

## **DETERMINATION**

**Case reference:** ADA/2201

**Objector:** An Eligible Parent

**Admission Authority:** St Philomena's Catholic High School for Girls

**Date of decision:** 27 October 2011

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection lodged by the Eligible Parent to the admissions arrangements of St Philomena's Catholic High School for Girls for admissions in September 2012.**

**In addition to considering the objection, I have also considered the admission arrangements as a whole in accordance with section 88J of the School Standards and Framework Act 1998.**

**I determine that for September 2012 admissions, the arrangements for St Philomena's School should be revised as set out in the annex to this determination.**

### **The referral**

1. An eligible parent has referred an objection to the Adjudicator about the admission arrangements (the arrangements) for St Philomena's Catholic High School for Girls (the School), a Voluntary Aided Roman Catholic school, for September 2012. The objector maintains that the criteria by which the school ascertains denominational eligibility are neither clear nor fair, and that in applying those criteria they can allow prejudice to affect the process of school admission.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing body which is the admission authority for the school. The eligible parent submitted his objection to these determined arrangements on 14 July 2011. I am satisfied that this objection has been properly referred to me in accordance with section 88H(3) of the Act, and that it falls within my jurisdiction.

## Procedure

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
  - a. The original objection and comments made by the objector on the responses to his objection from the School, the London Borough of Sutton (the LA) and the Archdiocese of Southwark (the Archdiocese).
  - b. The response of the Governors to the objection, including
    - i) The School's determined admissions arrangements
    - ii) A map of the area
    - iii) The School's admissions booklet
    - iv) Minutes of relevant governors' meetings
    - v) Correspondence with the Ombudsman regarding the parent's previous complaint about the way their child's application had been dealt with by the School
    - vi) Admission statistics for 2009, 2010 and 2011
  - c. The response of the Archdiocese
  - d. The response of the LA
5. In addition to investigating the matters raised by the objector, I have also reviewed the admissions arrangements (the arrangements) as a whole and considered whether I should use my power under section 88J(2)(b) of the Act. I am using my powers under the Act to make further changes to the arrangements.

## The Objection

6. The objector's daughter was refused a place at St Philomena's for 2011 and an appeal was not upheld. The objector maintains that the School admission arrangements have not changed for 2012 and that they do not comply with 1.71b of the Code:

1.71 Parents must be able to make informed decisions when applying for school places for their children. The admissions system can appear very complex to some parents and admission authorities **must** make every effort to ensure that all parents are able to understand the process and in particular how oversubscription criteria will be applied. Local authorities **must** ensure that parents have access to all relevant information before they make their application. It is easier for parents to understand local admissions systems that are clear, objective and fair.

Above all, parents need to be able to understand whether they have a realistic chance of being offered a place for their child at any particular school. In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places:

b) are objective and based on known facts. Admission authorities and governing bodies **must not** make subjective decisions or use subjective criteria;

7. In particular the Objector claims
  - a. That the use of discretion by governors in determining the commitment of parents and children to the faith is subjective.
  - b. That the explanation of Canon 914 of the Roman Catholic Church does not make clear the meaning of “age of reason” as it applies to children being admitted to Holy Communion
8. In addition the Objector argues that the School has the capacity to admit more pupils than it claims it can hold.

### **Consideration of Factors**

9. The School is a Catholic school within the Archdiocese of Southwark, and the School has worked closely with the Archdiocese and the LA in developing its arrangements in general and the oversubscription criteria in particular.

10. The School is heavily oversubscribed. In 2010 there were 651 applications and 193 children were admitted. In 2011 there were 722 applications and 191 children were admitted. The published admission number (PAN) is 190.

11. In line with its trust deeds and guidance from the Archdiocese, the School’s admissions policy states that it “exists primarily to serve the Catholic community and Catholic children always have priority of admission.” To that end, they follow the Archdiocesan guidance:

“The definition of membership of the Catholic Church is baptism or reception, evidenced by a certificate or statement from the parish in which the baptism or reception took place. The definition of Catholic practice for the purpose of admission to voluntary aided schools and academies in this Diocese is membership of the Catholic Church and attendance at Sunday Mass, evidenced by a priest.”

12. The School and Archdiocese agree that baptism confers membership of the Catholic Church, and candidates having made their First Holy Communion and attendance at Mass denote membership and practice of their faith.

13. In addition, in order to underline their call to serve the local community, the School has named 14 feeder primary schools, children from which will take precedence under each oversubscription criterion.

14. The oversubscription criteria give priority

- a. to looked after girls from Catholic families
- b. Catholic girls with a sibling in the school.
- c. Criterion 3 is for baptised Catholic girls who have made their First Holy Communion. Membership of the Church is conferred by Baptism, and Catholic Practice, as outlined in Canon Law, obliges parents to see their children baptised “within the first few weeks”.
  - i) The School divides this group into those who were baptised before or on their 1<sup>st</sup> birthday and those who were baptised later. Neither the Objector nor the Diocese has objected to this distinction.
  - ii) Within each group there are subgroups for those attending Mass weekly, fortnightly and monthly. Within each of those groups there is a further subdivision giving priority to those from a feeder school. The tie-breaker will be distance. In recent years the School has not been able to offer places to children under criterion 4 (other baptised Catholic girls), criterion 5 (other looked after girls), and criterion 6 (other girls).

15. In order to support an application the School has a Supplementary Information Form (SIF) which asks for details of Baptism, First Communion and Mass attendance. There is also an opportunity to explain any factors which may have affected the age at which the candidate was baptised, the first Holy Communion or frequency of Mass attendance. Documentary evidence of Baptism, First Communion, and attendance at Mass are required. Finally, there is an opportunity on the SIF for the applicant to add “any other information you feel is relevant to this application in relation to the School’s Admissions Policy relating to the Sacraments and/or in respect of exceptional medical, social or pastoral needs of the Candidate that make only this School suitable for her. Strong and relevant evidence must be provided by an appropriate professional authority (e.g. qualified medical practitioner, education welfare officer, social worker or priest). ... Please also use this section to give reasons why certificates of Baptism and/or First Holy Communion are not available and, if applicable, why alternative written evidence from the Parish is not available.”

16. The objector argues that the school has no written guidance to ensure that consideration of this final section of the SIF is “objective and based on known facts” as the Code requires.

17. The Admissions Policy does give one specific piece of written guidance. “Where a child has been baptised as a result of Catechumen initiation and has followed a RCIC (Rite of Christian Initiation of Children) course the Governors will consider the baptism to be on or before the first birthday”. This is particularly relevant where a parent converts to the faith or a child is adopted.

18. The objector believes that the School should give more guidance as to examples of situations where, for example, Baptism has been delayed, in order to allow parents to make an informed decision. The LA and the Archdiocese do not accept that this would be helpful. I agree and accept that parents are encouraged on the forms both to explain any exceptional circumstances surrounding their application and to provide documentary support.

19. The LA and Archdiocese do agree that the School could improve the wording of this section to provide clarity in the policy that individual circumstances other than conversion may be considered based on documentary evidence provided, and where Baptism was unavoidably delayed beyond the first birthday, children may be considered as if they had met this providing Baptism took place as soon as possible thereafter. I have consulted with the School, who have agreed to the revised wording set out at the end of this determination.

20. However detailed or carefully designed arrangements may be, at the end of the day an admissions panel may be faced with decisions that cannot be reached simply by applying objective criteria, such as applying a numerical requirement. Discernment and judgement are called for, as the panel looks objectively at the evidence provided as to why it was not possible for a particular requirement to be met at a given level. This is not to make “subjective decisions”, but to reflect on the evidence of a particular situation, and to agree an appropriate and wise decision. This is in conformity with the Code, and I believe that the Governors’ processes are robust and fair.

21. For the sake of completeness, I noted that the objector complained to the Local Government Ombudsman about the way in which the School dealt with applications in 2011. The Ombudsman gave a provisional view that there is no evidence of maladministration in the way the panel considered the appeal.

22. One further objection was raised. The policy explains Canon 914 regarding First Holy Communion as follows: “It is primarily the duty of parents and those who take their place, as it is the duty of the parish priest, to ensure that children who have reached the age of reason are properly prepared and, having made their sacramental confession, are nourished by the divine food as soon as possible.” The objector maintains that it should be made clear what constitutes “the age of reason”. I agree with this part of the objection. The school repeats the canonical position of the Church, but accepts that it would be helpful to specify the canonical determination that a minor is presumed to have the use of reason on her seventh birthday.

23. The parent refers in passing to the School's PAN, and maintains that the school has the capacity to admit more pupils than it does. Had the parent wished formally to object that the PAN is below the indicated admission number, then, under section 88H(3)(b) of the Schools Standards & Framework Act 1998, the Regulations require at least another 9 parents to join the objection before I am required to determine it.

24. On the other hand, if the objection were simply that the school has the capacity to admit more pupils than it does, then the objector would need to show that the PAN breaches the mandatory requirements of the Code. Neither of these are the situation here, so I mention it solely for completeness.

### **Conclusion**

25. I have concluded for the reasons given above that I should not uphold the primary objection. The arrangements do comply with the Code, and I accept that they are objective or that, where discretion must of necessity be exercised, it is on the basis of objective evidence.

26. I uphold the second objection for the reasons stated above. The arrangements must be clear, and a definition of "the age of reason" can easily be made.

27. The School has accepted this, and that some minor changes to the wording could improve clarity of their form. They have agreed my amendments for inclusion in the published arrangements. These are shown in the annex to this determination.

### **Determination**

28. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I partially uphold the objection lodged by the Eligible Parent to the admissions arrangements of St Philomena's Catholic High School for Girls for admissions in September 2012.

29. In addition to considering the objection, I have also considered the admission arrangements as a whole in accordance with section 88J of the School Standards and Framework Act 1998.

30. I determine that for September 2012 admissions, the arrangements for St Philomena's School should be revised as set out in the annex to this determination.

Dated: 27 October 2011

Signed:

Schools

Adjudicator: Dr Stephen Venner

## **ANNEX**

### **1) Admissions Policy for 2012 Entry, page 5, to read:**

#### **Baptism**

##### **Explanatory notes:**

“Where baptism was unavoidably delayed beyond the first birthday and it can be shown that baptism took place as soon as possible, the Governors will consider the baptism to be on or before the first birthday. For example, where a child has been baptised as a result of Catechumen initiation and has followed a RCIC (Rite of Christian Initiation of Children) course. The applicant should complete Table 1 on the Supplementary Information form. Documentary evidence from a Catholic priest should be provided.”

#### **First Holy Communion**

##### **Canon 914**

“It is primarily the duty of parents and those who take their place, as it is the duty of the parish priest, to ensure that children who have reached the canonical age of reason (7<sup>th</sup> birthday) are properly prepared and, having made their sacramental confession, are nourished by the divine food as soon as possible.”

### **2) Supplementary Information Form, page 4**

#### **Table 1. Candidate’s Sacrament of Baptism**

“If Baptism did not take place during the Candidate’s first year of life, please explain why here.”