



DETERMINATION

Case reference:	ADA2811
Objector:	The Fair Admissions Campaign
Admission Authority:	The governing body of Newman Catholic College, London Borough of Brent
Date of decision:	11 December 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for admissions in September 2015 determined by the governing body of Newman Catholic College, London Borough of Brent.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the arrangements 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.

The referral

- 1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by the Fair Admissions Campaign (the objector), about the admission arrangements (the arrangements) for Newman Catholic College (the school), a voluntary aided school for boys aged 11 – 18 in the London Borough of Brent, for September 2015. The local authority (LA) is the London Borough of Brent and the school is within the Catholic Diocese of Westminster (the diocese). The objection is in several parts and covers a range of issues that it identifies in the admission arrangements.**

Jurisdiction

- 2. These arrangements were determined by the governing body of the school, which is the admission authority for the school, on 27 February 2014.**

3. 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. As the arrangements have been drawn to my attention, I am also using my power under Section 88I of the Act to review the arrangements as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the objection dated 30 June 2014;
 - b. the school's response to the objection;
 - c. the LA's comments on the objection;
 - d. the diocese's comments on the objection and supporting documents;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - f. minutes of the meeting held on 27 February 2014 at which the governing body determined the arrangements; and
 - g. the determined arrangements for 2015.

The Objection

6. The objection that was received contained several points as follows:
 - Either the arrangements do not comply with paragraph 1.46 of the Code because the 2015 arrangements had not been determined at the time of the objection in June or they do not comply with paragraph 1.47 because they had not been published in accordance with the requirements of the Code.
 - The arrangements do not comply with paragraph 1.9(a) of the Code because they state "*It is essential that the Catholic character of the school's education is fully supported by all the families in the school. All applicants and candidates are therefore expected to give their full, unreserved and positive support for the aims and ethos of the school*".
 - In "*criteria 2/6 – regularity/duration of practice required not specified in admissions arrangements*" and so the arrangements do not comply with paragraphs 1.8, 14 and 1.37 of the Code.
 - The arrangements do not comply with paragraph 1.8 of the Code as "*there is no effective tie-breaker to separate two applicants living equidistant from the school*".

- The arrangements do not comply with paragraph 2.4 of the Code because the arrangements state that “*parents should complete a Diocesan Supplementary Information Form (SIF) which is available from Newman Catholic College and must be returned to the school*” and the objector asks if this applies “*even if they are applying under the lowest criteria?*”
- The arrangements do not comply with paragraph 2.4 of the Code because the “*priest’s reference form asks for details of both parents, including frequency/duration of mass attendance, and for child’s gender*”.
- The “*priest’s reference form asks for three parent/carer signatures*” which does not comply with paragraph 2.4(e) of the Code.
- “*Presumably the additional student data sheet is intended to be filled in once an applicant has been accepted for a place? This isn’t made clear. It asks about previous schools attended, details of both parents/carers, child’s country of origin, home language, medical details*”. This does not comply with paragraphs 2.4 and 2.4(e) of the Code.

Background

7. The school is a voluntary aided school for boys 11-18 years old. It has a published admission number (PAN) of 150 and in 2013 received 133 applications for places and in 2014 received 74 applications for places. The school was inspected by Ofsted in September 2011 and was judged to be a good school. The school is undersubscribed, so all boys seeking a place at the school have been offered a place and the oversubscription arrangements have not been used by the governing body. The headteacher commented in his response to the objection that “*The school was established for local Catholic young men in the late 1950s. The area has changed considerably since then and the school now reflects its diverse and vibrant environment. For example, 11 per cent of the boys are Muslim and 11.25 per cent are Hindu. The school is proud to be multi ethnic, multi faith and generally inclusive as an institution*”.
8. The school’s website displays a copy of the 2015 admission arrangements and on a different tab of the website a copy of the school’s supplementary information form (SIF) can be downloaded. The 2014 arrangements and a link to the priest’s reference form have been removed from the school’s website at some time since the objection was made and I first viewed the school’s website. The school’s admission arrangements are available on the LA’s website within the composite prospectus. The 2015 arrangements are:
 1. Catholic looked after children and Catholic children who have been adopted (or made subject to residence orders or special guardianship orders) immediately after having been looked after.

2. Practising Catholics (a reference from a priest will be required). Within this criterion the following order of preference will be applied.
 - a. The presence of a brother in the school at the time of admission.
 - b. The proximity of the child's home to the school measured in a straight line from the main school gate to the front door of the home.
 3. Other Catholic applicants.
 4. Other looked after children and children who have been adopted (or made subject to residence orders or special guardianship orders) immediately after having been looked after.
 5. Those preparing for the sacraments of baptism and Holy Communion with the Catholic Church (Catechumens).
 6. Christian candidates who regularly attend church (supported by a minister of religion) and whose parents wish them to receive a Catholic education.
 7. Other candidates whose parents wish them to receive a Catholic education and whose application is supported by a religious leader.
 8. All other applicants.
9. The arrangements then set out a series of definitions including a definition of Catholic and practising Catholic followed by information about the priority given within a criterion to siblings and then, if required, priority by distance. Where applicants live in a block of flats the arrangements state that the distance from the front door of the block to the flat front door will be added to the distance.
10. The arrangements have a section on sixth form admissions giving a PAN of 5. The oversubscription criteria above will be used in the case of over subscription from those fulfilling the academic requirements for courses.

Other matters

11. Having had these arrangements drawn to my attention I have reviewed the overall arrangements using my power under section 88I of the Act. I have set out below where I consider that the arrangements do not meet the requirements of the Code and will refer back to these matters when I consider the points made in the objection.
12. The priest's reference form is not available on the school's website and the arrangements say that it will be sent to parents by the school.
13. It is not clear what the criterion that says "other candidates whose parents wish them to receive a Catholic education and whose application is supported by a religious leader" means and how it is judged.

14. The SIF asks a parent to identify which criterion they are applying under and asks for the names of the mother and father or carers.
15. Paragraph 14 of the Code requires arrangements to be "*clear*" and goes on to say "*parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*". The arrangements for this school appear to be more complicated than they need to be and this makes them difficult to understand.

Consideration of Factors

16. In considering these matters I have taken into account the comments made by the school, the LA and the diocese. The school responded to the objection with a general statement about the context of the school. The LA responded in general terms to the issues raised in the objection. The diocese provided a copy of the comments it had offered to the school about how it could revise its arrangements to deal with some of the matters that do not comply with the Code.
17. I shall first consider the determination of the arrangements. The objection questions whether these were determined before 15 April as required by paragraph 1.46 of the Code. The school has provided the minutes of the governing body meeting when the admission arrangements were determined dated 27 February 2014. In this respect therefore the determination complies with the Code and I do not uphold this aspect of the objection.
18. I then looked to see when the school published its arrangements by placing them on the school's website. At the time of the objection only the 2014 arrangements were available on the school's website. The 2015 arrangements were placed upon the school's website in September 2014. Paragraph 1.47 of the Code requires an admissions authority to send its published arrangements to the local authority and to publish a copy on its website. The calendar date of publication on a school's website is not specified in the Code. The deadline for objections to published arrangements is 30 June. As it is not possible for anyone to object to arrangements unless they have been able to view them, the wording in the Code is that publication **must** be "once determined" that is immediately after the determination of the arrangements and no later than the deadline for determination of 15 April. The school did not publish its 2015 arrangements on its website until 16 September 2014 and so in this respect I uphold the objection made. The school has complied with the requirement for a copy to be sent to the LA because the LA has published the arrangements in its composite prospectus for admissions in 2015.
19. The arrangements include the statement that "*it is essential that the Catholic character of the school's education is fully supported by all the families in the school. All applicants and candidates are therefore expected to give their full, unreserved and positive support for the aims*

and ethos of the school". The objection is that this amounts to a condition placed upon applicants to the school in breach of paragraph 1.9(a) of the Code, which prevents any conditions being placed on applications other than those in the oversubscription criteria. I consider that this is a statement informing parents of the faith status of the school and an expectation that is not taken into account when places are allocated. However, it is important that parents understand clearly that this is not intended to be a condition of entry to the school and are not deterred from applying as a result. The school needs to reword this point to ensure that this complies with the requirement of paragraph 14 of the Code to be "clear", but I do not consider that there is a condition being placed upon applications to this school in breach of paragraph 1.9(a) and I do not uphold this element of the objection.

20. The next part of the objection is that in "*criteria 2-6 - the regularity /duration of practice required is not specified in the admissions arrangements*" and that this does not comply with paragraphs 1.8, 14 and 1.37 of the Code. In its arrangements the school defines a Catholic as "*a member of a church in full communion with the See of Rome and this is normally evidenced by a certificate of baptism in a Catholic Church*". A practising Catholic is defined as "*a Catholic child from a practising Catholic family where this practice is verified by a reference from a Catholic priest in the standard format laid down by the Diocese. 'Family' includes the Catholic or Catholics who have legal responsibility for the child*". Criterion 6 is for "*Christian applicants regularly attending church ...*"
21. Paragraph 14 of the Code requires admission arrangements and the criteria associated to be "*clear*". The definition of Catholic is clearly set out. However the school has not clearly set out what the word 'practising' means in the arrangements. In the case of other Christians it is unclear what "regularly" means. I could not find clarification in the SIF or in the guidance for parents that accompanied the priest's reference form. There was more information in the guidance for priests on completing the priest's reference form that I found on the diocesan website and I shall return to this later, however, I do not consider that it is acceptable for a parent to have to look elsewhere to find out about the definitions. The arrangements themselves must be clear about what is meant by 'practising' and 'regularly', and the time period over which this is judged. On this basis I uphold this element of the objection.
22. The next part of the objection is that the arrangements do not comply with paragraph 1.8 of the Code as "*there is no effective tie-breaker to separate two applicants living equidistant from the school*". The arrangements include a section headed "*Distance (Tie Breaker)*" and within this section there is a description of how straight line distance is used to prioritise applicants within an oversubscription criterion if this is needed which includes the comment that in "*blocks of flats distance will be calculated to the door of the flat by adding the distance from that to the front entrance of the building*". I consider that this will remove one of the main reasons why two applicants may lie equidistant from the

school. However, paragraph 1.8 of the Code says “*admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated*”. The arrangements do not include such a tie-breaker and in this respect do not comply with the Code and I uphold this part of the objection.

23. The next part of the objection is that the arrangements do not comply with paragraph 2.4 of the Code where it says “*parents should complete a Diocesan Supplementary Information Form (SIF) which is available from Newman Catholic College and must be returned to the school*”. The objector queries why this is required even if they are applying under the lowest criteria. Paragraph 2.4 of the Code says that admission authorities “***must** only use supplementary information forms that request additional information when it has a direct bearing on decisions about oversubscription criteria.*” The quote above from the arrangements is followed by a further sentence that says “*If parents do not return the SIF and the priest’s reference form the governors may be unable to consider which criterion the application fulfils and this may affect the chances of gaining a place at the school*”. I understand from this last sentence that the governing body recognises that some people may not complete the SIF or the priest’s reference form and in doing so will not enable the governing body to decide if one of the faith based criteria apply. In fact, the governing body will have to place such applications in the last criterion “all other applicants”. I do not consider that paragraph 2.4 of the Code is being breached in this respect and in consequence I do not uphold this element of the objection. However, I have referred to paragraph 14 of the Code above with its requirement for arrangements to be “clear” and I consider that this point applies here. I do not consider that the arrangements are sufficiently clear that it is optional for applicants to complete the SIF and the priest’s reference form and that the consequence of not completing the forms is that the application will be considered under the criterion of “all other applicants”.
24. I shall now consider the priest’s reference and the processes associated with it. The school makes the distinction between practising Catholic, Catholic and other children within its oversubscription criteria. The school defines a Catholic as one who can provide the evidence of a baptism certificate, and defines a practising Catholic as a person who can provide a priest’s reference that confirms that they are a practising Catholic according to the regulations set by the Catholic Church.
25. In order that the priest can confirm whether a Catholic is a practising Catholic, the diocese has designed a priest’s reference form for all parents seeking a priest’s reference to complete. The form asks parents or those with legal responsibility for the child to answer detailed questions about their own and their child’s practice to inform the priest who will be writing the reference. The form ends with a summary sheet on which the priest can convey the decision on practice to the school. The diocese states that this form is not part of the admission arrangements because it is a diocesan form that has the sole purpose

of informing the priest about an applicant and his or her family and is not shared with any other party.

26. The diocese sent me a copy of the guidance it provides to its parish priests on how to make the judgement about this Catholic practice in relation to the priest's reference form. The guidance says that "... A practising Catholic ... observes the Church's precept of attending Mass on Sundays and holy days of obligation ...". The guidance then says that "*priests are advised that, if, by their own observation or other evidence, they can ascertain that a person has an established pattern of attending mass most Sundays ... that person should be regarded as a practising Catholic for the purposes of this priest's reference*". The guidance goes on to advise priests that this attendance should have continued for a "*substantial period of time*" and that priests should "*enquire very carefully into the circumstances where the pattern of practice has not continued over several years*". It concludes that "*a person is certainly not to be regarded as a practising Catholic if that practice has started recently solely in order to fulfil the requirements of entry into a Catholic school*".
27. The diocese has produced a guidance note for parents on how they should complete the priest's reference form. This guidance note does not include the advice for priests described above but is clear about how a parent should complete each section of the form.
28. The statutory basis of the Code is set out on page 4 of the Code and in footnote 4 there is the following definition: "*Admission arrangements means the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered*".
29. The priest's reference form is completed for the sole purpose of considering an application for a place at the school and without it the governing body would not have the evidence to be able to apply the admission criteria. The 2015 SIF is available on the school's website and it includes within it a note to say that practising Catholics must complete a priest's reference form that is available from the school. On this basis the priest's reference form falls within the above definition and is part of the school's admission arrangements and must, therefore, meet the requirements of the Code.
30. I shall now consider the priest's reference form against the requirements of the Code. The priest's reference form begins by asking for the details for the applicant with their date of birth, gender, date and place of baptism and the name of the current school; the name of the mother and the father or those who have parental responsibility for the child and then asks for each of these people their religion; how often they attend Mass (weekly/ fortnightly/ monthly/ other) and for how long this practice has been and concludes by leaving space for the signatures of three parents/carers.

31. The objector points out that the arrangements do not comply with paragraph 2.4 of the Code because the *“priest’s reference form asks for names of both parents, frequency /duration of Mass attendance and for child’s gender”*. Paragraph 2.4 of the Code says that admission authorities *“... must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria”*. The admission criteria determined by the governing body require them to receive confirmation from the priest’s reference if an applicant has been baptised and if he is a Catholic from a practising Catholic family. Neither the names of both parents nor the gender of the child are required to provide this information and so I conclude that this unnecessary information requested from parents does not comply with this requirement of the Code and uphold this part of the objection.
32. In respect of the request for parents to provide the frequency and duration of Mass attendance the matter is less clear-cut. The diocesan guidance for priests says that *“priests cannot be expected to be able to recall whether or not each parishioner has attended Mass on every single Sunday.... priests are advised that, if, by their own observations or other evidence, they can ascertain that a person has an established pattern of attending Mass on most Sundays.....that person should be regarded as a practising Catholic for the purposes of the priests’ reference”*. The observations used by the parish priest may be based upon their observations of a parishioner’s attendance at Mass but this is not made clear. The other evidence is not specified and it may be intended that this could be the response of a parent on the reference form. However, it is not clear what evidence and observations will be taken into account and as a result this breaches the requirement of the Code for the arrangements to be “clear” and “objective”. It is not made clear how the priest uses the information provided on the form and so in the absence of clarification I conclude that this information also breaches the requirements of paragraph 2.4 of the Code.
33. Paragraph 14 of the Code refers to the requirement for arrangements to be *“fair, clear and objective”* and paragraph 1.37 begins *“Admission authorities must ensure that parents can easily understand how any faith based criterion will be satisfied.”* The priest is asked on the diocesan form to confirm that the applicant is a baptised Catholic and if appropriate is a member of a practising Catholic family. My understanding of the diocesan guidance about this is that the priest is being asked to confirm that at least one parent *“has an established pattern of attending Mass on most Sundays”* and that this has been for *“a substantial period of time”* and that this parent *“is doing his or her best to hand on the faith to his or her children”*. In my view the words “most” and “substantial” used here are open to interpretation and as a result could not be considered to be clear and objective. I have quoted paragraph 1.37 above and in order to fully meet the requirement for parents to be able to easily understand the criteria and for them to be

considered to be clear and objective, some further qualification of these words is required.

34. A further point in the objection is that paragraph 2.4(e) of the Code says that “*admission authorities ... must not ask ... both parents to sign the form*”. The provision of three signature boxes on the priest’s reference form does not comply with this requirement and so I uphold this element of the objection.
35. An additional data sheet is attached to the SIF and the objector says “*presumably the additional student data sheet is intended to be filled in once an applicant has been accepted for a place? This isn’t made clear. It asks about previous schools attended, details of both parents/carers, child’s country of origin, home language, medical details*”. I uphold the objection on the grounds that it is not made clear that this information is not required, and could not be required, as part of the admission arrangements. The school can only request such information from parents after they have been offered a place for their child.
36. I now turn to the other matters that I raised. The priest’s reference form is not placed on the school’s website and it says in the arrangements that it will be sent to parents by the school. I do not consider that this is acceptable. All the information that parents require must be readily available for them and as a part of the arrangements, the forms need to be published alongside the arrangements in order to comply with paragraph 1.47 of the Code.
37. Paragraph 14 of the Code requires arrangements to be “fair, clear and objective.” Criterion 7 says “other candidates whose parents wish them to receive a Catholic education and whose application is supported by a religious leader”. I do not consider that this is an objective criterion because it is unclear what criteria a religious leader would use to decide to support such a parental request which is not based on faith but on a desire to receive a Catholic education. I conclude that this criterion does not comply with the Code in these respects.
38. The SIF asks a parent to identify which criterion they are applying under and asks for the names of the mother and father or carers. It is not for a parent to decide which criteria apply to their application for a place, it is the governing body as admitting authority to determine this on the basis of the information provided and this relates back to my earlier point about how the governing body as the admissions authority considers an application that is not accompanied by a SIF. This question should be removed from the SIF. The SIF also asks for the names of the mother and father or carers, I have referred to paragraph 2.4 of the Code above and I do not consider that this information is needed to consider the application against the admission criteria. In addition to this, paragraph 14 of the Code requires arrangements to be fair and seeking information about two parents or carers places single parents or carers at a disadvantage. The request for details of two

parents/carers on the SIF needs to be revised.

39. Paragraph 14 of the Code requires arrangements to be “*clear*” and goes on to say “*parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*”. The arrangements for this school appear to be more complicated than they need to be and this makes them difficult to understand. There are several areas of the arrangements that will need to be revised as a result of this determination, in doing this the governing body could usefully take the opportunity to consider how it could create a set of arrangements that parents could more easily understand.

Conclusion

40. I have carefully considered all the points made by the objector, the school, the LA and the diocese. I have tested the school’s arrangements against the relevant provisions of the Code. The objection listed points that I have referred to above and I partially uphold the objection.
41. There are a number of revisions that need to be made to these arrangements in order to comply with the Code and these are detailed in the paragraphs above. In particular the school needs to ensure that it meets the requirements for publishing arrangements on the school’s website; clarifies some of the definitions that it is using; removes requests for information that do not have a direct bearing on decisions about the application of the oversubscription criteria and considers how it can revise the arrangements in a way that assists parents to easily understand them.

Determination

42. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for admissions in September 2015 determined by the governing body of Newman Catholic College, London Borough of Brent.
43. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the arrangements do not conform with the requirements relating to admission arrangements.
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 as quickly as possible.

Dated:

11 December 2014

Signed:

Schools Adjudicator: David Lennard Jones