



## DETERMINATION

**Case reference:** ADA2654

**Admission Authority:** The governing body of St Elizabeth's Catholic Primary School, Richmond

**Date of decision:** 26 September 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 governing body, which is the admission authority, for St Elizabeth's Catholic Voluntary Aided Primary School, Richmond, for admissions in 2014 and 2015.**

**I determine that the arrangements 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 as quickly as possible.**

### **The referral**

1. Under section 88I(5) of the School Standards and Framework Act 1998, (the Act), the admission arrangements (the arrangements) for St Elizabeth's Catholic Primary School (the school) Richmond, a voluntary aided primary school for 4 to 11 year olds, for September 2014, have been brought to the attention of the adjudicator. The matter of concern is that the school's arrangements include an oversubscription criterion that gives priority for admission to the reception year to children attending the school's nursery over local children.

### **Jurisdiction**

2. Admission authorities are required to determine their admission arrangements under section 88C of the Act. The school's governing body, which is the admission authority for the school, has been unable to provide documentary evidence of when the arrangements for 2014 and 2015 were determined, but has assured me that the arrangements which are now published on the school's website are the determined arrangements.

3. Having had the arrangements brought to my attention, I considered there may be matters that do not comply with requirements relating to

admissions and have therefore used my power under section 88I of the Act to consider the arrangements for 2014 and 2015 as a whole.

### **Procedure**

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

The documents I have considered in reaching my decision include:

- a. the email bringing the arrangements to the attention of the adjudicator dated 16 May 2014;
- b. the school's response and subsequent correspondence and supporting documents;
- c. The London Borough of Richmond upon Thames Council's (the council) response to the referral;
- d. the Diocese of Southwark's (the diocese) response to the referral;
- e. the council's composite prospectus for parents seeking admission to schools in the area in September 2014 and 2015; and
- f. a copy of the school's arrangements for 2014 and 2015.

### **Matters of Concern**

5. The aspect of the school's admissions arrangements that was brought to my attention was the priority given to children attending "*St Elizabeth's Nursery at the closing date for admissions.*" The school's website describes the nursery as a fee-paying separate unit from the school and including attendance at the nursery in the arrangements may breach paragraphs 14, 1.9(e) and 1.9(f) of the Code.

### **Background**

6. St Elizabeth's Catholic Primary School is a voluntary aided school in the Diocese of Southwark for 4 to 11 year olds. The governing body is the admission authority for the school. The published admission number (PAN) for reception for 2015 is 60. The Christian ethos of the school is reflected on its website and published information.

7. The school has had considerable change within its senior leadership team and governing body, and since May 2014 has acted swiftly, with the support of the diocese, to review urgently its arrangements for admission to the school for 2014 and 2015. The school has taken action to bring its arrangements into line with the requirements relating to admissions using the provisions of Section 88E of the Act which allows arrangements to be varied after determination in order to comply with admissions law, a mandatory provision of the Code or a determination by an adjudicator.

8. At the time of the referral in May 2014 no arrangements were published on the school's website. The school has provided me with the arrangements which included the oversubscription criterion giving priority for having attended the nursery. I have been informed these arrangements were on the website until 30 April 2014 and were used to allocate places for September 2014. In summary, they are as follows:

1. Baptised and practising Catholic children from practising Catholic families worshipping in named parishes or resident in these named parishes but attending Eastern Catholic Rite Church or an ethnic chaplaincy, as verified by the priest's declaration.
2. Baptised and practising Catholic children from practising Catholic families in other parishes, as verified by the priest's declaration.
3. Baptised Catholic children unable to obtain a priest's declaration confirming regular or occasional practice.
4. Baptised children from Christian denominations
5. Others seeking a place in a Catholic school

The arrangements say that if any criterion is oversubscribed then the following additional criteria are applied in the order given below. In summary they are as follows:

- i. Children in public care (looked after children)
- ii. Siblings
- iii. Attendance at St Elizabeth's nursery at the closing date for admissions
- iv. Children of staff members
- v. Proximity to the school

9. The school reviewed the arrangements set out above, during the summer term and found that they did not comply with the Code. The arrangements were withdrawn from the school's website on 30<sup>th</sup> April 2014 and for a period during May the school's website did not show any arrangements. This breached paragraph 1.47 of the Code which says, "*admission authorities .....**must** publish a copy of the determined arrangements on their website displaying them for the whole offer year...*" The 2015 arrangements for the school should have been determined by 15 April 2014 and be available on the school's website once determined. With the support of the diocese the school amended the arrangements for 2014 and also adopted the amended arrangements for 2015, and both sets now appear on the school's website.

10. The oversubscription criteria for 2015 as they are published on the

school's website are summarised below:

1. Looked after Catholic children or looked after children in the care of Catholic families and previously looked after Catholic children
2. Catholic children
3. Other looked after and previously looked after children
4. Children who are members of Eastern Orthodox Churches
5. Children of families who are members of other Christian denominations
6. Children who are members of other faiths
7. Any other children

The arrangements say that if any criterion is oversubscribed then the following additional criteria are applied in the order given below. In summary they are as follows:

- i. For category 2 above – social, pastoral and medical needs which make the school particularly suitable for the child in question.
- ii. For category 2 above – the strength of evidence of the commitment to the faith as demonstrated by the level of the family's Mass attendance on Sundays over a period of two years. First priority will be given to those whose families attend Mass weekly, then to those whose families attend Mass at least monthly and then to those whose families attend Mass less frequently.
- iii. Siblings
- iv. Living in named parishes. Where this category is oversubscribed places will be offered to pupils in each of the four parishes mentioned in proportion to Mass attendance in each parish as shown in the most recently published Southwark Catholic Directory.
- iv. Proximity to the school

### **Consideration of Factors**

11. I shall deal first with the 2014 arrangements and the matter of concern that was brought to my attention. The school's website describes the nursery as a fee-paying, separate unit from the school. As such including attendance at the nursery in the arrangements and giving priority for admission may breach paragraphs 14, 1.9(e) and 1.9(f) of the Code.

12. Paragraph 14 of the Code states that, "*admission authorities must*

*ensure that the practices and criteria used to decide the allocation of school places are fair, clear and objective.*” An oversubscription criterion which prioritises children who have attended the school’s nursery may be unfair as children may not attend the school nursery for a variety of reasons including because parents had recently moved into the area and could not obtain a place or had chosen not to send their child to the nursery attached to the school as other provision better suited their needs or the parents had wanted a place at the nursery, but had not been able to secure one. It is unfair in my view that these children should be disadvantaged when making an application for a place for reception at the school because their parents chose not to or were not able to make use of the nursery provision at the school. Priority for a place at compulsory school age should not be affected by whether or not the child attends the nursery and is a breach of the requirement for fairness in paragraph 14 of the Code. The nursery unit attached to the school is fee-paying so giving priority for a reception place to children who attend the nursery would be likely to breach paragraph 1.9(e) which prohibits giving priority on the basis of financial support to the school and paragraph 1.9(f) which prohibits giving *“priority to children according to the occupational, marital, financial or educational status of parents applying...”* and in my view the payment of fees may indicate a parent’s financial status.

13. The submission made by the new chair of governors on 11 June 2014, acknowledges that there were several aspects of the arrangements which were not compliant with the Code including the priority given to children who attended nursery and the lack of priority given to looked after and previously looked after children. Once aware, the school had taken urgent action, with the support of the diocese, and removed the non-compliant arrangements for 2014 from the school’s website. They worked to amend the arrangements, as permitted, in order to comply with the mandatory requirements of the Code and now have arrangements to be used for the rest of the time for which the 2014 arrangements apply and for 2015.

14. The school has not provided evidence that the 2015 arrangements have been determined, but I have been assured that they have been determined by the governors. The governing body might consider formally recording that it has determined its arrangements for 2015. I have also noted that the 2014 and 2015 arrangements as available on the school’s website are not complete. The arrangements make reference to a supplementary information form (SIF) which is part of the arrangements, and therefore, must be published as part of those arrangements. The SIF should be made available under the Admissions tab of the school’s website. The form must also comply fully with the Code and the governors will wish to check for compliance. The 2015 arrangements were introduced without consultation which is a breach of paragraphs 1.42 to 1.45 of the Code, but the need to have arrangements that comply with the Code meant that governors were required to take urgent action. The school needs to check that it fully meets the consultation and publication requirements of the Code in the future.

## **Conclusion**

15. The arrangements used to allocate places for 2014 gave priority to children attending a fee-paying nursery unit attached to the school. The

school has removed that provision from its arrangements as it concluded such priority did not comply with the Code and in my view the provision had it still been included would be likely to be found to be a breach of paragraphs 14, 1.9(e) and 1.9(f) of the Code. The school, with the support of the diocese, has made available on its website new arrangements for the rest of the time for which the 2014 arrangements apply. For a period during May 2014 the school's website did not show any arrangements and this contravened paragraph 1.47 of the Code. In regard to the 2014 and 2015 arrangements the school needs to ensure it fully meets the publication requirements of the Code and add the SIF to the arrangements published on its website.

16. Having reviewed the arrangements as a whole for compliance with the Code I have concluded, that for the reasons given above, that there are matters in the 2014 and 2015 arrangements that do not comply with the Code and need to be remedied.

### **Determination**

17. 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, which is the admission authority, for St Elizabeth's Catholic Voluntary Aided Primary School, Richmond, for admissions in 2014 and 2015.

18. I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

19. 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: 26 September 2014

Signed:

Schools Adjudicator: Dr Krutika Pau