carer and/or child is a member of Group 1 if they are very regular worshippers. This means attending Church three or more times a month for a minimum of the last three years.’ Is ambiguous. If the parent/carer worships this many times but the child does not worship quite this many times, does the parent/carer get placed in group 1 but the child does not? Presumably what is meant is that ‘The applicant is a member of Group 1 if the parent/carer or child is a very regular worshiper.’ But it is possible to read the statement as requiring both parties to worship regularly)
- 2.4 (the SIF asks for gender, name of present school, and details for both parents/carers. It also asks for two religious representatives to sign). “

Other Matters

9. Having been provided with a copy of the school’s admission arrangements for September 2015, I was concerned that they may not conform with the requirements set out in the Code. I therefore wrote to the school setting out these concerns. In doing so, I added to the matters which had been referred to by the objector, but also raised concerns on further grounds regarding some of those matters which it had raised.

10. I was concerned regarding the arrangements for Year 7 admissions that:

(i) the requirement that those who wish their applications to be prioritised on the grounds that they are members of a faith other than Christian must themselves make appropriate amendments to the SIF may be off-putting to some potential applicants, and that it is in any case unnecessary; and

(ii) the arrangements do not make it clear, where a limited number of places are associated with a particular oversubscription criterion, that fewer than the maximum number of applicants could be admitted, and that any such unallocated places would then be available to others seeking them. The school may be oversubscribed overall but not by those to whom the oversubscription criteria in question are applicable. This appears to contravene the requirement concerning the clarity of admission arrangements in paragraph 14 of the Code.

11. I also pointed out to the school that the requirements concerning admissions to the school in Year 12 are those set out in the Code concerning all admission arrangements, together with those given in paragraph 2.6. I was concerned that those for the school may fail to comply with these requirements by:

(i) not stating a published admission number (PAN) for admissions of external students as required by paragraph 1.2;

(ii) not giving first priority to looked after and previously looked after children if the school is oversubscribed with external applicants as required by paragraph 1.7;

(iii) not having the same academic entry requirements for external and internal candidates as required by paragraph 2.6;

(iv) not being clear in the use of the phrase “in the order of their likelihood” contrary to paragraph 14;

(v) using interviews as part of the process of determining admissions which is forbidden by paragraph 1.9m, and

(vi) keeping a waiting list in the order in which students apply contrary to paragraph 2.14.

12. At the meeting, I also raised with the school my view that a further aspect of the school’s sixth form admission arrangements may breach what is required by the Code. The arrangements contain the following clause:

“No student’s application will be considered where they do not accept the principle of respect for the faith-commitments of others, provide a supportive reference to that effect, and commit to attending all core lessons and assemblies in the knowledge that spiritual and moral themes may be addressed.”

I pointed to paragraph 1.9a of the Code, which says that admission authorities **“must not..... place any conditions on the consideration of any applications other than those in the oversubscription criteria published in their admission arrangements”** and stated that I considered that the arrangements may breach this provision.

13. When I wrote to the school, I also asked it to provide me with the details of the consultation which it had undertaken on its admission arrangements in order to comply with the requirements which are set out in paragraphs 1.42 to 1.44 of the Code.

14. I visited the school’s website on 2 February 2015 and found there an application form for admissions to the school’s sixth form in September 2015 which it seemed to me contained aspects which did not conform with the requirements of the Code, and I wrote again to the school seeking its comments on these concerns.

Background

15. St Mary Redcliffe and Temple School is a comprehensive school for boys and girls from the ages of 11 to 18 which is situated close to the centre of the city of Bristol. In its immediate vicinity are a number of high-rise residential blocks but also many business premises. It is a voluntary aided school with the status of Church of England, in the Diocese of Bristol.

16. The school is popular and heavily oversubscribed. It received 623

expressed preferences for the 216 available places in September 2014, of which over 300 were first preferences. When last inspected, in January 2012, the school was described as “outstanding” by Ofsted inspectors. The school data dashboard published by Ofsted shows that GCSE results in 2013 (five GCSEs grade A* to C including English and mathematics) placed the school’s performance in that of the highest performing 20 per cent of all schools, and the top 60 per cent of similar schools, nationally.

17. The school’s admission arrangements for Year 7:

(i) set a PAN of 216;

(ii) state “admission criteria” which are used in the order: statemented children, local applicants (16 places), faiths other than Christian (four places), church applicants in order of priority and other applicants;

(iii) give “oversubscription criteria” for use “in the case of oversubscription in each of the criteria” other than the first, in the order: children in care applicants, siblings of children at the school and those living closest to the school;

(iv) provide explanatory notes covering a number of matters.

18. The admission arrangements for the school’s sixth form:

(i) state that a target number for admissions is 170 but that this depends on a number of factors, such as “funding levels”;

(ii) say that only level 3 programmes (A level or equivalent) are offered and that the minimum entry requirement to the sixth form and those for particular subjects are given in a prospectus;

(iii) require students to provide a supportive reference saying they will respect the faith commitment of others and “commit to attending all core lessons and assemblies in the knowledge that spiritual and moral themes may be addressed”;

(iv) state an “order of priority” to be used, if the school decides that either the sixth form as a whole or particular courses will be oversubscribed, which is:

a. students from the school’s Year 11;

b. students from a named partner school;

c. remaining students “sequenced in the order of their likelihood of achieving the school’s basic admissions threshold”;

d. students thought unlikely to achieve the basic admission requirements who are “interviewed” and placed on a waiting list; and

e. other students who will be placed on a waiting list “in the order in which they apply”.

(v) say that prior to a deadline date of 1 December places will be awarded as students apply until the sixth form or particular courses are oversubscribed.

Consideration of Factors

19. The school has determined arrangements for September 2014 and September 2015 which are the same except one minor detail. In the 2014 arrangements the wording is: "Admission Number - The admission number decided by the governors on the basis of the capacity of the school is 216" and for 2015 is "Planned Admission Number (PAN) – The PAN decided by the governors on the basis of the capacity of the school is 216". I am therefore considering the matters raised by the objector and those matters which are my own concerns as for the 2015 arrangements.

A. The arrangements as a whole

(i) publication of the arrangements

20. The objector stated that the school's admission arrangements for September 2015 were either not determined as required by paragraph 1.46 of the Code, or not displayed on its website as required by paragraph 1.47 of the Code which states that this must take place once the arrangements have been determined.

21. I looked at the school's website on 6 August 2014 and found the arrangements for 2015 posted there. The school told me on 18 July 2014 that the 2015 policy had recently replaced the 2014 policy on the school's website, and that it had been determined before the deadline of 15 April 2014. It subsequently provided me with evidence that this determination had taken place on 12 March 2014. I do not uphold the part of the objection concerning determination of the arrangements.

22. Although I have not been able to verify for myself that the 2015 arrangement were not on the website on the date stated by the objector, the school has agreed in its response to the objection that this was the case and did so again, corroborated by the diocese and LA, at the meeting which I held with the parties. I therefore uphold the part of the objection concerning the school's failure to publish its determined admission arrangements as required by the Code.

(ii) publication of sixth form arrangements

23. At the meeting the school explained that the arrangements for admission to its sixth form for September 2014, which the objector had failed to find on its website on 30 June 2014, had been posted there on that date but were separate from those for Year 7. I am unable to verify what the school has said, but when I looked at the website on 6 August 2014 and found the admission arrangements for September 2015, this did include those for the school's sixth form. The objector has accepted the school's assurances, and has stated that it has withdrawn this part of the objection, but it nevertheless falls to me under the Act to make a decision concerning it, since it was validly made. I do not

uphold this part of the objection.

(iii) those required to complete the SIF

24. The requirements concerning SIFs are set out in paragraph 2.4 of the Code, which states that if admission authorities need to use a SIF in order to process applications:

*“...they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria ...”*

Paragraph 2.4 also sets out a range of pieces of information which **must not** be asked for using a SIF.

25. The objector complained that the arrangements did not make it clear that those not wishing to have their application prioritised on the grounds of faith did not need to complete the school's SIF. I also pointed out to the school that all applicants are asked to complete the SIF in the introduction to the arrangements but that this statement is contradicted under the description of places for local applicants, making the arrangements unclear contrary to the requirement of paragraph 14. The school has said that it accepts that its arrangements do not make it clear whether or not completion is required, but at the same time that it regards completion as a safeguard for children living within the local 500 metre area used to prioritise admissions, since many are of the Muslim faith but may apply only as “local” children for whom the number of available places may be exhausted. It says that paragraph 2.4 of the Code does not state that *“applicants not applying under a faith condition should not complete a SIF”*, and that it asks all applicants to complete a SIF *“so that they can maximise their chances of attaining a place.”* It has offered to end the lack of clarity by ensuring that the school's arrangements state that completion of the SIF is not a requirement.

26. There is nothing to prevent the school from explaining to parents that their application for a place might stand more chance of being successful if they seek to have it given priority in accordance with more than one of the school's oversubscription criteria, if they believe those oversubscription criteria applies to them. And of course it is in the interests of equity if a school has all the necessary information to afford any particular application the highest level of priority that is possible under its admission arrangements. However, admission authorities should only oblige parents to complete a SIF if the information it provides is needed. To be considered against an oversubscription criterion which gives priority on the grounds of faith, parents will need to provide information over and above that already available through the local authority common application form (CAF). This information may for example be evidence of fulfilment of the school's faith-related oversubscription criteria, depending on what is taken into account to give priority. However, for other applicants, all the information needed by the school will already be available via the CAF which they will have completed. For a child living within the 500 metre radius from the school the information needed is their address, which they have already provided.

27. If the information which is obtained from the SIF is not needed in an individual case, the SIF is not needed either, and the parent should not be asked to complete it. I therefore disagree with the school in its reading of the Code since it is my view that paragraph 2.4, especially if read in context, clearly does forbid requiring all parents to complete a SIF. It is also the case that there must always, for any school, be scope for a child to be admitted without having to provide the information the SIF asks for, since it is always possible that the school may not be oversubscribed.

28. My view is that the arrangements contravene paragraph 2.4 of the Code by stating that all applicants must complete a SIF, and so I uphold this part of the objection. The arrangements are also unclear since this statement is contradicted elsewhere within them and so they contravene paragraph 14 of the Code.

(iv) the clarity of the arrangements

29. Paragraph 1.8 of the Code says that:

*“Oversubscription criteria **must** be reasonable, clear, objective...”*

and paragraph 14 that for admission arrangements as a whole:

*“...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.”*

30. The Code makes it clear that the means by which an admission authority allocates places if a school is oversubscribed are its oversubscription criteria. So the “criteria” used by the school are in fact oversubscription criteria and those set out under the heading “oversubscription criteria” and which the school uses if there are insufficient remaining places to satisfy demand for places from all those who fall under one of its “criteria”, act as tie-breakers within these categories.

31. Parents will necessarily read the admission arrangements for several schools, and it must be confusing to them when basic concepts that explain how admission arrangements operate are described in different terms by an admission authority. I uphold the objection that the way the arrangements are set out is not clear to the reader and that they do not conform with what the Code requires in paragraphs 1.8 and 14 with respect to their clarity.

32. The school’s arrangements assume in practice that it will always be oversubscribed, which is an inappropriate approach. Paragraph 1.36 of the Code requires that all schools, including schools with a religious character, admit all applicants if not oversubscribed overall. If they are to be clear for parents, it should be evident from admission arrangements that if there is no overall oversubscription of the school, all applicants will be admitted and that oversubscription criteria are applied, to all applications, only if oversubscription occurs. In my view, the school’s arrangements do not provide such clarity on this important point, and that they therefore fail to

achieve the clarity required of them by paragraph 14 of the Code for this further reason.

(v) the admission of children with a statement of special educational needs

33. Paragraph 1.6 of the Code says that:

*“The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places.....All children whose statement of special educational needs names the school **must** be admitted.”*

34. This does not mean that the admission of children with a statement of special educational need is a criterion to be used when the school is oversubscribed, but that the arrangements must make it clear that such children will be admitted, whatever the circumstances. The statement which is contained within the school’s arrangements that a child whose statement of special educational need names the school will be admitted “unless contested by the Governing Body” implies that the school has some discretion in this matter, which is not the case. I uphold the objection that the arrangements fail to satisfy what paragraph 1.6 requires by implying that such admissions are part of the school’s oversubscription criteria. It is good practice in my view that arrangements make an explicit statement which sets out the position for children whose statement of special educational need names the school, both for the benefit of their parents and so that parents of other children are aware of the priority for school places which they have.

(vi) groups of places

35. The objector asserts that the wording of criteria B (local applicants) and C (faiths other than Christian) do not make clear that up to 16 and 4 places respectively will be allocated and that if there are fewer eligible applicants then fewer children will be admitted. The objector says that this contravenes paragraphs 1.6, 1.36 and 2.8 of the Code.

Paragraph 1.6 says that:

*“The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places...”*

Paragraph 1.36 says that schools with a religious character

“...are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available.”

and paragraph 2.8 makes it clear that if a school has available places, all children who seek a place **must** be offered one.

36. The school may be oversubscribed overall but without having sufficient eligible applicants for the limited number of places associated with a particular oversubscription criterion. Such groups of places would then not be filled and

the school's admission arrangements should enable parents to know that unfilled places would then be available to other applicants. While there is no suggestion in the arrangements that any unfilled place for which priority is given under criteria B and C would remain unallocated, neither is it made clear that they are potentially available to others in such circumstances.

37. The school has helpfully agreed that this could be made clear in its arrangements. Nevertheless I uphold the objection that as determined the school's arrangements do not state how all places will be allocated and that they therefore fail to meet the requirement that they should do so in paragraph 1.6 of the Code. I am also of the view that the arrangements are insufficiently clear and therefore in contravention of paragraph 14 of the Code. I am not, however, of the view that the application of the arrangements would result in places remaining empty when there were still unsatisfied applicants seeking admission to the school and that either paragraphs 1.36 or 2.8 of the Code are breached by them.

(vii) unclear description of "other faiths"

38. In its response to the objection, the school expressed the view that there was no ambiguity associated with the way in which the priority given to those belonging to a faith other than the Christian faith was described in its arrangements, since these were named. Five world faiths are specified in the arrangements, and this in my view renders them transparent. I therefore do not uphold this part of the objection that the arrangements are insufficiently clear and therefore not in accord with paragraphs 14 and 1.8 of the Code.

39. I also raised with the school my further concern that the requirement that parents wishing to have their application prioritised under this oversubscription criterion need complete the school's SIF, making adjustments to its wording in doing so, may discourage some from making an application. I was concerned that some parents may see this as an obstacle to making an application. The school's SIF in any case refers to "places of worship" or to "churches or places of worship" and I can see no need for the wording in the arrangements themselves. This inconsistency between the wording of the oversubscription criterion and the SIF means that the oversubscription criterion must appear unclear to readers in my view, breaching the requirement concerning clarity in paragraph 1.8 of the Code.

(viii) priority given to looked after and previously looked after children

40. Paragraph 1.7 of the Code says, in relation to oversubscription criteria that *"the highest priority **must** be given....to looked after and previously looked after children."* Paragraph 1.37 says that *"admission authorities for faith schools may give priority to all looked after and previously looked after children whether or not of the faith, but they **must** give priority to looked after and previously looked after children of the faith before other children of the faith. Where any element of priority is given in relation to children not of the faith, they must give priority to looked after and previously looked after children not of the faith above other children not of the faith."*

41. The school's arrangements say that first priority within each of its priority categories of local applicants, faiths other than Christian, church applicants and other children will be given to "children in care applicants". The term "children in care" is defined within the arrangements to include both looked after and previously looked after children as required by paragraph 1.7.

42. The school has said to me that "as a faith school, the Admissions Code allows us to give priority to all looked after children or to give priority to looked after children within each criterion". However, the Code makes it clear that oversubscription criteria must be applied sequentially. Children who are not looked after or previously looked after children and who are not of the faith will almost certainly have been admitted under the priority given by the school to children living locally, prior to the admission of other children who are looked after or previously looked after and not of the faith who do not live locally, as the objector has pointed out.

43. What the Code requires, is that all looked after and previously looked after children have the first call on places at a school. In the case of a faith school, if all are not given first priority irrespective of faith, the first priority must be given to looked after and previously looked after children who are of the same faith as that of the designation of the school, and if it admits other children the first among these must be all such looked after and previously looked after children. This requirement is set out most clearly in the regulations cited in the footnote to paragraph 1.37 of the Code.

44. The school's arrangements do not provide for first priority in admissions to be given to looked after or previously looked after children, either as a group or as the first of those of the Church of England to be admitted or as the first of all other children to be admitted. As a result they do not conform with what paragraphs 1.7 and 1.37 of the Code require and I uphold this part of the objection. Furthermore, the oversubscription criterion must include previously looked after children, since such children are not "children in care". It is insufficiently clear in my view to refer to them only in an explanatory note since it is the intention of the Code that both groups should be seen to have equal status by appearing on the face of an appropriate oversubscription criterion.

(ix) socio-economic selection

45. The objector submitted with its objection a paper setting out the basis for its view that the school's use of faith-based oversubscription criteria result in it being socio-economically selective. It concludes this paper by saying that "*if the school did not allocate so many places on the basis of faith, it would have a significantly higher proportion of pupils eligible for free school meals. Therefore we submit that the school is breaking paragraph 1.8 of the School Admissions Code's statement that 'Admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social...group'.*" The paper was provided to the school prior to the meeting, at which it was then discussed with the LA and Diocese present. Both have seen copies of subsequent correspondence resulting from it between the school and the objector.

46. The objector’s paper compares free school meal (FSM) eligibility data for pupils attending the school with the same data for other secondary schools in Bristol and the relationship of each of them to FSM eligibility data for children living in their local area. It goes on to compare data for the school with averages for the local authority area, the south-west region of England and England as a whole. It states that this data shows that the school admits *“significantly fewer pupils eligible for free school meals than the local, city-wide, regional and national averages”*, and describes academic research (Harris, published in Transactions of the Institute of British Geographers, April 2013) which has concluded that *“it is hard to avoid the conclusion that.....faith schools, on average, are socially selective”* and other published work concerning secondary schools in London (Allen and West, Oxford Review of Education, 2009) which has drawn the conclusion that *“schools with a religious character (or faith schools) have fewer FSM pupils and more top ability pupils and that, in general, they are more affluent in their intake than the neighbourhoods they are located in”*. The objector’s paper concludes by saying that although it has made several other complaints about the school’s admission arrangements, these do not in its view explain sufficiently the socio-economic selection which it says exists in its intake, and that this must therefore be due to its faith-based oversubscription criteria.

47. I have examined the data presented by the objector and while I believe it has calculated incorrectly the percentage of children in Bristol in January 2014 who were eligible for free school meals as a result of misreading published data, I do not take issue with the essentials of the data which it has presented. Figures which I have taken from the Department for Education publication “Schools, Pupils and their Characteristics (which is often referred to as the “statistical first release”) and the data drawn from the annual school census in January 2014, show that the key data for the percentage of secondary age children below sixth form who are eligible for free school meals are as follows:

	Percentage of those ages 11-16 entitled to free school meals
School	7.3
Local authority area	23.6
Region of England	12.2
England	15.7

I drew these figures to the attention of the school and the objector when we met. The objector’s assertion that there is a significant difference between the figures for the school and these comparators is justified in my view.

48. The second element of the objector’s argument is that it is the use of faith-based oversubscription criteria which causes this difference in FSM data. The

objector has estimated for each of the secondary schools in Bristol the extent to which they are representative of the population in their local area in terms of FSM entitlement figures. It has then compared these figures with the extent to which the schools use faith-based oversubscription criteria. Assuming all schools can be expected to admit local children, those which use faith-based criteria appear, according to this data, to admit fewer children than expected who are eligible for free school meals. However, the objector makes no claim concerning this Bristol data that a fixed relationship between the use of faith-based oversubscription criteria and the level of FSM eligibility in a school can be seen, but says that the school compares least favourably to its area of all the secondary schools in Bristol.

49. The objector however also referred in its paper, as mentioned above, to a number of pieces of academic research which have concluded that there is evidence that faith schools either nationally or in localities such as London admit disproportionately fewer than expected FSM eligible children. In addition, it stated its own conclusion based on analysis of data that it has carried out itself that different categories of secondary school, when taken as a group, admit either fewer or more pupils eligible for FSM than live in their local area. So those schools with no religious character as a group admit on average a higher than “expected” percentage, whereas comprehensive Church of England schools as a group admit a lower percentage than that for local children. Other categories of school such as Roman Catholic secondary schools also, on average, have an intake which differs in a particular way from the characteristics of the children in their local area. This analysis is based on comparisons which the objector has made between the proportion of children eligible for FSM attending each school and that for a “local profile” for each school using its own and then neighbouring middle super output areas. I have not checked the details of the methodology employed by the objector, and whether it is fully justified in asserting, as it does, that there is a “*correlation*”, meaning in my own understanding a specific mathematical relationship, “*between the degree of religious selection and how socio-economically exclusive schools are*”. What seems to me to be true generally from the objectors’ own research and from that which it has cited is that schools that use faith-based oversubscription criteria, when considered together, frequently but not uniformly admit a group of children who are less disadvantaged than the corresponding group of children living in their local area. That is, it seems to me to be justified to say that there is a broad relationship, but not necessarily a correlation, between the use of faith-based oversubscription criteria by schools and the extent to which FSM eligibility in their local populations is reflected in their own intake.

50. The school and the objector have exchanged further papers on this issue, disagreeing about the most appropriate measure of social deprivation, and exchanging views concerning other measures of inclusion such as ethnicity and first language data. Figures which I have taken from the “statistical first release” based on the January 2014 school census show the black and minority ethnic (BME) figure for the school as 31.4 percent and that for Bristol as a whole as 31.5 per cent. The objector says it “does not challenge” the school on the basis of either of these measures suggested by the school. I have considered maps showing the distribution of the home addresses of pupils attending the school in Years 7 to 11 provided by the LA, and its

aggregation of this data in terms of the Index of Multiple Deprivation (IMD) ranking of the lower super output areas (LSOA) represented. This shows a spread of pupils living in LSOAs which are in the most deprived quartile to the least deprived quartile of LSOAs in Bristol, with the highest proportion of admissions being from the third and fourth quartiles. The objector has provided its own analysis of this data and as a result has maintained its assertion that the school admits disproportionately from less disadvantaged areas and that it admits fewer disadvantaged children from within them than might be expected. My own concern is to come to a view as to whether aspects of the requirements concerning admission arrangements have been breached by the school, and I will set out below my consideration of the matters which have been presented to me by the objector in support of its assertion about the school's admission arrangements.

51. Paragraph 1.8 of the Code refers to unfair disadvantage caused either directly or indirectly to a child from a particular social group. The objector in this case asserts that the social group in question is the economically less advantaged.

52. The Code's reference to "a social group" in paragraph 1.8 is clear and in my understanding is to be read by admission authorities as having its everyday meaning. The Oxford English Dictionary defines the word "social" to mean "relating to society or its organisation, relating to rank and status in society", and so I believe that the phrase "social group" used in the Code would include those of a particular social status. I therefore think that it is capable of including the group the objector has identified.

53. As the objector has pointed out, the school's admission arrangements give highest credit to those whose application is prioritised on the grounds of faith where a parent or the child attends their place of worship three or more times a month for a minimum of three years. Two further categories of religious observance are defined. The second requires attendance two or more times a month for a minimum of two years, and the third a minimum of four times in the previous year. For each of the years 2013 and 2014 only those applying for a place at the school who were able to show that they were in the first of these three groups were able to gain a place at the school.

54. Schools which have a religious character are permitted to discriminate on the grounds of religion or belief when deciding who is offered admission as a pupil. As a voluntary aided school, the school may do so concerning all the places which it offers by using faith-based oversubscription criteria. Paragraph 1.38 of the Code refers to the use of both membership and practice of the faith in the construction of these criteria. The school's admission arrangements give priority on the basis of these factors for up to 200 of its available Year 7 places. There are 16 allocated without reference to faith.

55. The Code places no direct requirement on admission authorities to either admit pupils from their local area or to ensure that their intake is representative of it or of any other area in which it is located such as the local authority as a whole. Faith schools, in particular those serving minority faiths, which can in some parts of the country also be the major Christian denominations, may necessarily serve a wide geographical area. The social

make-up of schools is in no way prescribed by the Code or in legislation. That means that the social make-up of schools will inevitably be different between them and while some are likely to be representative of their locality, many may not be. There is no requirement in the Code that forbids a school from having an unrepresentative school population in socio-economic terms, or as the objector has put it from being “socio-economically selective”.

56. What the Code does forbid is that admission authorities should employ oversubscription criteria that unfairly disadvantage a particular social group. The objector says that the school’s admission arrangements unfairly disadvantage those less well off in society and points to its faith-based oversubscription criteria as the cause. For arrangements to cause unfair disadvantage to those less well off, they must cause either direct or indirect disadvantage to such parents. My view is that there is nothing in these arrangements which would cause direct disadvantage to those less well off.

57. The question which I must consider is therefore whether any unfair indirect disadvantage is caused by them. That is, I have asked myself whether those less well off would be likely to be less able to satisfy the requirements of the school’s faith-based oversubscription criteria to an extent which is unfair. I have approached this by considering how disadvantage might arise, and it seems to me that in connection with a requirement to devote time on a regular basis to take part in an activity in a specific location which may be some distance from the home, practical issues such as competing family commitments and travel requirements are relevant. There may be only one parent or carer, for example, who was also responsible for other children, or families, parents or children might devote considerable time in the role of carer for other members of the family. The ability to commit time is clearly reduced where such matters have an effect. Economically disadvantaged families may also not have access to private transport. Such practical difficulties are in my estimation less likely to attend those with better financial resources, or are more easily overcome by them. In my view it is therefore potentially the case that economic disadvantage would make it more difficult for some families to fulfil criteria of this sort. However, it will also be the case, it seems to me, that the higher the level of attendance required the higher the potential for disadvantage to result and that whether a particular level of regular commitment is likely to have such an effect at all will to some extent depend on local circumstances. This has a bearing on whether the social group in question are unfairly disadvantaged.

58. The level of religious practice which it has been necessary for parents to evidence for admission to the school in the last two years is that of attendance at religious observance for a minimum of three times a month for at least three years. I have therefore considered whether this criterion is likely to cause indirect disadvantage in the way described to those of reduced financial means to an extent which is unfair. The school calls those able to meet this criterion “regular worshippers”. A first observation which I make is that it seems to me that for a faith for which weekly observance is not unusual this level of attendance does not seem to be an unreasonable way to describe “regular attendance”. It also does not seem to me to constitute a very high level of attendance. There is no requirement other than attendance at weekly worship which is taken into account by the school.

59. Schools which have a religious character are required by paragraph 1.38 of the Code to consult *“the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated”*, and to *“have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based oversubscription criteria”*. For the school, that body is the Diocese of Bristol, which has told me that it has not provided written guidance to those schools for which it is the relevant faith body concerning their admission arrangements. Nevertheless, the school has provided me with detailed evidence that it discussed its admission arrangements, including its faith-based criteria, with the diocese when considering those which it determined for September 2014. It has therefore had available to it at least a degree of guidance on this matter from the relevant faith body before determining its arrangements.

60. I have considered what others more widely have had to say on this matter. I have looked at the guidance concerning admission arrangements which the Church of England nationally provided to Diocesan Boards of Education and to schools through the National Society in 2011. This advice places great emphasis on the need for schools *“to fulfil their obligation to recognise and make visible those who often remain invisible, through ethnic or cultural disadvantage, or through disability or poverty”*. It recommends in relation to faith-based criteria that *“the only criterion to be taken into account is attendance at worship”* but that individual schools must decide for themselves on the basis of local circumstances what is appropriate. It is my experience that diocesan bodies representing the Church of England act in accordance with this advice and do not say to schools what level of attendance is generally to be regarded as appropriate when constructing oversubscription criteria. It also seems to me that in terms of the way schools tend to interpret the advice they receive that the definition of “regular” used by the school is a higher one than that used by some schools and that it is lower than that used by some others, but that it is also not untypical.

61. The local circumstances which the school has described to me is that it is the sole Church of England voluntary aided secondary school within the diocese and that it therefore draws applicants from a wide geographical area which includes the city of Bristol. It is therefore not unexpected that it tends to be oversubscribed by members of the Church of England. The distribution of the home addresses of those attending the school confirms that it draws pupils from a wide geographical area. In 2012 14 pupils were nevertheless admitted to Year 7 who did not having the level of church attendance which defined them as “regular” worshippers, and these lower levels of religious practice remain part of the school’s arrangements and could in principle be sufficient to secure a place at the school. The fact that a higher level of church attendance has been needed more recently is as a result of what appear to be rapidly rising levels of oversubscription. While the school needs to have oversubscription criteria to deal with the level of demand for places which it is facing and while as a school with a religious character it is entitled to employ faith-based oversubscription criteria, it does not have to do so. The school does not do so exclusively, since some places are always allocated without reference to faith.

62. In constructing its faith-based oversubscription criteria, the school has had regard to guidance provided by its relevant faith body, as it is required to. I must assume that this advice was in the context of that received by the diocese from the Church of England, which it seems to me is clear in its desire for socially inclusive practice by schools. However, I have seen no evidence of there having been any advice from its faith body that the school should change its present criteria on these grounds, as might have been the case if it believed the school's arrangements were acting in a manner that contradicted the broad position of the Church of England on this matter.

63. In summary, it is clear that the objector has been able to amass substantial evidence which, against its own picture of alternative practice, it says shows that schools which use faith-based oversubscription criteria are acting in a socially selective manner. It has presented evidence which it says demonstrates that St Mary Redcliffe and Temple School fits into this pattern and that therefore its admission arrangements unfairly disadvantage a particular social group. The question which I have had to address however is whether the arrangements themselves are likely to have the effect of causing unfair disadvantage to those who are less well off, as the objector alleges. In coming to a view on this question I have considered how such disadvantage might arise, and the factors that might make it more or less likely to do so.

64. The school gives the highest priority when giving priority to applicants on the grounds of faith on the basis of what I do not think is an unusual view of what constitutes regular attendance. This is the only measure of religious adherence which it uses. I am unconvinced that giving priority on such a basis is likely to provide sufficient an obstacle for it to be so difficult for it to be demonstrated by those less well off that unfairness arises. I am therefore not persuaded that the arrangements are likely to unfairly disadvantage indirectly this group in society, as the objector alleges. As a result, I do not uphold this part of the objection.

(x) absence of a tie-breaker

65. Paragraph 1.8 of the Code includes the following statement:

*“Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.”*

The school has accepted that its arrangements contain no such mechanism and are therefore in breach of what paragraph 1.8 requires. I uphold this part of the objection.

(xi) clarity of the classification based on religious attendance

66. In making the objection, the objector quoted that part of the school's arrangements that it complains is ambiguous in its description of how religious attendance is given credit by the school. Three groups of worshipper are set out in the notes which form part of the arrangements, and each group is defined, as the objector has said, by reference to the frequency of attendance of “the parent and/or child” at worship. The school's view is that there is no ambiguity and that it is evident both that it is the child who is assigned to a

group for the purpose of the admission arrangements and that the use of “and/or” means that this it is also plain that if either the parent or child is, for example, a very regular worshipper, the child is assigned to the group defined by very regular worship.

67. The objector asserts that it is possible to read the arrangements as requiring the specified frequency of worship on the part of both parent and child. When I looked at the arrangements I did not find that this reading was possible, because it seems to me that, as the school says, the meaning of “and/or” is not ambiguous. However, the arrangements do say that “the parent/child is a member of (the relevant group)” and not that the child is so assigned, which the school says is the intended meaning. This meaning is in my view better expressed in the alternative wording offered by the objector. In other words, the oversubscription criterion is not as clearly expressed in the arrangements as it could be and so I uphold the objection that the clarity required of oversubscription criteria in paragraph 1.8 of the Code has not been met concerning this aspect of the school’s arrangements.

(xii) information requested by the SIF

68. Paragraph 2.4 of the Code sets out the purpose for which a school may ask parents to complete a SIF and the information which such forms should not request. The additional information should have “*a direct bearing on decisions about oversubscription criteria*” and **must not** include “*any personal details about parents and families, such as.....marital...status...*”

69. The school responded initially to concerns expressed by the objector that the SIF requested information that these stipulations forbid, saying that information such as the child’s gender and present school attended were “standard pieces of information”. However, neither is needed by the school to determine applications, and so must not be requested. The school accepted this at the meeting which I held with the parties, and also that requesting details of two parents/carers revealed family details such as marital status and was in any case not needed to apply the school’s oversubscription criteria. The SIF used by the school does not comply with what the Code requires for each of these reasons, and I uphold this part of the objection.

70. I do not believe that requesting the religious authority to endorse the contents of the completed SIF with two signatures contravenes any provision of the Code. The LA supports this practice on the part of the school because of its concern regarding fraudulent applications, given the school’s level of oversubscription. I do not uphold this part of the objection.

71. I have noted that the school’s arrangements refer to the maintenance of waiting lists for places “until the end of October in the year of entry”. The Code states that admission authorities **must** maintain a waiting list “*for at least the first term of the academic year of admission*”. The school will wish to be aware that the reference in the 2012 Code concerning the maintenance of waiting lists has been given sharper definition in the Code most recently approved by Parliament and therefore that the requirement for any arrangements determined from this point onwards is that a waiting list **must** be kept until at least 31 December of each school year of admission.

B. Admissions to the school's sixth form

(i) PAN for admissions from other schools

72. The school admits students from other schools to its sixth form, and so Year 12 is a normal year of admission to the school. Paragraph 1.2 of the Code says that *"..all admission authorities must set an admission number for each 'relevant age group'"*. The school has told me that it does not consider it "practicable to give a PAN for external candidates". Nevertheless, the requirement in paragraph 1.2 of the Code is plain and the arrangements fail to conform with it.

(ii) priority given to looked after and previously looked after children

73. Paragraph 2.6 of the Code says in relation to admissions to a school's sixth form that *"as with other points of entry.....,highest priority in oversubscription criteriamust be given to looked after and previously looked after children who meet the academic entry criteria."*

74. The school has told me that all students who meet the school's entry requirements are admitted and so no looked after or previously looked after child who does so is not admitted. However, the school needs to determine an admission number and while it may be its intention to admit all qualified applicants and therefore to exceed this number when necessary, this may not always be possible. In any case, the requirement of the Code is clear. The school must have oversubscription criteria for this point of entry, and the first criterion must give priority to appropriately qualified looked after and previously looked after children. The school's arrangements currently do not comply with this requirement.

(iii) academic entry requirements for external and internal candidates

75. The school has told me that it does have the same academic entry requirements for external and internal candidates, and that the priority order given in its arrangements concerns only the stage in its process at which offers are made on the basis of predicted grades. However, the arrangements contain no statement concerning common academic entry requirements and so are insufficiently clear in my view and so do not conform to what is required by paragraph 14 of the Code.

(iv) the clarity of the phrase "in the order of their likelihood"

76. The school has accepted that this wording is imprecise. As determined however, the arrangements contain it, and as a result cannot in my view be easily understood by students or their parents considering applying for a place, since it is not clear how "likelihood" is determined. As a result, the arrangements do not meet the requirements concerning the clarity of arrangements in paragraph 14 of the Code.

(v) the use of interviews

77. Paragraph 2.6 of the Code states that, in relation to admissions to a school's sixth form, *"...any meetings held to discuss options and courses must not form part of the decision process on whether to offer a place."*

78. Paragraph 1.9m prohibits interviews with parents or children. It says that meetings may be held to discuss options and academic entry requirements concerning applications for sixth form places, but that this cannot form any part of the decision making process as to whether a place in a sixth form is offered. The school says that interviews are not part of the admission process, but the arrangements say that some students will be “interviewed” and so give the appearance that this is part of that process. The arrangements are therefore insufficiently clear in my view, in contravention of paragraph 14 of the Code.

(vi) keeping a waiting list in the order in which students apply

79. Paragraph 2.14 of the Code describes how schools must maintain waiting list for places if oversubscribed and states that “*priority **must not** be given to children based on the date their application was received or their name was added to the list.*”

80. The school’s arrangements contain a clear statement that students are placed on waiting lists kept “in the order in which they apply” and it has told me that it uses this criterion to regulate late applications, that is, those received after the given closing date. However, by defining an admission number, the school will be able to know whether places are still available at the point at which an application is received, in which case no waiting list applies if the student in question meets the academic entry requirements. If no places are available at that point and a waiting list is formed, paragraph 2.14 also requires it to be kept in the order of the stated oversubscription criteria used by the school. The arrangements fail to meet what is required by paragraph 2.14.

(vii) condition on consideration of application

81. At the meeting on 2 October 2014 I invited the school to provide any response following that meeting that it wished to make regarding my concern that the arrangements contained a condition applied to the consideration of applications in contravention of paragraph 1.9a of the Code. It has not done so.

82. It is also the case that parents of sixth form pupils have the right to request that they be excused from receiving religious education and that sixth form students have the right to be excused from attending religious worship under section 55 of the Education and Inspections Act 2006, which amended section 71 of the School Standards and Framework Act 1998. This provision applies to voluntary schools and so to students in the sixth form of St Mary Redcliffe and Temple School. The condition set out in the arrangements appears also to be designed to require students and their parents to forego these rights, and admission authorities are required to comply with what the law requires.

83. I am of the view that this aspect of the arrangements breaches paragraph 1.9a of the Code.

(vii) Sixth form application form

84. The application form employed by the school requests information about students’ gender, their personal interests, previous achievements, any

disabilities or special educational needs and also requires a report to be submitted from their previous school. These are matters which either have no bearing on the consideration of the students application, or which are expressly forbidden by paragraph 1.9 of the Code.

C. Consultation on the arrangements

85. Paragraph 1.42 of the Code requires admission authorities to consult those listed in paragraph 1.44 if they propose making changes to their admission arrangements, or if they have not consulted them for seven years. The school has told me that it consults via the LA website, and has given me evidence that it communicated its draft policies to the LA prior to the determination of them, for both September 2014 and 2015. I have therefore asked the LA to inform me of the details of the consultation which it carried out on behalf of the school.

86. In spite of this request having been repeated, I have not been provided with the details which I have asked to see. Although the school has helpfully been able to supply a copy of what appeared on the LA's website on 12 June 2014, if nothing further were done by the LA on behalf of the school, this alone would not in my view represent a meaningful attempt to actively consult the groups and bodies which are listed in paragraph 1.44 of the Code.

87. Since I have no evidence to the contrary, I must conclude that the school has not met the requirements concerning consultation on its admission arrangements which are set out in the Code.

Conclusion

88. For the reasons stated above, I have upheld that part of the objection which concerns the failure of the school to display its admission arrangements for September 2015 on its website as soon as they were determined.

89. I have also set out above the reasons which have led me to conclude that the school's admission arrangements for Year 7 do not comply with what the Code requires:

(i) in paragraph 2.4 by requiring all applicants to complete a SIF and by asking them for information which may not be requested;

(ii) in paragraph 1.6 concerning the admission of children with a statement of special educational need that names the school and in failing to say clearly how places are allocated;

(iii) in paragraph 1.8 concerning the clarity of the oversubscription criteria which it employs and in not providing a final tie-breaker;

(iv) in paragraphs 1.7 and 1.37 concerning the priority given to looked after and previously looked after children;

(v) in paragraph 1.44 concerning consultation on the arrangements;
and

(vi) in paragraph 14 because of the confusing effect of the school's use of the terms "criteria" and "oversubscription criteria", because the arrangements do not describe how any unallocated places would be used, and because they make contradictory statements concerning the necessity of completing the SIF.

90. I have also explained why I think the admission arrangements for Year 7:

(i) do not unfairly discriminate against those who are economically disadvantaged as a result of employing faith-based oversubscription criteria and thus do not contravene paragraph 1.8 of the Code;

(ii) are not unclear concerning the faiths other than the Christian faith which the school gives priority to so do not contravene paragraphs 14 and 1.8 on this matter; and

(iii) are not in breach of paragraph 2.4 of the Code because two signatures on the part of religious authorities are requested as endorsements of completed SIFs.

91. I have given my reasons for concluding that the school's admission arrangements for its sixth form do not conform with what the Code requires:

(i) in paragraph 1.2 by failing to state a PAN;

(ii) in paragraph 2.6 by not stating that the highest priority for admission is given to looked after and previously looked after students if the sixth form is oversubscribed;

(iii) in paragraphs 14 by not making clear that the same academic entry requirements apply to all candidates, by the use of an unclear phrase "in the order of the likelihood" and by appearing to include interviews of students as part of the process of making admissions;

(iv) in paragraph 2.14 concerning the ordering of a waiting list;

(v) in paragraph 1.9 concerning the placing of a condition on the consideration of applications and in seeking information which is not permitted.

Determination

92. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body of St Mary Redcliffe and Temple School for admissions in September 2015.

93. I have also considered the arrangements in accordance with section 88I(5). I determine that the school's arrangements for September 2015 do not conform with the requirements relating to admission arrangements.

94. By virtue of section 88K(2), the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible, and no later than 15 April.

Dated: 13 February 2015

Signed:

Schools Adjudicator: Dr Bryan Slater