



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA/002575

Objector: A member of the public

Admission Authority: The Academy Trust of Cathedral Primary School,
Bristol

Date of decision: 5 March 2014

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the Academy Trust for Cathedral Primary School, Bristol, for admissions in September 2014.

I determine that in relation to the matters that have been referred to me they conform with the requirements relating to admission arrangements.

I have also considered the arrangements as a whole in accordance with section 88I(5) and I determine that there are matters that do not conform with the requirements relating to admission arrangements.

By virtue of section 88K(2) of the Act 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, but no later than 15 April.

The referral

1. The admission arrangements (the arrangements) of Cathedral Primary School, (the school), for September 2014, have been brought to the attention of the Adjudicator. The school, located in the centre of Bristol, is a primary academy free school for pupils aged 4 to 11 years. The referral was made in an email dated 17 January 2014 by a member of the public. The referrer contends that there has been indirect discrimination based on the socio-economic background of some applicants; and that the school has not used an independent person to oversee the random allocation procedure.

Jurisdiction

2. The terms of the academy agreement between the proprietor (The Academy

Trust for Cathedral Primary School) and the Secretary of State for Education, require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing body on behalf of the proprietor, which is the admission authority for the school, on that basis.

3. The referral was made on 17 January 2014, after the deadline for the receipt of objections about the arrangements for 2014, that is, by 30 June 2013. I have considered the arrangements for 2014 in relation to the matters brought to my attention using my power under section 88I of the School Standards and Framework Act 1998 (the Act).

4. I have used the same power to review the arrangements as a whole. I am satisfied that it is within my jurisdiction to consider the school's arrangements.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

6. The documents I have considered in reaching my decision include:

- the referrer's email dated 17 January 2014;
- the school's responses to the referral and supporting documents dated 27 January 2014, and subsequent correspondence;
- the composite prospectus for parents seeking admission to primary schools in the area served by Bristol City Council, the local authority (the LA) in September 2013;
- a response from the LA dated 29 January 2014;
- a response from the Diocese of Bristol (the diocese) dated 21 January;
- minutes of the meeting on 18 December 2013 at which the proprietor of the school determined the arrangements; and
- a copy of the determined arrangements for admissions in September 2014.

7. I considered the arrangements for September 2014 and sought a meeting with the school, the diocese and the LA to discuss the referral and my additional concerns about aspects of the arrangements which I considered might not be fully compliant with the Code. The diocese stated that it had no direct relationship with the school and felt it was not a party in this case and therefore was not represented at the meeting.

8. I have taken account of information received during the meeting I convened on 3 February 2014 and held at the premises of Bristol Cathedral Choir School; and further information that has been submitted since the meeting by the school.

The Referral

9. The referrer contends there has been indirect discrimination based on the socio economic background of some applicants and that the admission and oversubscription policy does not comply with two paragraphs of the Code; paragraph 1.1 which says, "Admission authorities are responsible for admissions and **must** act in accordance with this Code, the School Admission Appeals Code, other laws

relating to admissions, and relevant rights and equalities legislation.” and paragraph 1.8 which says, “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.....”

10. The referrer says, “Because the school's policy can result in a child being allocated a place and then not be in position to take that place up due to lack of finances, the school cannot withdraw the offer, by law, but there is nothing in the policy or paperwork that covers how the transport costs will be met so the child can attend and therefore the current policy of the Cathedral Primary School does not adhere to this further aspect of education law.” She cites paragraph 1.9f, which says, “It is for admission authorities to formulate their admission arrangements but they **must not**: give priority to children according to the occupational, marital, financial or educational status of parents applying.”

11. The referral also alleges that the school has not used an independent person to oversee the random allocation procedure and that the school ought to use a committee. The referral makes reference to an earlier Freedom of Information request that was made to the school, by the referrer, about the operation of random allocation process. Paragraphs 1.35, 2.7, 2.12 and 2.13 of the Code are cited and these state:

“1.35 : The random allocation process must be supervised by someone independent of the school, and a fresh round of RA must be used each time a child is to be offered a place from the waiting list.

*2.7: **Allocating Places** – Admission authorities **must** allocate places on the basis of their determined arrangements only, and a decision to offer or refuse admission **must not** be made by one individual in an admission authority. Where the school is its own admission authority the whole governing body, or an admissions committee established by the governing body, **must** make such decisions.*

*2.12: **Withdrawing an offer or a place** - An admissions authority **must not** withdraw an offer unless it has been offered in error,*

*2.13: A school **must not** withdraw a place once a child has started at the school, except where that place was fraudulently obtained.....”*

Other Matters

12. Having reviewed the arrangements as a whole I considered there were a small number of issues which may contravene the Code. In discussion with the school I considered the text in relation to the admission of children with statements of special educational needs, information requested on supplementary information forms (SIFs), and the definition of school staff.

Background

13. The school was established as an academy free school on 1 September 2013 and it admitted children into the single reception class. There are 30 children on roll although the school will develop over time, into a two form entry school with up to 420 pupils.

14. Information on the school's website explains that the school wants to serve a wide range of families across the whole city of Bristol and to offer an education to those that want a high-achieving education that has a musical focus. The school does not plan to apply a geographical criterion in the first instance but instead will restrict applications to an area that includes postcode areas within, or partly within the City of Bristol, North Somerset and South Gloucestershire.

15. The school is a named feeder school for Bristol Cathedral Choir School, (BCCS) located nearby and the two schools form a family of schools working closely together. The school has its own head teacher but the principal of BCCS is the executive head teacher of the two schools.

Consideration of Factors

16. The referrer proposes what she terms, two realistic scenarios. In the first of these, a parent makes an application to the school and is offered a place but is not in a position to fund transport to and from school on a daily basis. She contends that such a child would be a victim of institutionalised indirect discrimination based on socio-economic background, which is unlawful within the state funded sector. In the second scenario the referrer contends that the arrangements could fail to address a situation where an existing pupil's family find themselves in a position where they can no longer fund the annual costs of transport and could lose the place. The inference here is that a place would be withdrawn, but the school confirmed that this had not happened and that like BCCS it operates a green travel policy and parents are actively encouraged to use the excellent public transport routes, to cycle or to walk to school.

17. The LA says, "*The School Admissions Code and associated legislation are based around a principle that parents can apply for any school and only where the school has insufficient places to accommodate all those whose parents apply should a place be refused. The argument (name of referrer) makes could therefore be applied to every maintained school or academy. The availability of public funding does not enable the Local Authority or schools and academies to support assistance with travel for any child whose parents would want them to attend a school that is further than the child can walk to.*" It confirmed that school places are available for all children within a reasonable travel distance.

18. The school is clear that if parents want to drive their child to school then this is not the school for them. Children in the reception class receive a home visit at the start of the year and consideration is given to any assistance that might be required in order to enable children to participate fully in school life, for example, with respect to transport. In my view, for the reasons stated above, the school's oversubscription criteria do not discriminate unlawfully or discriminate indirectly on the grounds of socio-economic deprivation.

19. In the second aspect, the referrer contends that the school did not use an independent person to oversee the random allocation procedure. The referrer makes reference to an earlier Freedom of Information request that was made to the school and names an education consultant who had provided advice about the establishment of the free school. The referrer suggests that previous involvement with the school would preclude the person from providing independent oversight of the random allocation procedure for admissions, but the school refutes this and says that although the person was known to school and that this is preferable to using an unknown person, the person is not an employee of the school and has no direct relationships to prospective parents. I was advised that at least two members of the teaching staff are also present to verify the process.

20. The school's procedure ensures that none of the people present during the actual process of allocating places can identify individual applicants, because all applications are numbered. I am satisfied that the random allocation procedures used by the school are robust, properly organised and supervised.

Other matters

21. Having reviewed the arrangements as a whole I considered a range of issues which may contravene the Code, I drew attention to the wording of the arrangements in relation to the admission of children with a statement of special educational needs (SEN). Under the heading "Procedures where Cathedral Primary School is oversubscribed" it states, "*Where the number of applications for admission is greater than the Published Admissions Number (PAN), applications will be considered against the oversubscription criteria. After the admission of pupils with Statements of Special Educational Needs where Cathedral Primary School has agreed to be named on the Statement, the criteria will be applied in order as follows:-*" The current text implies that the school has discretion to admit a child whose statement names that school but this is not the case.

22. I explained that parents of a child with a statement have already completed a separate statutory process which has named a school. A separate application is not therefore required. Once a statement has been issued naming a school, that school must admit the child. The Code says in paragraph 1.6, "*All children whose statement of SEN names the school **must** be admitted.*" The school acknowledged the point and agreed to amend the text of the arrangements.

23. The school requires applicants to complete a SIF and in paragraph 2.4, the Code acknowledges that admissions authorities may need to ask for SIFs in order to process applications, but goes on to say, "*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..... They **must not** ask, or use supplementary information forms that ask, for any information prohibited by paragraph 1.9 above or for a) any personal details about parents and families such as maiden names,*" Oversubscription criterion 2b refers to the admission of siblings and says that the school may require proof of relationship. The supplementary information form suggests that a full birth certificate may provide that proof. However, paragraph 2.5 of the Code, which gives admission authorities permission to ask for proof of address cautions "*.....Once a place has been offered, admission authorities may ask for proof of date of birth, but **must not** ask for a long birth certificate or other documents which would include information about the child's*

parents.....” The school readily agreed to remove this particular example from the SIF.

24. Details about both parents are requested on the SIF but this is not permitted. Paragraph 1.9 f of the Code says that although it is for admission authorities to formulate their arrangements, “...*they **must not** give priority to children according to occupational, marital, financial or education status of parents applying....*” Forms must therefore only ask for one signature, one name and for the reference to refer to one parent. Finally on this issue, although the SIF is referred to on the school’s website there is no direct link for parents. All information required by admission authorities should be provided in one place for parents to access.

25. Criterion 2d refers to the admission of children of staff at the school, “*Pupils who are children of staff working in Cathedral Primary School and who have worked there for at least two years or have been recruited to fill a demonstrable skill shortage.*” However, it does not clarify for parents, the definition of ‘staff’ and whether this refers only to teaching staff or to every person employed by the school. The Code says paragraph 14, “*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*” The school agreed to provide further clarification.

Conclusion

26. For the reasons given above I have concluded that with regard to the two aspects of the referral, the arrangements of the school comply with legislation and the Code.

27. In addition, I have considered the 2014 arrangements with the school and have concluded that several aspects of the arrangements, as detailed above, do not comply with the Code. In this case, the school has readily accepted that some aspects of its arrangements do not meet the requirements of the Code.

28. With regard to other issues of non-compliance the Code requires the admission authority to revise its admission arrangements as quickly as possible.

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 Academy Trust for Cathedral Primary School, for admissions in September 2014.

30. I determine that in relation to the matters that have been referred to me they conform with the requirements relating to admission arrangements.

31. I have also considered the arrangements as a whole in accordance with section 88I(5) and I determine that these do not conform with the requirements relating to admission arrangements.

32. By virtue of section 88K(2) of the Act 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: 5 March 2014

Signed:

Schools Adjudicator: Mrs Carol Parsons