



DETERMINATION

Case reference: ADA2812

Objector: The Fair Admissions Campaign

Admission Authority: The governing body of Cardinal Newman Catholic School, Hove

Date of decision: 28 November 2014

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 of Cardinal Newman Catholic School, Hove, for admissions in September 2015.

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 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 Objection

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 Admissions Campaign, (the objector), about the admission arrangements (the arrangements) for Cardinal Newman Catholic School (the school), a voluntary aided Catholic secondary comprehensive school in Hove, for students aged 11 - 18.

2. The objection is that the arrangements for 2014 are no longer available on the school's website; that parents must agree to support the school's ethos; the requirement for baptism or dedication is unfair to some groups of Christian pupils; the number of years that applicants must have worshipped is not specified; the supplementary information form (SIF) is not mandatory; the SIF requests the gender of the applicant details about both parents; the SIF asks for information about the number of years of worship although this is not be required to apply the oversubscription criteria.

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:

- the objection dated 30 June 2014;
- the school's letter in response to the objection dated 8 September 2014, and further response to my enquiries;
- a letter of 26 August 2014 from the Diocese of Arundel and Brighton, (the diocese) which is the faith body for the school, setting out its response to the objection and a copy of its guidance documents to schools;
- the composite prospectus of Brighton and Hove City Council, the local authority (the LA) for parents seeking admission to secondary schools in September 2015;
- the LA's comment on the objection dated 20 August 2014;
- minutes of the meeting of the governing body held on 15 October 2013 at which it was agreed that no changes would be made to the 2014 arrangements and the arrangements for admission to the school in September 2015 were determined;
- the determined arrangements for admission to the school in September 2015; and
- the school's prospectus for 2014.

The Objection

6. The objection to the school's arrangements for admissions in September 2015 has several aspects and in each aspect the objector cites specific paragraphs which are said to be contravened. I have grouped those parts of the objection which are related and will therefore consider the three aspects that relate to the SIF together.

- i. The arrangements for 2014 are "*no longer on website*"; paragraphs 1.47 and 2.14.
- ii. The school expects parents to support the ethos of the school and states, "*The governors expect that parents applying for places for their children will accept and uphold the Catholic character and ethos of the school*" and "*the Governing Body welcomes applications from those of other denominations and faiths who support the religious ethos of the school*"; paragraph 1.9a.
- iii. The requirement in criteria 6 and 7, "*for baptism or dedication is unfair on some Christian groups like Quakers which do neither*"; paragraphs 1.8 and 14.
- iv. Under the heading "*Priority within the oversubscription criteria*" priority i) and ii) do not specify the number of years required to worship; paragraphs 1.8, 14 and 1.37.

The Supplementary Information Form

- v. "*The admission arrangements make clear that the SIF is not mandatory but then the SIF says 'To be completed by ALL parents or carers'*"; paragraphs 1.8 and 14.
- vi. The "*SIF asks for the gender of child, the name of both parents/carers and assumes the parents/carers are of an opposite gender*"; paragraph 2.4
- vii. The "*SIF asks 'How long have you/your child worshipped there?' with the answer to be in years but it is not clear from the oversubscription criteria that this information is used. Also the oversubscription criteria suggest only the child or the parent/carer must attend worship but the SIF is ambiguous.*"; paragraph 2.4.

Other Matters

7. Having reviewed the arrangements as a whole for admission to the school in September 2015, I considered other issues which may contravene the Code. These include the requirement to include information about the admission of children with statements of special educational needs that names the school; the need to expand the definition of looked-after and previously looked-after children; the issue of having an admission form on the school's website which requests information that has no bearing on decisions about oversubscription criteria and is not permitted by the Code

and further, which is not the application form for admission to the sixth form; and an application form for the sixth form which also includes information prohibited by the Code.

Background

8. Cardinal Newman Catholic School was founded by and is part of the Catholic Church and is in Trusteeship of the Diocese of Arundel & Brighton. It is a voluntary aided Catholic mixed comprehensive for students aged 11 to 18 years and serves the parishes that lie on the coastal strip between Newhaven and Seaford in the east and Shoreham in the west. Students are admitted from West Sussex, East Sussex and the unitary authority of Brighton & Hove.

9. The school has capacity to accommodate 1,843 students and has a published admission number (PAN) of 360 for admission to year 7 for September 2015. There are approximately 2,214 students on roll with a sixth form of around 440 students housed in Newman College. The sixth form has a PAN of 10 and a note explains to parents that if there are places available the school may admit up to 50 external applicants.

10. Although Catholic children have priority in the arrangements for admission, the governing body also welcomes applications from those of other denominations and faiths who support the religious ethos of the school.

11. Information for parents about the outcome of applications for admission to the school in September 2014 stated the number of children admitted under each criterion. There were two looked-after children, 175 baptised Catholic children attending feeder primary schools, 84 other baptised Catholic children, two other looked-after children, 46 siblings, 4 children who are members of other Christian denominations attending feeder schools, 41 children who are members of other Christian denominations not attending feeder schools and seven other children.

12. When I reviewed the school's website in July 2014, I found that information about admissions for entry to the school in 2015 was easy to find via the tab on the homepage "About us" and under the sub-heading admissions. The admissions page set out the oversubscription criteria for admission to years 7 and 12 with links to the SIF.

Consideration of factors

13. I will consider each point within the objection against the requirements of the Code, taking into account the view of the school, the diocese and the LA.

i) The 2014 admissions policy no longer on website

14. The school and the diocese both said that the arrangements for admission to the school in September 2014 are published on the school's website in the prospectus for 2014/15. The LA confirmed that the 2015 policy is identical to the 2014 policy and a copy of the arrangements for 2014 has remained available to parents on its website. When I checked the prospectus for 2014 on the school's website, I found that the admission arrangements for 2014 are contained within it. Parents who refer to these arrangements would benefit from a dedicated link, rather than having to read most of the prospectus, before finding them at the end of the booklet on pages 20 to 24. However, the arrangements are published on the website as required by the Code and for this reason I do not uphold this element of the objection.

ii) Parents to agree to support the ethos of the school

15. The objection states, "*The governors expect that parents applying for places for their children will accept and uphold the Catholic character and ethos of the school' and 'the Governing Body welcomes applications from those of other denominations and faiths who support the religious ethos of the school'*"

16. The diocese commented that it can see no issue as the text appears in the introduction to the policy and is not an oversubscription criterion. It conveys an expectation but is not a condition of admission. The school was of the same opinion.

17. It is my view that the school has made a general statement of expectation but does not require parents to agree to support the ethos of the school in order for their child's application for admission to be considered. The Code says in paragraph 1.9a) that admission authorities, "**must not place any conditions on the consideration of any application other than those in the oversubscription criteria**" and as there is no contravention of this requirement I do not uphold this element of the objection.

iii) The requirement for baptism or dedication is unfair on some Christian groups like Quakers which do neither

18. The diocese says, "*Quakers are part of Churches Together in England (and therefore included in the other Christian denominations category). There is a space (i.e. 'Any additional Information') on the SIF for the minister to (for example) explain that baptism is not undertaken by Quakers. This flexibility on the SIF allows the governors to take such situations into account.*" The school responded saying that Quakers are part of 'Churches Together in England' and are therefore included in the category 'other Christian denominations'. There is space provided on the SIF for a

minister to state that baptism is not undertaken by Quakers and there are a number of Baptist and Quaker students on roll at the school.

19. Having reviewed the SIF I see that there is space in section 3A '*Applicants from other Christian denomination/other faiths*' for parents to record either the parish or the faith community in which they live and their usual place of worship if different, and to record the frequency of their involvement. In section 3B there is space for a minister or faith leader of other denominations to confirm the information provided by the applicant and to add any additional information. There are a number of Baptist and Quaker students on roll already which indicates that parents have successfully understood and completed the school SIF in its current format.

20. In my view there is no evidence that parents in some Christian groups such as Quakers are placed at any disadvantage when applying for admission to the school. There is space on the SIF for such applicants and leaders of faith groups to add the requisite additional information about their particular faith group and for this reason I do not uphold this aspect of the objection.

iv) Priority within the oversubscription criteria, points i) and ii) do not specify the number of years required to worship

21. The notes in the arrangements under the heading "*Priority within the Oversubscription Arrangements*" tell parents that it is the strength of evidence of practice as demonstrated by the level of attendance on Sundays that is considered. It explains that applications will be ranked in the order shown on the SIF and so attention is immediately drawn to section 2A which has space to give the answer the question that is posed, "*How long have you/your child worshipped here?*" The number of years of attendance is not specified but is left open for parents to complete as part of section.

22. The school and diocese say that the question is only included to help the priest and is not a consideration for the school because it does not form part of the consideration of applications. If this is the case then the question must be removed as the SIF currently contravenes the requirement set out in the Code in paragraph 2.4 which says admissions authorities, "...**must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria." As the information is not required and not used by the admission authority when it considers applications the requirements of the Code are breached and I therefore uphold this element of the objection.

The Supplementary Information Form

v) The arrangements make clear that the SIF is not mandatory but then the SIF says “*To be completed by ALL parents or carers*”

23. The LA says that in its view the comment regarding the SIF is a misunderstanding and the text “*to be completed by ALL parents/carers*” refers to sections 1 and 4 of the form, as distinct from sections 2 and 3 which are only to be completed by Roman Catholic applicants. The school receives a number of applications where the SIF has not been completed and these applications are considered under criterion 8, “*other children,*” in exactly the same way as those who complete the SIF but do not fall into a higher priority.

24. Both the school and the Diocese acknowledge that completion of the SIF is not mandatory. The diocese has worked with schools to incorporate appropriate wording into SIFs. The form now says all applicants “should” complete parts 1 and 4 (rather than “must”). Catholic applicants are then asked to complete part 2 and those of other faiths, part 3. The school has also adopted the “Note” at the top of the SIF that the diocese recommended and which specifically highlights that while it is not mandatory to complete a SIF, there are potential implications if applicants do not. The school says if parents do not complete the SIF it cannot apply the oversubscription criteria. For clarity, parents are advised in a note that, “*While it is not mandatory to complete a Supplementary Information Form (SIF), if the school does not receive a completed SIF, it is likely that governors will only be able to rank the application within the last oversubscription criterion.*”

25. In my view the school has provided information that states that it is not mandatory to complete the SIF and it explains how an application will be considered when a SIF is not completed. However, in its current format the form does state, “*ALL applicants should complete Parts 1 and 4*” and while I can appreciate the subtlety of using the word “should” rather than the word “must” I am not sure that parents will understand that they have the choice not to complete the SIF. This does not meet the requirement for clarity in paragraph 1.8 of the Code nor the requirement in paragraph 14 that “*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*” and for these reasons I uphold this aspect of the objection.

vi) The SIF asks for the gender of child and asks the name of both parents/carers and assumes the parents/carers are of an opposite gender.

26. The LA, the diocese and the school submit that the Code does not forbid admission authorities from asking about a child’s gender. However, the common application form (CAF) used by the LA records the gender of an applicant. In paragraph 2.4 of Code it says that admission authorities may need to ask for

supplementary information in order to process applications. *“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,...*”. The school’s own oversubscription criteria are not and could not be gender specific and therefore this information should not be requested. In my view the requirement of the Code is contravened and for this reason I uphold this aspect of the objection.

27. On the second point, the LA and the diocese say that paragraph 2.4 does not prohibit space for both parents’ details. The school says the specification in the Code is the requirement for only one signature.

28. When I considered the arrangements I could see that the school had advised parents in the notes to the arrangements, “f) *Parents/Carers: The terms ‘parent’ or ‘carer’ are used for all persons who legally have responsibility for the child.*” This wording makes no reference to the gender of the parent, parents, carer or carers. Although it is clear that the form meets the requirement for only one signature, it does ask for details of both the mother and father of the applicant and for their addresses. In my view any parent may consider that as the school is asking for this information it will be taking it into account when it considers applications. This contravenes paragraph 2.4a) which says that admission authorities **must not** use forms that ask for any personal details about parents or families and I therefore uphold this aspect of the objection.

vii) The SIF asks “How long have you/your child worshipped there?” with the answer to be in years but it is not clear from the oversubscription criteria that this information is used. Also the oversubscription criteria suggest only the child or the parent/carer must attend worship but the SIF is ambiguous on this point

29. I will consider both issues before reaching an overall conclusion. The school refers to diocesan guidance which it says includes a model SIF and asks how long an applicant has worshipped, in order to assist the priest. *“This is not a consideration to us as it does not form part of our admission criteria.”* My view is that if any part of a model SIF is surplus to requirements then it should not be included on the SIF of the school as its inclusion would breach paragraph 2.4 of the Code.

30. The arrangements say that when the number of applications exceeds the number of places available, applications will be assessed and ranked according to the strength of evidence of practice as demonstrated by the level of attendance at Mass on Sundays that is recorded on the SIF, so that weekly attendance will have the highest priority, then at least three times a month and so on; but there is no mention of a requirement for this to have taken place over a set period of time, in order for the applicant to gain a higher priority. It has been confirmed by the school that information about the number of years of practice is not required in order to

make a decision about the application, in which case this information should not be included on the SIF and the arrangements in this regard currently contravene the Code.

31. On the further point about the possible ambiguity in relation to the parent or the child's attendance, there have already been discussions between the school and the diocese about the need for the SIF and the arrangements to be consistent. The diocese acknowledges that the arrangements may not comply with the requirements set out in the Code.

32. When I reviewed the arrangements and the SIF and compared the two I found that the arrangements state, "*The strength of evidence of practice of the faith as demonstrated by the level of the parent/carer or child's Mass attendance on Sundays*"; and the SIF asks "*How often does the Child/Parent/Carer attend services*" This may be confusing as the SIF does not clarify that it the attendance of either the child or the parents that should be recorded.

33. The lack of clarity in the arrangements as a whole contravenes both paragraphs 14 and 1.37, the later referring to the mandatory requirement for admission authorities who choose to use faith-based oversubscription criteria to ensure that parents can easily understand how faith-based criteria will be reasonably satisfied and for these reasons I uphold part of the objection.

Other Matters

34. Having reviewed the arrangements as a whole for admission to the school in September 2015, I found aspects of concern about the sixth form arrangements. For both sets of arrangements, that is for admission to year 7 and admission to the sixth form, there should be information that explains to parents that all children whose statement of special educational needs names the school will be admitted and that such admissions do count towards the published admission number. In response to my enquiry the school said it was clear from the year 7 arrangements that the school admits children with statements of SEN, however it acknowledges that although the arrangements for admission to year 7 meet this requirement, it is also necessary to include the same information in the arrangements for admission to the sixth form.

35. Admission authorities cannot rely on the fact that applicants to the sixth form will necessarily refer to the notes and arrangements for entry to year 7. The Code says in paragraph 1.6 "*...All children whose statement of special educational needs (SEN) names the school **must** be admitted*". In a letter of 24 September 2014, the school confirmed that it had made this change to the sixth form arrangements but when I checked the school's website on 26 November 2014, this change has yet to be made to the arrangements that are currently published on the school's website.

36. The second concern is that criterion 1 does not provide sufficient information for parents about the group of children who are looked after or who were previously looked after. The criterion says, “Looked After Children or previously Looked After Children”. Either the criterion itself or the accompanying notes for admission to the sixth form should provide full information for parents about the definition of looked-after and previously looked-after children. The school has now amended the definition of this group of children in its arrangements for admission to the sixth form.

37. I then turned my attention to information that is available on the school’s website for external applicants. Underneath the link on the school’s website to the arrangements for the sixth form is a further link to ‘Sixth form Admissions Form’. I naturally concluded that this is the correct form for applicants to complete, as it contains information which the school needs such as GCSE results and predicted grades. However, much of the information requested on this form is not permitted by the Code. I have provided the relevant reference to paragraphs within the Code for each prohibition:

- Information about whether or not an applicant has lived abroad. Paragraph 2.4a forbids SIFs which ask for personal information. It is not relevant to whether an applicant meets oversubscription criteria (2.4a).
- Medical Information. Asking for details about a parent’s or child’s disabilities, special educational needs or medical condition is prohibited as set out in paragraph 2.4c.
- A statement of interests. This is subjective information and should play no part in the consideration of admission to a school as set out in paragraph 1.9a.
- Work telephone number. Admission authorities must not consider the occupational status of the parents of applicant for admission as set out in paragraph 1.9f.
- Request for a reference. If the school is requesting information about the academic entry criteria then this must be stated clearly in the arrangements. The admission form however, refers to the pastoral leader suggesting that the school may be seeking information about attendance and behaviour which is not permitted by paragraph 1.9g.

38. When the school responded to my queries about the content of the form the deputy head said that the form available with the arrangements on the website is not an application form; but is the form which is used by the school once a place has

been offered and is used to guide the student onto the correct course and to make sure they have all the support they need in terms of guidance. I am concerned about how external applicants would know that this form headed "Admissions Form", which is the only form available with the arrangements, is not actually the application form; and more importantly in my view, how they would understand that there is no requirement whatsoever for them to complete the form before an offer of a place is made; and in so doing, provide information that admission authorities are not permitted to ask for, since it is not required to apply the oversubscription criteria.

39. The school says as there is space for a further 100 students in the sixth form it has never turned an external student away. *"As we have never been oversubscribed in the sixth form we have not had to apply the admissions criteria hence information on the SIF is irrelevant."*

40. The arrangements which are determined and all related aspects of those arrangements, such as SIFs **must** meet all the mandatory requirements of the Code. It is not acceptable to infer that as the sixth form is undersubscribed and all applicants who meet the requisite academic standards will be admitted, that the arrangements do not have to meet the legal requirements. The sixth form application form is available from the sixth form admissions office and is sent out with the normal SIF when an external student expresses interest in joining the sixth form.

41. So to be clear, there are two forms, one readily accessible on the website with the sixth form arrangements called an admission form but which is not the school's application form; and the second form, the actual application form, which is not made available via an online link as it should be, but instead must be requested from the school by either the child or by parents. The Code requires that applicants, parent or child, should be able to look at a set of arrangements and understand easily how places for that school will be allocated.

42. Having reviewed the website I have concluded that the information published on it is misleading and contravenes the requirements of the Code by publishing a form called an admission form which is not an application form and which asks applicants for information that is prohibited by the Code. The admission form for 'post-offer' information should not be published on the website with the arrangements since this creates potential for an applicant to complete the form which contains information forbidden by the Code.

43. I requested a copy of the actual application form from the school. The application form which was provided in response to my request relates to 2014 and I was told that the form for 2015 is not yet available, but that the two forms will be identical. I have considered the application form against the requirements of the Code. The form asks for a work telephone number but paragraph 1.9f says that

admission authorities **must not** take account of occupational status and as this information is not required in order to process the application, it must be removed.

44. Taking account of the fact that either a student or parent can complete the form, there is space for either on to sign the form and I am left to assume that the rest of the form has been designed for either party to complete. So I accept that the intentions are sound, but in my view the form could mislead some applicants into thinking that information is required about the parent as well as the student. For example it states "My child/I have a statement of special education needs." The drafting needs to be more precise so there is greater clarity for whoever completes the form. Paragraph 1.8 says, "*Oversubscription criteria **must be reasonable, clear and objective, procedurally fair, and comply with all relevant legislation including Equalities legislation***" and paragraph 1.1 states, "*Admission authorities are responsible for admissions and **must act in accordance with this Code.***"

Conclusion

45. Having considered each aspect of the objection I have concluded that in the matters which relate to i) the publication of the admission arrangements for 2014 on the school's website; ii) the expectation that parents will respect the ethos of the school; iii) the requirement for dedication or baptism is unfair on some Christian groups, I am not persuaded by the arguments put forward by the objector that the requirements of the Code have been contravened and for the reasons given above I do not uphold these aspects of the objection.

46. However, I have come to the view that in the matters relating to: iv) the number of years required to worship is not specified in the oversubscription criteria but is requested on the SIF; v) the lack of clarity about the requirement to complete the SIF; vi) the request for the gender of the child on the SIF and for the names and addresses of both parents and finally, vii) the lack of consistency in the arrangements and on the SIF, the arrangements do not conform with the requirements set out in the Code and I therefore uphold these aspects of the objection.

47. I have also considered the arrangements as a whole for admission to the school in September 2015 and have concluded that there are matters within the sixth form arrangements that do not comply with the Code. These include the requirement for information about the admission of children with statements of special educational needs; the need for a full definition for parents of looked-after and previously looked-after children and the requests for information that is prohibited by the Code as it is not required to apply the oversubscription criteria.

Determination

48. 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 of Cardinal Newman Catholic School, Hove, for admissions in September 2015.

49. 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 in the ways set out in this determination.

50. 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.

Date: 28 November 2014

Signed:

Schools Adjudicator: Mrs Carol Parsons