



DETERMINATION

Case reference:	ADA3250
Referrer:	A member of the public
Admission Authority:	The governing body of St Ursula's Convent School, Greenwich
Date of decision:	29 November 2016

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for September 2017 determined by the governing body for St Ursula's Convent School in the Royal Borough of Greenwich. I determine that there are 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 by 28 February 2017.

The Referral

1. The admission arrangements for September 2017 (the arrangements) for St Ursula's Convent School (the school), a Catholic voluntary aided school for girls aged 11 to 16 in the Royal Borough of Greenwich (the local authority), were brought to the attention of the Office of the Schools Adjudicator (OSA) by a member of the public on 7 October 2016. The referral was about the consultation undertaken by the school before determining the arrangements, the publication of the arrangements and the supplementary information form (SIF) used by the school.

Jurisdiction

2. The school is a voluntary aided school so its admission authority is the governing body. The 2017 arrangements were determined by the governing body on 17 March 2016. As it appeared to me that the arrangements did not or may not conform with the requirements relating to admission arrangements, I have used my power under section 88I(5) of the School Standards and Framework Act 1998 to consider the arrangements as a whole.

3. The local authority for the area in which the school is located is the Royal Borough of Greenwich. The local authority is a party to this referral. Other parties to the objection are the Catholic Diocese of Southwark (the diocese) which is the representative religious body for the school, and the school itself.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the Code.
5. The documents I have considered in reaching my decision include:
 - a. the referrer's form dated 7 October 2016;
 - b. the school's response to the referral, supporting documents and responses to my enquiries;
 - c. the guidance to schools on admissions provided by the diocese;
 - d. the local authority's comments on the referral;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. copies of the minutes of the meeting at which the governing body of the school determined the arrangements; and
 - g. a copy of the determined arrangements.
6. I have also taken into account information and comments received at a meeting I convened at the school on 16 November 2016. Representatives of the school and the local authority attended the meeting; however, the representative of the diocese tendered his apologies on the day.

The Referral

7. The referrer said that the school had made changes to its arrangements without the prior consultation required by paragraphs 1.42 to 1.45 of the Code. The referrer also claimed that the school had not published its arrangements as required by paragraph 1.47 of the Code and that the supplementary information form (SIF) used by the school requested information that is prohibited by paragraph 2.4 of the Code.

Other Matters

8. When I considered the arrangements as a whole it appeared to me that:
 - the two criteria giving priority to looked after and previously

looked after children may be unclear and not comply with paragraphs 14, 1.7, 1.8 and 1.37 of the Code;

- the priority given to children enrolled in the catechumenate may not comply with paragraph 1.37 of the Code;
- the oversubscription criterion for children of other Christian denominations requires supporting documents which may not be provided by all denominations, this may not meet the requirements of paragraph 1.37 of the Code;
- it may not be clear how the priorities within each of the main oversubscription criteria are applied, this would not comply with paragraphs 14, 1.8 and 1.37 of the Code;
- a statement in the arrangements about completion of the SIF may contravene paragraph 1.9a and other requirements of the Code; and
- the statement in the arrangements regarding applications for places outside of the normal year group may not meet the requirements of paragraph 2.17 in the Code.

Background

9. The school is in Greenwich, a short walk from the Cutty Sark. It has a published admission number (PAN) of 120 and is oversubscribed from within the Catholic community. The school draws its pupils from a wide area with some girls living more than an hour's travel away. The oversubscription criteria, which the school refers to as categories, can be summarised as:
 1. Looked after and previously looked after Catholic children.
 2. Baptised Catholic children.
 3. Children enrolled in the catechumenate.
 4. Other looked after and previously looked after children.
 5. Children who are members of Eastern Orthodox Churches.
 6. Children from other Christian denominations.
 7. Children who are members of other faiths.
 8. Other children
10. Within the above priority is based on:
 - i. Frequency of attendance at mass.
 - ii. Having a sibling at the school.

- iii. Social, pastoral or medical needs.
- iv. Random allocation.

Consideration of Case

Consultation

11. The referrer noted that the arrangements for 2017 appeared to be different to those for 2016 and said "*I am considering St Ursula's as a school for one of my children and have therefore checked the admission page of the website on a number of occasions over the last twelve months, and did not identify any items on this page or on the home page which drew attention to the planned change in arrangements.*" She also said that she had been unable to find any evidence of consultation on the local authority's website.
12. The school confirmed that the arrangements for 2017 were different to those for 2016 and I asked the school to provide me with evidence that it had undertaken consultation which met the requirements of paragraphs 1.42 to 1.45 of the Code. The school was unable to provide me with any such evidence and, at the meeting, it admitted that it had failed to consult before making changes to the arrangements.

Publication

13. The referrer also said "*I consulted the [school's] website in August 2016 to find dates for open days, and believe at that stage that the only admission arrangements published there were the 2016 admission arrangements.*" Paragraph 1.47 of the Code requires that "*Once admission authorities have determined their arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website*".
14. Paragraph 1.47 also requires admission authorities to send a copy of their determined arrangements to the local authority by 15 March each year. This enables the local authority to meet the requirement of paragraph 1.49 of the Code for the local authority to publish on its website "*details of where the determined arrangements for all schools, including Academies, can be viewed*" by that date. The local authority is not required, by paragraph 1.51 of the Code, to publish the arrangements itself until 12 September each year in its composite prospectus.
15. If admission authorities do not meet these requirements parents and others are unable to see admission arrangements in time to register any concerns with the OSA before the deadline of 15 May each year. In this case the school did not determine its arrangements until 17 March 2016 and did not publish them for some time. The local authority was unaware of changes to the school's arrangements and the arrangements published in the composite prospectus were the same as the 2016 arrangements. This would not be helpful to parents.

At the meeting the local authority told me it had now replaced what was originally published in the composite prospectus with the 2017 arrangements as determined by the school.

16. At the meeting the school accepted that it had not met the requirements regarding the publication of its admission arrangements.

The supplementary information form

17. The referrer drew my attention to the SIF used by the school. When I looked at the SIF it appeared not to meet the requirements of paragraph 2.4 of the Code which says "*In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. They **must not** ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for:*

a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates);

b) the first language of parents or the child;

c) details about parents' or a child's disabilities, special educational needs or medical conditions;

d) parents to agree to support the ethos of the school in a practical way;

e) both parents to sign the form, or for the child to complete the form."

18. The SIF was subject to detailed discussion when I met with the school and the local authority. Throughout the form it uses the terms 'Candidate' to refer to the child and 'Applicant' to refer to the parent or carer. It was agreed at the meeting that simply referring to 'child' and 'parent or carer' would be clearer. There are a number of ways in which I find the SIF does not comply with paragraph 2.4 of the Code.

- In the second section the SIF asks for the relationship of the 'Applicant' to the 'Candidate'. Asking for personal details about families is prohibited.
- In the third section the SIF requests details of other children who attend the school. Three spaces are provided. The oversubscription criteria only require the child to have one sibling to gain priority for a place. Parents could think that having more siblings at the school enhances priority. To apply the oversubscription criteria, it is only necessary to know that there is at least one sibling at the school.

- The fourth section of the form asks for the religion of the 'Applicant', that is the parent or carer. The oversubscription criteria are based on the religion of the child. It is not necessary to know the religion of the parent to apply the oversubscription criteria.
- The fifth section requests information about the parish in which the 'Candidate' lives. None of the oversubscription criteria is based on where the child lives and so this must not be asked on the SIF.
- In the sixth part of the form it asks who the 'Candidate' attends mass with, or if they attend on their own. The oversubscription criteria refer to "*the child's Mass attendance together with at least one parent or carer*". It does not matter who the parent or carer is to apply the criteria, it requires that there is one. This brings into question the position of a girl who attended Mass on her own which I will discuss later.
- In the last two sections of the form there is provision for both "*Mother/Carer*" and "*Father/Carer*" to state the frequency of Mass attendance and for the Priest to confirm this. The oversubscription criteria only require one parent or carer to attend Mass, so requiring both parents or two carers to provide this information is prohibited. It would also be unfair to single parent families, or where one parent or carer was of a different faith to give priority to girls with two Catholic parents.

19. It also appeared to me that the terminology used on the SIF, for example 'Church' and 'Mass' were focused on Catholic applicants. Applicants from other Christian denominations or other faiths would be more familiar with terms such as 'chapel', 'temple', or 'mosque' and could find the SIF difficult to complete and the arrangements unclear.

Criteria concerning looked after and previously looked after children

20. Paragraph 14 of the Code requires that arrangements are clear and paragraph 1.8 requires that oversubscription criteria are clear. The full wording of the first oversubscription criterion is "*Looked after Catholic children or looked after children in the care of Catholic families and previously looked after Catholic children who have been adopted or who have become the subject of a residence or guardianship order.*" This and the fourth oversubscription criterion both refer to residence orders. The Children and Families Act 2014 introduced child arrangements orders which replace residence orders. To be clear, these criteria should refer to current legislation.
21. The first criterion must also be considered against paragraph 1.37 which says "*Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied. Admission authorities for schools designated with a religious character may give priority to all looked after children and previously looked after*

*children whether or not of the faith, but they **must** give priority to looked after children 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 children and previously looked after children not of the faith above other children not of the faith.”*

22. At the meeting the school confirmed that by “*Catholic children*”, it meant children who had been baptised. This reflects the definition in the guidance from the diocese which says “*The definition of membership of the Catholic Church is baptism or reception.*” Children in the care of Catholic families are therefore not necessarily members of the Catholic Church. Including such children is not consistent with paragraph 1.37 of the Code.
23. The criterion also requires Catholic children to be in the care of Catholic families. Being in the care of non-Catholic family does not stop a baptised child being a Catholic and so excluding a Catholic child in the care of a non-Catholic family from this criterion does not comply with paragraph 1.37 of the Code.

Catechumen

24. The school gives children enrolled in the catechumenate priority over non-Catholic looked after and previously looked after children. Children enrolled in the catechumenate are not yet members of the Catholic Church and by virtue of paragraph 1.37 of the Code cannot be given higher priority than non-Catholic looked after and previously looked after children.
25. I noted that model oversubscription criteria provided in the guidance from the diocese also gave catechumen priority over non-Catholic looked after and previously looked after children. The school said this was because children who were enrolled in the catechumenate at the time of applying for a school place at the end of October would be baptised the following Easter and therefore would be Catholics by the time they started school the following September.
26. I am not persuaded by this argument. In another situation, a family may be planning to move into a school’s catchment area to gain priority for a place, but fail to do so by the end of October. Their application would be prioritised on the basis of the address at the time of application, if a move took place after that date it could only be taken in to account if it happened before a specified date set out in the arrangements to fit with the local scheme of co-ordination.
27. I find that the level of priority given to children enrolled in the catechumenate does not comply with paragraph 1.37 of the Code.

Members of other Christian denominations

28. The full wording of the sixth oversubscription criterion is “*Children of*

families who are members of other Christian denominations that are part of Churches Together in England. Evidence of Baptism (or dedication) provided by a priest or minister of a designated place of worship will be required.” Paragraph 1.37 of the Code set out above requires that parents can easily understand how faith based criteria can be satisfied. Unlike the other criteria where the faith of the child is referred to, in this criterion it is the family which is required to be a member of the denomination. The arrangements do not make it clear what constitutes a family.

29. This criterion also requires evidence of baptism or dedication to be provided. In discussion at the meeting the school could not give me assurances that all other Christian denominations referred to in this criterion had a rite of baptism or dedication or provided evidence that a child had been through such a rite. I find that this criterion does not meet the requirements of paragraph 1.37 of the Code.

Priority within the oversubscription criteria

30. After setting out the eight main oversubscription criteria the arrangements say:

“The following order of priorities will be applied when applications within any of the above categories exceed the places available and it is necessary to decide between applications

- i. For Category 2 above - the strength of evidence of commitment to the faith as demonstrated by the level of the child's Mass attendance together with at least one parent or carer on Sundays over a period of three years. This evidence must be provided by the parents/carers and be endorsed by a priest at the church(es) where the family normally worship. Applications will be ranked in the order shown on the Supplementary Form; firstly those who attend Mass weekly, then once or twice a month etc. (Catholics include members of the Ordinariate and the Latin and Oriental Rite Churches that are in union with the Bishop of Rome. Reference to other Christian denominations refers to denominations that are full members of Churches Together in England.)*
- ii. A sibling on the school roll at the time of admission. Evidence of the relationship may be required. (A sibling means children who live as sisters including natural sisters, adopted siblings, step sisters and foster sisters. It would not include other relatives e.g. cousins.)*
- iii. Social, pastoral and medical needs which make the school particularly suitable for the child in question. Strong and relevant evidence must be provided by an appropriate professional authority (e.g. qualified medical practitioner, education welfare officer, social worker or priest).*
- iv. Random selection.”*

31. The wording of the first paragraph in this section suggests that there might be a set number of places within each category, which there are not. Oversubscription criteria are applied when the number of applications exceeds the PAN. The factors listed are used to prioritise children when the point of oversubscription is reached within a broader category of applicant.
32. In discussion at the meeting there were a numbers of other ways in which the school agreed this section of the arrangements was not clear:
- The opening sentence says the priorities will be applied to any of the categories, while the first criteria says it only applied to the second.
 - The first of the priorities says it only applies to category 2, baptised Catholic children, but it refers to other Christian denominations.
 - The second category is for baptised Catholic children; these priorities do not allow for a child who might attend Mass on their own.
 - It is not clear how attendance between weekly and once or twice a month will be ranked.
 - If PAN was reached and exceeded within, say, the once or twice a month category it is not clear that the subsequent priorities are applied sequentially.
33. I find that this section of the arrangements is not clear and so does not meet the requirements of paragraphs 14, 1.8 and 1.37 of the Code.

Applicants who have not completed a supplementary information form

34. The arrangements say *“If the Supplementary Information Form is not completed, the governing body of the school will only be able to consider the application after all applicants who have completed a Supplementary Information Form.”*
35. I considered that this statement may be in breach of a number of requirements of the Code including: 15d *“If a school is undersubscribed, any parent that applies must be offered a place. When oversubscribed, a school’s admission authority must rank applications in order against its published oversubscription criteria”* and 1.9a *“It is for admission authorities to formulate their admission arrangements, but they **must not**: a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements”*.
36. At the meeting the school explained that what it meant by this statement was that if no SIF was received, applications would be considered under the final category. However, this is not what the

arrangements say and I find that this does not comply with the Code.

Applications outside of the normal age group

37. Paragraph 2.17 of the Code says “*Admission authorities must make clear in their admission arrangements the process for requesting admission out of the normal age group.*” The arrangements attempt to comply with this requirement by saying the school follows the local authority’s procedures and referring to the local authority’s website. I do not find this sufficient to meet the requirements of the Code for the process to be made clear in arrangements.

Summary of Findings

38. For the reasons set out above I find that the arrangements do not meet the requirements set out in the Code relating to consultation and publication set out in paragraphs 1.42 to 1.45 and 1.47. I also find that the SIF used by the school fails to meet the requirements of paragraph 2.4 and the arrangements themselves also fail to meet the requirements of paragraphs 14, 15d, 1.8, 1.9a, 1.37 and 2.17 of the Code.

39. At the meeting with the school and the local authority, the school’s representatives acknowledged that the arrangements and the process of setting them did not comply with the Code. The school clearly wishes to have admission arrangements that are clear, fair and objective which comply with the Code. It also wants to ensure that the process of setting those arrangements is transparent and is beginning the process of looking for examples of good practice prior to consulting on arrangements for 2018.

40. Paragraph 3.1 of the Code allows me to set a date by which the school must revise its arrangements to give effect to my findings. In setting this date I have taken into account three factors. The first is the school’s acknowledgement of fault and intention to address the matters which I have identified properly. The second is the point at which PAN is expected to be reached, that is in the second criterion for baptised Catholics; this means addressing my findings about lower criteria will have no impact on the allocation of places for 2017.

41. The third and major factor is the timing of this determination. The referral was made three weeks before the deadline for applications. Parents of hundreds of girls will therefore have made applications using the current SIF and after considering the current oversubscription criteria. The processing of these applications has already begun. To require the school to change its oversubscription criteria, notify these parents about them, to develop a new SIF which will need to be sent out and returned by the same parents and then begin considering those applications all within the deadlines of the Pan-London admissions scheme is, in my view, not practical and would have the risk of error in processing applications. Such a process would also be unfair to parents who have completed applications in good faith.

42. On balance I think the risks of requiring the school to make changes at this time that will affect the processing of offering places for 2017 outweigh the benefits of having arrangements that fully comply with the Code for this year. I am therefore setting the date of 28 February 2017 so that the school is able to undertake consultation and revise its admission arrangements so that they comply with the Code within the statutory timetable for 2018.

Determination

43. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for September 2017 determined by the governing body for St Ursula's Convent School in the Royal Borough of Greenwich. I determine that there are matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

44. 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 by 28 February 2017.

Dated: 29 November 2016

Signed:

Schools Adjudicator: Phil Whiffing