



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA3020</b>
<b>Referrer:</b>	<b>The governing body of St Vincent's Catholic Primary School, Altrincham</b>
<b>Admission Authority:</b>	<b>The St Ambrose College Edmund Rice Academy Trust</b>
<b>Date of decision:</b>	<b>21 September 2015</b>

### **Determination**

**In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing body for St Ambrose College, Altrincham for admission in September 2016. I determine that they do not conform with the requirements relating to admission arrangements in the ways set out in this determination.**

**By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months.**

### **The referral**

- 1. An objection to the admission arrangements (the arrangements) for September 2016 for St Ambrose College (the school) was received on 29 June 2015 by the Office of the Schools Adjudicator. The school is a Catholic academy grammar school for boys between the ages of 11 and 18; it is in the diocese of Shrewsbury (the diocese) and the local authority (the LA) for the school is Trafford Council. The objection was made by the governing body of St Vincent's Catholic Primary School, Altrincham.**
- 2. The objection was that the referring body had received no notice of the consultation concerning a proposed change in the school's oversubscription criteria, thus contravening paragraph 1.44 of the School Admissions Code (the Code).**
- 3. The referrer withdrew the objection on 9 July 2015, being satisfied with evidence provided by the school that appropriate information**

concerning consultation on the proposed change to the arrangements had been sent by email to St Vincent's as required by the Code.

### **Jurisdiction**

4. The terms of the academy agreement between the St. Ambrose College Edmund Rice Academy Trust and the Secretary of State require that the admission policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. The arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the admissions committee of the school's governing body on behalf of the academy trust, which is the admission authority for the school.
5. The objection was properly made in accordance with the Act on 29 June 2015 but was withdrawn on 9 July 2015. I had by then looked at the arrangements and considered there may be matters that do not conform to the requirements relating to admission arrangements. As the arrangements have been brought to my attention I have used my power under section 88I 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 Code.
7. The documents and websites I have considered in reaching my decision include:
  - a. the objection, dated 29 June 2015, correspondence relating to the objection from the school and withdrawal of the objection by the referrer on 9 July 2015;
  - b. the school's response to the objection, and accompanying documents, dated 7 July 2015, including the admissions policy for September 2016;
  - c. the diocese's response to the objection, dated 9 July 2015 and to my further enquiries, dated 24 August 2015, including briefing notes for admission authorities;
  - d. information received from the LA in response to the objection, dated 9 July 2015;
  - e. the school's responses to my further enquiries, dated 14 and 16 September 2015;
  - f. the school's website; and
  - g. the LA's website.

## Matters which may not conform with the Code

8. These matters are, in the oversubscription criteria: the lack of reference to priority admission for previously looked after children; a lack of clarity regarding the priority given to the children of employees of governors; references to previous schools attended that are not named feeder schools; and the lack of an effective final tie-breaker. I noted also a lack of published information concerning external applications for a place in the sixth form.

## Background

9. St Ambrose College is a Christian Brothers' Roman Catholic academy grammar school for boys, with places allocated via a competitive entrance examination. There are about 950 boys on roll, including about 200 in the sixth form. The school became an academy in April 2012. The school has not been inspected by Ofsted since its predecessor school was judged to be outstanding in July 2009 but a diocesan monitoring inspection in April 2015 evaluated all aspects of the school's faith provision and outcomes as outstanding.
10. The school is designated as a school with a Catholic religious character by the Secretary of State under the Act and is recognised by the diocese of Shrewsbury as a school with a religious designation and as a Catholic school subject to the Canon Law of the church. The diocese currently has no representation in the governance of the school and although the school does not contribute to the provision of diocesan school support services it receives information from the diocesan education department; guidance for admissions in September 2016, issued following the publication of the most recent Code in December 2014, was sent to the school.
11. The arrangements for 2016 were determined on behalf of the academy trust at a meeting of the admissions committee on 11 December 2014.
12. The school has a published admission number (PAN) of 140 for places in year 7 (Y7). Places are offered to boys "*subject to their passing the College's entrance examination, which will consist of a standardised verbal reasoning test; an English exam; a Mathematics exam.*" If the number of applicants achieving the required standard exceeds the PAN, the following oversubscription criteria will apply:
  1. Baptised Roman Catholic boys who are designated 'looked after children'
  2. Baptised Roman Catholic boys who have a brother attending the school
  3. Boys who have a parent who is permanently employed by the Governors of St Ambrose College
  4. Baptised Roman Catholic boys who are attending a Roman Catholic primary school at time of application

5. Baptised Roman Catholic boys
  6. Other boys who are designated 'looked after children'
  7. Baptised Christian boys who have a brother attending the school
  8. Other baptised Christian boys whose application is supported by a letter from a minister of Christian religion
  9. Other boys whose application is supported by a letter from a minister of Christian religion
  10. Other boys
13. Notes explain that in the event of oversubscription within any one of the categories, priority will be given to those boys who achieved the highest marks in the entrance examination. Catholic applicants are required to produce "*documentary evidence of reception of baptism*" when registering for the entrance examination. The term "brother" is explained as including "*any boy ... who is residing permanently at the same address as the candidate*". A timeline is included with the admissions policy; this gives full details of the application process and indicates that parents will be informed of the outcome of the examination by Friday 16 October 2015, but makes clear that the result does not guarantee a place at the school.
14. The school is oversubscribed for entry to Y7. For the 2015 admissions round, the LA received 363 applications, of which 200 were first preferences. On national offer day, 149 offers were made; the arrangements for 2015 differed slightly from those summarised above, but the places allocated were 35 to siblings, 64 to boys attending a Catholic primary school in one of two named deaneries and 50 to other baptised Catholic boys.
15. The sixth form PAN is also given as 140 and the oversubscription criteria are the same as those for Y7, except that criterion 3 in the above list is omitted. The arrangements state that in the event of oversubscription within any one of the categories, priority will be given to those boys with the highest mean average points score at GCSE.
16. The origin of the objection to these arrangements lay in the change to criterion 4 in the above list, which previously had referenced boys attending a Catholic primary school in one of the two deaneries closest to the school, rather than to any Catholic primary school. The objection was that the governing body of St Vincent's Catholic Primary School, Altrincham, had not been consulted on this change. However, the school was able to produce documentary evidence that St Vincent's had been sent information concerning the consultation and the governing body of St Vincent's accepted that the school acted in accordance with the requirements of the Code. When the objection was withdrawn I had already considered the school's arrangements for 2016 as a whole and made enquiries about matters which I felt may not conform with the requirements of the Code.
17. The previous head teacher of the school retired at the end of the summer term 2015 and so replies to my enquiries, which were

received by the school after the end of its summer term, were not provided until after the start of the new school year in September when the new head teacher was in post.

### Consideration of Matters

18. In considering the school's arrangements for 2016 as a whole I raised enquiries about several matters which I felt may not conform with the requirements of the Code. I shall consider these issues in turn; the school has commented on each of them but I have received no specific comments from either the diocese or the LA on any of these matters.
19. Criterion 1 in the school's arrangements for 2016, for entry to both Y7 and the sixth form, mentions 'looked after children' but not, as required by the Code, previously looked after children. I accept that in the complete admissions policy document, the required priority for both categories of applicant is set out in full but the references to relevant legislation are not complete or up to date as detailed in paragraph 1.7 (and footnotes to that paragraph) in the Code. In order to be clear to applicants, the full reference to both looked after and previously looked after children should be included in the oversubscription criteria and explanatory notes should be up to date and accurate. In its response, the school has accepted the need to make such amendments.
20. The Code, at paragraph 1.9f), prohibits priority for admission on the basis of parental occupation. There is a limited exception to this, which is for children of staff at the school in certain specified circumstances, as detailed in paragraph 1.39. However, criterion 3 in the school's arrangements for admission to Y7 does not refer to these specific circumstances and goes beyond what is permitted. When brought to the school's attention, it commented that it would be difficult to justify the criterion and that it *"does seem to be stretching a point too far. We will remove this from the admissions arrangements."*
21. Criterion 4 in the arrangements for entry to Y7 is non-compliant with paragraph 1.9b) in the Code, which states that *"admission authorities ... **must not** ... take into account any previous schools attended, unless it is a named feeder school."* A school cannot name a type of school (that is, in this case, a Catholic primary school) rather than specific named schools. The school's response was first that *"We do not name feeder schools as there are too many to name – over 90"*. Paragraph 1.15 in the Code states that *"the selection of a feeder school or schools as an oversubscription criterion **must be transparent and made on reasonable grounds"*** and to have 90 is not reasonable. Moreover, this amounts to conditionality as a child would have no chance of gaining a place if not attending one of these schools, the combined PANs of which would be far in excess of the school's own PAN of 140. The school response continued by stating that *"we do not have a catchment area so that technically any child*

*who can get to the school, and has passed the examination, can be eligible for a place*” may be true, but applicants would make their own decisions about the practicality of their child being able to access the school. The school’s response concluded, *“As a Catholic school we are entitled to prioritise Catholic pupils.”* This again is true, but only within the conditions set by the Code and to my mind giving priority for admission to a child from – potentially – any and every Catholic primary school in the land would clearly not meet the requirements of the Code.

22. In respect of naming previous schools attended by applicants the school commented *“We do this through the use of Deaneries and LPAs (Local Pastoral Areas) which are the ways in which a diocese divides up its responsibilities within its geographical area.”* However, this is not what the criterion says: it is entirely open-ended. By suggesting a possible limitation to two local deaneries, as was the case in the arrangements for 2015, the school acknowledges that it *“would then be in line with another local Catholic school which has a similar intake to ours”* but expresses some concern that this *“would then prioritise Trafford Catholic pupils over those who might live geographically nearer to the College.”* This is an issue for the admission authority to consider, but criterion 4 in its current form (and the corresponding criterion 3 in the sixth form arrangements) does not comply with the Code. I have referred to Catholic primary schools in the context of admissions to Y7, but the same issues arise regarding admissions to the sixth form; criterion 3 in the sixth form arrangements gives a priority for admission to baptised Catholic applicants *“who are attending a Roman Catholic school at the time of application.”*
23. The arrangements do not include, as required by paragraph 1.8 in the Code, an *“effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.”* As the arrangements stand, two or more applicants to either year 7 or the sixth form might be tied academically. The school has responded by saying *“We accept this need [sic] clarity and would move to having distance for [sic] the College as a tie-breaker in the unlikely event of a tie as described.”* The likelihood or not of a tie is not the issue: the Code requires an effective tie-breaker to be in place, and a distance measure alone does not meet that requirement, as two or more applicants might live equidistantly from the school, or in a multi-occupation dwelling such as a block of flats. The school states that a distance tie-breaker has been included in revised arrangements, but this is not sufficient in itself to meet the requirement in the Code.
24. I was unable to find in the arrangements, or elsewhere on the school’s website, any information about how external candidates could apply for a sixth form place, including any application form that may be used, or how many places might be available to them. The school’s response was that *“This is an oversight; the sixth form application form should have been available through a link on the*

*College website and is/was there as far as I am/was aware since it was used by pupil [sic] applying to our L6th from outside of the College this year.”* However, at the time of making this determination I was still unable to locate any such information. On the admissions page, the website states “*Sixth Form 2016 Applications available Nov 2015*” but this does not comply with paragraph 1.47 in the Code, which says that “*Once admission authorities have determined their admission arrangements, they ...**must** publish a copy of the determined arrangements on their website displaying them for the whole offer year ...* “. In other words, full sets of sixth form arrangements, including any application form, for entry in both September 2015 and 2016 should be published on the school’s website now.

25. I determine, therefore that, as detailed above, the school’s arrangements for entry to Y7 and the sixth form in September 2016 do not comply with the Code in various respects.

## **Conclusion**

26. The objection to the lack of consultation on a proposed change to one of the oversubscription criteria in the school’s arrangements for September 2016 was withdrawn when the referrer accepted that the school had complied with the requirements of the Code. However, I had already considered the arrangements as a whole and found a number of matters that did not appear to comply with the Code. Although included in the overall admissions policy document, the first oversubscription criterion mentioned only looked after, and not previously looked after, children and the references to relevant legislation in the policy document were incomplete. Priority admission for boys who have a parent who is permanently employed by the governors went beyond the permission given in the Code for the children of specified staff. The criterion giving priority to children who have attended any Catholic school did not meet the Code’s requirements concerning the naming of feeder schools or for transparency and reasonableness in identifying them. There was no final tie-breaker in the arrangements and I could find no information concerning external applications to the sixth form.
27. When brought to the school’s attention, it agreed to include the reference to previously looked after children in the oversubscription criteria and to remove the criterion concerning employees of the governing body. It has undertaken to consult with the governing body concerning the issue of previous Catholic education and the naming of feeder schools. A distance-based tie-breaker has been suggested by the school for inclusion in the arrangements, but it is not a tie-breaker that would be final and effective in all circumstances. The school has expressed its intention to publish sixth form information as required. At the time of completing this determination, none of these changes had yet been made to the arrangements published on the school’s website.

28. It is for these reasons that I conclude that the arrangements are not compliant with the Code and must be revised.

### **Determination**

29. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing body for St Ambrose College, Altrincham for admission in September 2016. I determine that they do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

30. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months.

Dated: 21 September 2015

Signed:

Schools Adjudicator: Andrew Bennett