



Office of  
the Schools  
Adjudicator

## DETERMINATION

**Case reference:** ADA 2788

**Objector:** The Fair Admissions Campaign

**Admission Authority:** The Academy Trust for St Andrew the Apostle Greek Orthodox School, North London Business Park, London Borough of Barnet

**Date of decision:** 14 January 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 for the academy trust of St Andrew the Apostle Greek Orthodox School for admissions in September 2015.**

**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 Office of the Schools Adjudicator by the Fair Admissions Campaign (the objector), about the admission arrangements for September 2015 (the arrangements) for St Andrew the Apostle Greek Orthodox School (the school) which is an academy free school. The objection was that the arrangements for 2014 were not on the school's website for the full admissions year; the arrangements have not specified how the random allocation procedures are fair; the supplementary information form (SIF) asks for the child's gender; and it is not clear what evidence of faith is required to meet the oversubscription criteria.

### Jurisdiction

2. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions

law as it applies to maintained schools. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis. 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.

## Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
  - a. the referral from the objector received on 30 June 2014;
  - b. responses from the school regarding the objection;
  - c. responses from Barnet Council (the local authority) to the objection and the local authority's composite prospectus, "*A guide to secondary school education in Barnet*" for 2014 and 2015;
  - d. an extract from the minutes of the governing body from its meeting on 24 March 2014 at which it determined the arrangements; and
  - e. the school's admission arrangements for September 2015 and other information available from the school's website.

## The objection

5. The objection made on 30 June 2014 was:
  - a) *"1.47/2.14 (2014 admissions policy no longer on website);*
  - b) *1.34 (not set out how the random allocation procedures are fair);*
  - c) *2.4 (SIF asks about child's gender);*
  - d) *1.8/1.37/14 (frequency of required religious practice in criteria 2-5 is not defined –paragraphs 43-44 of this decision suggest that it should be);*  
*and*
  - e) *1.8/1.37/14 (how the faith criterion are applied is not specified, e.g. what is done with the information on baptism and two year regular attendance? If someone has been baptised but not attended regularly do they not meet the criteria or do they meet a lower faith criteria?)."*

## Background

6. St Andrew the Apostle Greek Orthodox School is an academy free school which opened in September 2013 with its first cohort of year 7 children. In due course the school plans to cater for children aged between 11 and 19 years. The school's published admission number is 150. The school describes itself on its website as the first state secondary school in the country to be supported by the Greek Orthodox Church and that "*St Andrew the Apostle School is the result of a successful partnership forged between*

*the Greek Orthodox Church, the Classical Education Trust (CET) and the Russell Education Trust (RET).*” For places for September 2014 there were 214 preferences; 200 children were on the school roll when the local authority published its composite prospectus for secondary school admissions in 2015.

7. As a new school in 2013 there was consultation on its establishment before it opened. The school consulted on its admission arrangements at the same time. A summary of the consultation feedback is on the school’s website. The admission policy did not change for 2014 or 2015.
8. The faith body for the school is the Greek Orthodox Archdiocese of Thyateira and Great Britain (the diocese). The diocese was invited on 10 September to respond to the objection and provide information on any guidance it made available to the school. After several reminders a deadline of 24 October was set, but no response was received.
9. The objector played no part after placing the objection other than asking to receive a copy of the determination.

### **Consideration of factors**

10. The first aspect of the objection is that the admission arrangements for 2014 were not on the school’s website for the whole offer year. Paragraph 1.47 of the Code states that admission authorities, “**must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the academic year in which offers for places are made).” The school acknowledged that the arrangements for 2014 had been taken down too soon and rectified this when it was brought to their attention. I uphold this part of the objection.
11. The second matter raised by the objector was the fairness of random allocation. The objector refers to paragraph 1.34. The potentially relevant part says that, “Admission authorities that decide to use random allocation when schools are oversubscribed **must** set out clearly how this will operate, ensuring that arrangements are transparent, and that looked after children and previously looked after children are prioritised.” The school, in its letter dated 17 September 2014 in response to the objection, did not agree that the school operated random allocation. Paragraph 1.34 relates to the use of random allocation as a primary means of affording priority when a school is oversubscribed. The school does not use random allocation in this way.
12. The school’s arrangements say, “Should there be a ‘tie’ between two or more applicants for a place in any category then lots will be drawn.” This means

that the school is using random allocation only as a final tie-breaker, in the unlikely event that there is more than one applicant for the last available place that live at an identical distance from the school and not random allocation as set out in paragraph 1.34 of the Code. I do not uphold this aspect of the objection.

13. The objector refers to the inclusion of the request for the child's gender in its SIF and refers to paragraph 2.4 of the Code. This paragraph explains that admission authorities "**must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria.**" The school's response to this was, "2.4 (and 1.9) of the code do not prohibit including this information on the form. Gender is provided in the data provided by the LA for the new cohort, presumably either from the CAF or from PLASC data. We are not therefore gathering any additional information. It is helpful to the school to have this when writing to parents about the outcome of their application after national offer day – specifically to avoid the embarrassment of incorrectly referring to son or daughter – where the child's sex is not apparent from their forename."
14. It is possible to refer to 'child' and thus be non gender specific. The information on gender is not relevant to the allocation of places and it has, as the school says, already been provided, so there is no justification for it to be requested. I uphold this part of the objection.
15. The next part of the objection is about the lack of guidance on what frequency of attendance at church fulfils oversubscription criteria 2, 3, 4 and 5. The oversubscription criteria on the website, where the school directed me when I asked for the arrangements, have bullet points rather than numbers. For ease of reference I have numbered the criteria below. The oversubscription criteria are:

*"1 Children who are looked after or have been looked after by a local authority in accordance with Section 22 of the Children Act 1989.*

*2 Children for whom it is essential to be admitted to this school because of special circumstances to do with significant medical or social needs evidenced by written professional advice from a doctor, social worker or other health professional, explaining why these needs can realistically only be met by St Andrew the Apostle.*

*3 Children who, on the date of admission, will have a sibling on the roll of the school. Sibling means a full, step, half, adopted or fostered brother or sister, but not cousin, who will be living permanently with them at the same address at the date of their entry to the school; the school may require proof of relationship.*

4 This is a designated Greek Orthodox School and if oversubscribed, up to 50% of the places available after the application of 1, 2 and 3 above, will be based on a 'faith' criterion; this criterion is detailed in the notes at the end of this policy.

5 If more applications meeting the faith criterion are received than there are places available, then places will be offered in order of distance from the home address of the applicant to the school, distance being measured in a straight line from the middle of the front door of the student's accommodation to the centre of the main front gate of the school (for September 2014 the main entrance for the school in Building 5 of the NLBP)

6. For this purpose, the ground floor is considered closer than the first and so on. Should there be a 'tie' between two or more applicants for a place in any category then lots will be drawn.

7. If fewer than the designated number places are taken up by those satisfying the Greek Orthodox faith criterion, then these remaining places will be first offered to those meeting the Wider Faith Criterion in order of distance - defined above. Should there be places remaining after this they will be added to those offered to 'non-faith' applicants.

8. The places remaining after the 'faith' places have been allocated will be offered to any other applicants. If there are more applicants than there are places available in this category then they will be offered in order of distance from the school – distance being defined as in 4. 'Faith applicants' unsuccessful because of distance in category 5, will automatically be considered against the distance measure for non-faith places, but will receive no priority."

16. The notes at the end of the criteria which give further information on the definition of faith are as follows:

*"Faith Criterion: A supplementary information form will be completed by applicants under this criterion and will be certified by their priest confirming baptism certificate and regular attendance at a Greek Orthodox Church.*

*Wider Faith Criterion: The faith criterion is based on regular Church attendance at a Church which is recognised by Churches Together in England. A supplementary information form is available for applications under this criterion."*

17. The objector refers to paragraphs 1.8, 1.37 and 14 of the Code. The relevant part of 1.8 requires that oversubscription criteria "**must be reasonable, clear, objective (and) procedurally fair.**" Paragraph 14 also says that, "*In drawing up their admission arrangements, 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.”*

18. Paragraph 1.37 refers specifically to faith-based oversubscription criteria in schools with a religious character and the relevant part says, “*Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.*” The objector also says as part of this objection, “*paragraphs 43-44 of this decision suggest that it should be.*” This comment refers to a determination by an adjudicator for another school; this is noted but each determination is made upon its own merits taking into account the particular circumstances of that school.
19. Criteria 2 and 3 do not require evidence of faith. Evidence of faith is required for criteria 4, 5, 6 and 7. The SIF asks the priest or minister to confirm regular attendance. One part of the feedback that the school received to its consultation on its admission arrangements, as made available on the school’s website, was, “*in order for admissions by faith, there has to be regular attendance at church. What is meant by regular?*” This indicates that at least one parent did not find the description clear enough.
20. The school explained in its letter that, “*This requirement caused us some difficulty because of the nature of attendance at Greek Orthodox Churches (as per our religious designation) in which ‘regular attendance’ may mean intensive attendance during Holy seasons and around saints’ days and less so at other times. Governors agreed to amend to ‘monthly’ as a definition of regular; and this appears on the 2014/15 SIF.*”
21. The SIF for 2015, at the time of writing this determination, includes a definition of regular attendance as, “*Regularly means at least monthly attendance.*” This change was made in response to the objection. It is necessary to look at the SIF for the definition of the length and frequency of attendance. To meet the requirement for clarity in the oversubscription criteria, the frequency and length of attendance, need to be shown in the oversubscription criteria to make it clearer for parents. I uphold the objection on the grounds that ‘*regular*’ needed definition but I only partially uphold the objection because criteria 2 and 3 do not require evidence of commitment to a faith.
22. The last part of the objection again refers to paragraphs 1.8, 1.37 and 14 of the Code and asked, “*how the faith criterion are applied is not specified, e.g. what is done with the information on baptism and two year regular attendance? If someone has been baptised but not attended regularly do they not meet the criteria or do they meet a lower faith criteria?*”

23. The school wrote in response to this, “*There are no higher or lower faith criteria. All three must be satisfied - without Baptism and two year attendance students cannot be considered faith applicants (i.e. ‘regular attendance’ would not qualify against our criteria without both Baptismal/dedication certificate and two year attendance.*” The admissions information provided by the school on its website 6 August 2014 said, “*A supplementary information form will be completed by applicants under this criterion and will be certified by their priest confirming baptism certificate and regular attendance at a Greek Orthodox Church.*” I believe that this is straightforward and clear description (allowing, as above, that regular should be defined). I do not uphold the objection on this basis.
24. However, the wider faith definition is, “*The faith criterion is based on regular Church attendance at a Church which is recognised by Churches Together in England. A supplementary information form is available for applications under this criterion.*” The SIF is the same as for those applying as members of the Greek Orthodox Church and has been revised to include an explanation that it is necessary to be both baptised and regular attendees at church as defined by at least monthly. The SIF that was on the website in August 2014 did not do this. The SIF also does not clearly state that it is necessary to be baptised and attend regularly in order to fulfil the faith criteria. Furthermore, the requirement for both baptism and regular attendance does not take into account the different practice of churches that are members of Churches Together in England. As written the criterion could be applied for some denominations, but not all, for example, not to children attending a Baptist Church. The requirements are misleading and need to be reconsidered.
25. I partially uphold this part of the objection. This is because it is clear in the policy that if you were applying as a member of the Greek Orthodox Church a baptism certificate and regular attendance would be necessary but the requirements for those applying as members of the wider faith group are not clear.

## **Conclusion**

26. I have considered the arrangements as detailed above. There are matters on which the arrangements do not conform with the requirements of the Code and on these I uphold the objection as described above. These are: the arrangements for 2014 were not the school’s website for the full admissions year; the supplementary information form (SIF) asks for the child’s gender; and there was not a definition of what was meant by ‘regular’ attendance.

27. I partially uphold the objection with regard to the need to be clear as to whether it is necessary to have a baptism certificate and evidence of regular attendance in order to fulfil the faith criteria for those of wider faith groups.
28. I do not uphold the objection to the arrangements not specifying how the random allocation procedures are fair.

### **Determination**

29. 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 for the academy trust of St Andrew the Apostle Greek Orthodox School for admissions in September 2015.
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 as quickly as possible.

Dated: 14 January 2015

Signed:

Schools Adjudicator: Deborah Pritchard