



## **DETERMINATION**

**Case reference:** ADA 2787

**Objector:** The Fair Admissions Campaign

**Admission Authority:** The governing body of Bishop Douglass School, London Borough of Barnet

**Date of decision:** 13 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 Bishop Douglass School, Barnet.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that 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 Admission Campaign (the objector), about the admission arrangements for September 2015 (the arrangements) for Bishop Douglass School (the school), a voluntary aided, Roman Catholic secondary school.
2. The objection is to the arrangements possibly not being determined or not being published if determined; the requirement that all applicants are expected to give their full and positive support for the aims and ethos of the school; a letter of support is required for some criteria even though this is not clearly needed to prove the criteria; it is not explained, if either the community or foundation categories are not fully subscribed, how the remaining places may be allocated to the other category; the process of random allocation is not defined; it is not made clear that any child with a statement of educational need which names the school will always get a place at the school; and it is not reasonable that all applicants are required to complete the supplementary information form (SIF).

## Jurisdiction

3. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. 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. I have also used my power under section 88I of the Act to consider 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 responses of the school to the objection and my enquiries;
  - c. documents provided by the school relating to its arrangements and information provided on the school's website;
  - d. the responses of the Diocese of Westminster (the diocese) to the objection and my enquiries;
  - e. "Joint Guidance on Admissions for the Governing Bodies of Catholic Voluntary Aided Schools" provided by the diocese and written 2003 and revised 2007 (the guidance);
  - f. advice from the diocese to the school on its proposed arrangements for 2015 dated 10 March 2014;
  - g. Barnet Council's (the local authority) composite prospectus for parents seeking admission to secondary schools in the area in September 2014 and September 2015;
  - h. the common application form (CAF) used by the local authority for 2014;
  - i. a copy of the minutes of the meeting of the governing body on 24 March 2014 at which the arrangements were determined; and
  - j. a copy of the determined arrangements.

## The Objection

6. The objection is:
  - i. "either 1.46 (admissions policy for 2015 not decided yet) or 1.47 (admissions policy for 2015 not published yet) being broken. The rest of the complaint is therefore about the 2014 policy
  - ii. 1.9e) ('All applicants and candidates are expected to give their full and positive support to the aims and ethos of the school.')
  - iii. 1.8/14/1.37 (criteria 3-5 – the SIF asks for 'Minister or Faith Leader's Declaration of Support' but the criteria do not suggest that this is a requirement)
  - iv. 1.6/1.36/2.8 (oversubscription criteria do not make clear that if there are less than 120 foundation applicants then additional places will be allocated to the open criteria. They also don't make clear that if

- there are more than 120 applicants then those who apply for a foundation place will be considered under the open criteria)*
- v. *1.45 (process and independence of random allocation not made clear)*
  - vi. *1.6 (not made clear that statemented children always get first priority)*
  - vii. *2.4 (all applicants told they should complete the SIF even if applying under the lowest criteria)”*

## **Other Matters**

7. In the course of considering the objection, I reviewed the arrangements as a whole. The arrangements appeared not to conform with the requirements relating to admissions as follows:
- a. the SIF asks for information which does not conform with the requirements of the Code;
  - b. the school does not have a way of knowing if a child meets the criteria for children previously looked after;
  - c. the arrangements say that priority is given to brothers and sisters of those already attending but what this means is not explained;
  - d. the arrangements for year 12 appear unclear;
  - e. the application form for year 12 requires information which does not conform with the Code; and
  - f. the school appears to treat year 13 as an additional year of entry.

## **Background**

8. Bishop Douglass School is a comprehensive co-educational, Catholic school for children aged between 11 and 18 years in the London Borough of Barnet. The school is voluntary aided and within the area of the Diocese of Westminster.
9. The school has a published admission number of 180 for year 7 with two categories of places with separate criteria for each. One category is up to 120 foundation places. The other category is up to 60 community places. For places in year 7 for 2014 there were 310 applications of which 64 were first preferences. The school is said to have a published admission number of 240 for year 12.
10. The school provided the factual information which I requested and did not wish to add anything to the responses from the diocese. At the time of the objection only the arrangements for 2014 were published. In my determination I have considered the published arrangements for September 2015.

## **Consideration of Factors**

11. The objector queries whether the admission arrangements for 2015 were determined. The school has provided me with a copy of the

minutes of the meeting of the governing body on 24 March 2014 at which the arrangements for 2015 were determined as required by the Code in paragraph 1.46. I do not uphold this part of the objection.

12. The objection continues that if the arrangements were determined, they should have been published as required by paragraph 1.47 of the Code which includes, "*Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website.*" The arrangements were determined and should therefore have been published as soon as possible afterwards.
13. Paragraph 1.50 the Code states, "*Following determination of arrangements, any objections to those arrangements **must** be made to the Schools Adjudicator by 30 June.*" The arrangements need to be published for this to be possible. The arrangements for 2015 were not on the school's website when I looked on 6 August 2014. The diocese's response dated 3 September 2014 says, "*The 2015 admission arrangements are on the school website.*" This does not explain why they were not on the website when the objection was made in June 2014 and when I looked in August 2014. There is no comment on this from the school. The school does not meet the requirements of the Code to publish the arrangements once determined. I uphold this part of the objection.
14. The next part of the objection refers to the statement in the arrangements that says, "*All applicants and candidates are expected to give their full and positive support to the aims and ethos of the school.*" The relevant part of paragraph 1.9e of the Code, referred to by the objector, says that admission authorities **must not**, "*give priority to children on the basis of any practical or financial support parents may give to the school or any associated organisation, including any religious authority.*"
15. The diocese responded to this point in its letter dated 3 September 2014, "*There is no problem with this statement; this is a Catholic school, set up to assist parents to give their children a good Catholic education. The school would be failing in its duty to parents and to its trust deed if it did not expect all concerned to support the aims and ethos of the school.*" This response does not consider that the school has a duty to provide education to children who are not Catholic if places are available. The Code allows that when a faith school is oversubscribed it can give priority on the grounds of faith in its criteria but any parent can apply for a place at the school, whether of the faith or not. As paragraph 1.36 of the Code says, "*As with other maintained*

*schools, these schools are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available.” This school has 60 community places which have no faith requirement.*

16. In its arrangements the school describes itself as follows, *“Bishop Douglass School was founded by the Catholic Church to provide education for children of Catholic families. The school is conducted by its governing body as part of the Catholic Church in accordance with its trust deed and instrument of government. We are a Catholic community and strive to uphold strong spiritual and moral values, both in and outside the classroom. We are a fully inclusive school and celebrate our diversity, with high expectations of achievement for all our students.”* These statements are consistent with the information on the school’s website and a clear statement of the school’s values and I find no conflict with the Code.
17. The interpretation by the objector of *“full and positive support,”* is practical or financial support by the parents, but there is no evidence that this is expected or implied and so paragraph 1.9e is not contravened. I do not uphold the objection on this basis.
18. The next matter raised by the objector is that the SIF asks for *“Minister or Faith Leader’s Declaration of Support”* but that the criteria for 3 - 5 do not suggest that this is a requirement. The oversubscription criteria for the foundation places at the school are:
  - i. *“Catholic children ‘looked after’ by a Local Authority and Catholic children who have been adopted (or made subject to residence orders or special guardianship orders) immediately following having been looked after.*
  - ii. *Baptised Catholics.*
  - iii. *Other children whose parents wish them to have a Catholic education who attend one of the Bishop Douglass Specialist Science College and Sports Partnership family of schools, i.e. St. Theresa’s RC Primary School, Our Lady of Lourdes RC Primary School, Holy Trinity C of E Primary School, Martin Community Primary School and Manorside Community Primary School.*
  - iv. *Other Christians whose parents wish them to have a Catholic education and whose application is supported by a minister of religion.*
  - v. *Children of other faiths whose parents wish them to have a Catholic education and whose application is supported by a religious leader.*
  - vi. *Any other candidate whose parents wish them to have a Catholic Education.”*

19. The objector refers to paragraphs 1.8, 14 (see above) and 1.37 of the Code. Paragraph 1.8 includes that oversubscription criteria **must** be *“reasonable, clear, objective, procedurally fair, and comply with all relevant legislation.”* Paragraph 1.37 requires that, *“admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.”*
20. The SIF for 2015 only requires the ‘*Minister or Faith Leader’s Declaration of Support*’ form for criteria 4 and 5. The SIF for 2014, which was the only one available to the objector because the school had not published its arrangements for 2015, did require the form for criterion 3 as well and this would have been inappropriate. The arrangements for 2015 conform with the Code in this regard. I do not uphold this part of the objection.
21. The next matter raised by the objector is that *“the oversubscription criteria do not make clear that if there are less than 120 foundation applicants then additional places will be allocated to the open criteria. They also don’t make clear that if there are more than 120 applicants then those who apply for a foundation place will be considered under the open criteria.”* The objector refers to paragraphs 1.6, 1.36 (see above) and 2.8 of the Code. Paragraph 1.6 says that the admission authority *“**must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied.”* Paragraph 2.8 requires that, *“all maintained schools, including faith schools, that have enough places available **must** offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria.”*
22. The arrangements make no comment on what would happen if there were fewer applicants than places in one category and more applicants than places in the other. Any unfilled places must be allocated to applicants, whether community or foundation. The arrangements do not explain this or how places would be allocated and so do not conform with the Code. I uphold this part of the objection.
23. The objector believes that the process and independence of random allocation has not been made clear and refers to paragraph 1.45 of the Code. This paragraph is about consultation and so does not appear to be relevant. I cannot uphold the objection on this basis.
24. The reference in the arrangements to random allocation is about the final tie-breaker and says, *“applicants from the same block of flats, or*

*applicants who live the same distance from the school will be selected in random order and places will be offered accordingly.*” The arrangements do not say what this means. Paragraph 1.8 of the Code requires that arrangements **must** *“include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.”* The arrangements appear to say some form of random allocation as a tie-breaker but need to be clearer as to how this is applied so that they fully meet the requirements of paragraph 1.8.

25. The next part of the objection is about children with statements of special educational needs and the lack of information on their rights. The school’s arrangements say, *“The admission of pupils with a statement of Special Educational Needs or Education, Health and Care Plan is dealt with by a completely separate procedure. This procedure is integral to the making and maintaining of statements by the pupil’s home Local Education Authority. Details of this separate procedure are set out in the Special Educational Needs Code of Practice.”* The objection is that this does not make it clear that children with the school named on their statement will be admitted to the school.
26. The diocese’s response in its letter dated 3 September 2014 was, *“The admission of children with Statements of Special Educational Need is not relevant to this policy. It is only necessary to remind parents that they must apply through their local authority SEN department, not through the school. It is misleading to say that statemented children will always get first priority. Parents do not always get the school they want and in October 2015 most statements will not yet have been finalised (the deadline is 15th February 2016). The naming of a school in part 4 of the statement is done in collaboration with governors, the school and the LA and a school admission policy is not the place for this discussion.”*
27. The objector refers to paragraph 1.6 which states that there must be oversubscription criteria and includes, *“All children whose statement of special educational needs (SEN) names the school must be admitted.”* The current wording does not explain to parents the right of a child with the school named on its statement of special educational need to be admitted. Nor does it make clear for other parents that some of the available places could be allocated before any of the oversubscription criteria are applied if the school is oversubscribed. The arrangements therefore do not conform with the requirements of the Code and I uphold this part of the objection.
28. The last point raised in the objection is that all applicants are told they should complete the SIF even if applying under the lowest criteria. The

objector refers to paragraph 2.4 of the Code which includes the statement that admission authorities, “**must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria.**”

29. The arrangements state that applicants, in addition to the CAF, “*should also complete one of the school’s Supplementary Information Forms attached to this policy, and return it to the school by 31st October 2014.*” The diocese in its letter dated 3 September 2014 expressed the view that, “*The information on the SIF is the only information that the school has to go on. It would be discriminatory to fail to give those applying under the lowest category the opportunity to claim sibling priority for example.*”
30. The arrangements say that, “*If you do not complete both the Common Application Form and the Supplementary Form and return them by the closing date, the governing body may be unable to consider your application fully and it is possible that your child will not get a place at the school.*” I asked for clarification and the diocese responded that “*Governors can’t give priority to siblings or others if they don’t know they exist!*”
31. The CAF used by the local authority asks whether the child will have a sibling at the school at the time of admission. All the information on the CAF, with the exception of the order of preference, is provided to the school. Every CAF that I have seen includes a request for information about siblings. It is therefore reasonable to assume that this is not information that the school needs to ask for again in order to apply their over-subscription criteria. I can see no reason why an applicant for a community place is required to complete the SIF. The school should specify when additional information is needed and only require applicants to provide information necessary to apply the over-subscription criteria. I uphold this part of the objection.

## **Other Matters**

32. I will now consider other aspects of the SIF and refer to paragraph 2.4 of the Code as above. The SIF states that, “*The Governors of Bishop Douglass School recognise that a Catholic has been baptised and the Baptismal Certificate is the only evidence that is required for proof of catholicity. We do not require you to supply a reference from a priest.*” Given this context I asked why the SIF then asks for information on which Catholic parish the applicant lived in and at which church they were baptised. The diocese responded in its letter of 3 September 2014 and acknowledged that this may be unnecessary. The school is not consistent with the Code in asking for this information and needs to amend its arrangements accordingly.



33. The oversubscription criteria conform with the Code in that they give first priority to looked after children and previously looked after children. The local authority CAF provides space for evidence for when a child is looked after, but no opportunity for an applicant to state that the child was previously looked after. The SIF does not ask for information on this either so it is unclear to me how children who have been previously looked after are identified and then given first priority. I asked the local authority how this was achieved and was told by email dated 10 October 2014, "*Parents applying for school places under this priority are asked to provide the Certificate of Adoption together with evidence that the child was 'looked after' prior to the adoption. If they indicate on the CAF that their child falls under the 'looked after' category but do not send the supporting information with their application, we would chase.*"
34. This leaves the possibility that a parent would not identify their child as being looked after as they are not, they are adopted. There is a risk of the child not achieving their rightful priority, provided in paragraph 1.7 of the Code, in the arrangements need to make clear to parents that they should ensure the school knows of the status of their child.
35. The arrangements include the statement that where there is oversubscription in a category, "*The attendance of a brother or sister at the school at the time of admission will increase the priority of an application within each category.*" This seemed to be unclear to me and so I asked for clarification. The diocese explained that it means that "*It means they go to the top of the list in that category.*" It is my view that the current statement does not express this and should be amended for clarification.
36. Year 12 is a relevant year of entry to the school as new students may join the school. The Code requires that admission authorities determine their arrangements for each relevant year group, of which year 12 is one for this school. In November 2014 the arrangements for year 12 on the school's website section for the sixth form are for 2014. The arrangements contain both year 7 and year 12 in one document and are for 2015 in the admissions section of the website. A parent or student looking for the arrangements for admission to year 12 may look at the sixth form section of the website expecting to see the arrangements for 2015 and would not do so. To have the 2014 arrangements and the 2015 arrangements elsewhere is potentially confusing for parents and students as the school is inconsistent in its published information. The school needs to ensure that it has relevant information where it is needed on its website and links from one part to another if necessary.
37. The school is required to set a published admission number for year 12 for external students new to the school. The admission number is published at 240. This means that the school would accept up to 240 children in addition to those children who chose to stay on and who met the course requirements. The diocese confirmed that 240 was the admission number. I remain of the view that it is unlikely that this has

been correctly understood as it would be unlikely to have such a high admission number unless it operated as a local sixth form centre, for example for several 11-16 secondary schools. The information on edubase indicates that the school does not operate in this way and has a small sixth form. The arrangements appear to blur the distinction between students who already have a place at the school and places for external applicants. The information provided is misleading and does not meet the requirement for an admission number for external students and thus does not conform with the Code.

38. The guidance from the diocese says that, "*Application forms should not ask for any details which are not necessary for the processing of the application in accordance with the published arrangements. No information should be sought unless it is required to operate the governing body's oversubscription criteria.*" The application forms for year 12, for both internal and external applicants, ask for information that does not conform with the Code. This includes information that is irrelevant and so should not be requested, such as gender, date of arrival in the UK, whether holder of a European Union passport, contact details of both parents, career ambitions and a personal statement. It also asks for information that is specifically prohibited by paragraph 2.4 of the Code including the language spoken at home and any medical or health needs. The Code requires that an admissions authority only requests "*information which has a direct bearing on decisions about oversubscription criteria.*" Other information that is relevant for a student taking up a place at the school should only be gathered after a student has accepted a place and is about to embark on sixth form studies. This application form does not conform with the Code.

39. Information on the website says '*To continue into Year 13 students should normally pass at least 3 of their AS subjects with grade D minimum.*' I queried if this meant that the school treats year 13 as a year of entry. The response of the diocese was, "*No. It's the same as in every school in the country, if you don't work you can't continue.*" It is my view that by setting additional academic entry criteria for year 13 that the school is treating year 13 as a year of entry and this does not conform with the Code; these students already have a place at the school. The school also needs to consider its decision to remove students from the roll of the school and the lawfulness of its action.

## **Conclusion**

40. 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. These are: the arrangements not being published once determined; it is not explained, if either the community or foundation categories are undersubscribed, how the remaining places may be allocated to the other category; it is not made clear that any child with a statement of educational need which names the school will always be allocated a

place at the school; and the requirement that all applicants should complete the SIF.

41. I do not uphold the objection with regard to the school not determining its arrangements; the expectation that all applicants and candidates give their full and positive support to the aims and ethos of the school; that a letter of support from a minister is required when this is not clearly needed to prove the applicant meets the criteria; and the process and independence of random allocation in relation to the part of the Code cited.
42. I have also considered the arrangements as a whole for admission to the school in September 2015 and have concluded that several aspects of the arrangements, as detailed above, do not comply with the Code. The Code requires the admission authority to revise its admission arrangements as quickly as possible with regard to all the matters of non-compliance.

### **Determination**

43. 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 Bishop Douglass School, Barnet.
44. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.
45. 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: 13 January 2015

Signed:

Schools Adjudicator: Debbie Pritchard