



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA2797</b>
<b>Objector:</b>	<b>The Fair Admissions Campaign</b>
<b>Admission Authority:</b>	<b>The governing body of St. Paul's School for Girls, Birmingham</b>
<b>Date of decision:</b>	<b>13 October 2014</b>

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for St Paul's School for Girls for admissions in 2015 determined by the governing body of the school.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that they 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 Admissions Campaign (the objector), in an email dated 30 June 2014 concerning the admission arrangements for September 2015 (the arrangements) for St. Paul's School for Girls (the school), for which the local authority (the LA) is Birmingham City Council. The objection is to the stipulation that all parents should respect the Catholic ethos of the school and to the lack of clarity in some faith-based oversubscription criteria.

### **Jurisdiction**

2. 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 that 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**

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 objection, dated 30 June 2014;
  - b. the school's response to the objection and supporting documents, dated 2 September 2014 and subsequent correspondence;
  - c. the school's determined admission policy for 2015/16;
  - d. the diocesan education service's response to the objection, and supporting documentation, dated 18 August 2014;
  - e. the LA's composite prospectus for secondary school transfers in September 2015;
  - f. the LA's response to the objection, dated 21 August 2014; and
  - g. the school's website.

### **The Objection**

5. The objection is first to an introductory statement in the arrangements that describes the ethos of the school and asks that all applicants respect it, which the objector contends is non-compliant with paragraph 1.9a) of the Code. The objector also contends that criterion 2 in the arrangements, which requires "*family attendance at a Catholic church*" lacks clarity and that this requirement thus fails to comply with paragraphs 14 and 1.8 of the Code. The objector questions the lack of definition relating to the frequency or duration of religious attendance, citing paragraphs 1.37, 14 and 1.8 of the Code. Finally, the school's supplementary information form (SIF) asks whether church attendance is "*weekly*" or "*Other please specify*" without, in the view of the objector, making clear the consequence to applicants which is said to contravene paragraph 2.4 of the Code..

### **Other matters**

6. In the course of considering the objection I reviewed the arrangements as a whole and noted that, at the time the objection was made, neither the determined arrangements for 2015/16 nor the supplementary information form (SIF) required by the school as part of the application process were published on its website as required by paragraphs 1.46 and 1.47 of the Code. In the arrangements, criterion 2 mentions "*siblings*", a term that is explained in note 3, but

to which applicants' attention is not drawn. The sixth form arrangements provide no details of a final tie-breaker to be used in the event of applicants for the final available place not being separable by the criterion of distance measurement. The sixth form application form requires applicants to submit much information that the school is not permitted to seek, and requires both the applicant and a parent to sign, which is not permitted.

## **Background**

7. The school is a voluntary aided Catholic secondary school for girls aged 11 to 18 in the archdiocese of Birmingham. There are more than 950 pupils on roll, including about 130 in the sixth form. The school has a planned admission number (PAN) of 165 for admission to year 7. An Ofsted inspection in May 2013 graded the school as good overall; the two previous inspections, in April 2010 and February 2007, had judged the school to be outstanding.
8. The school has been heavily oversubscribed for many years, often with well in excess of 500 applications for the 165 places available. In the previous three years, all year 7 places have been allocated within oversubscription criteria 7 or 8 as described below, with the furthest successful applicant living at between one and a half and three and a half kilometres from the school.
9. The arrangements for 2015/16 were determined under section 88C of the Act by the admissions committee of the governing body, which is the admission authority for the school as a voluntary aided establishment within the LA, on 19 November 2013. The arrangements provide, as required, that children with a statement of special educational need in which the school is named will be given priority in allocating places. Oversubscription criteria are then, in summary:
  1. Baptised Catholic looked after or previously looked after girls
  2. Baptised Catholic girls who are siblings and whose application is supported by their parish priest
  3. Non-siblings who otherwise fulfil criterion 2
  4. Baptised Catholic girls who are siblings, not covered by criteria 1-3
  5. Other baptised Catholic girls not covered by criteria 1-4
  6. Non-Catholic looked after or previously looked after girls
  7. Non-Catholic sibling girls
  8. Other non-Catholic girls

A distance tie-breaker is used, with computerised random selection carried out by the LA on behalf of the school if necessary to allocate a final place.

## Consideration of Factors

10. The school itself did not make a detailed response to all aspects of the objection, but stated *"We are aware that the Catholic Diocese and Birmingham Local Authority have responded to this objection and we agree with the comments they have made."* Any references I make in the following paragraphs to responses made by the diocese and the LA may therefore be taken to represent the school's views as well.
11. The first part of the objection is to the introductory statement in the arrangements that describes the Catholic ethos of the school and includes the statement, *"We ask all parents applying for a place here to respect this ethos and its importance to the school community"*, which the objector contends is non-compliant with paragraph 1.9a) of the Code, which states that *"admission authorities ... **must not** place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements"*. The school's use of this ethos statement follows closely the model admission arrangements for secondary schools issued by the diocesan education service. However, the objector does not quote the final sentence of the paragraph, which appears in both the diocesan model and the school's tailored arrangements: *"This does not affect the right of parents who are not of the faith of this school to apply for and be considered for a place here."* Indeed, in four of the seven admission rounds between 2008 and 2014, places were allocated under criterion 8, that is, to non-Catholic girls.
12. The diocese, in its response to the objection, points out that the school's arrangements do not require applicants to agree to support the ethos of the school in any *"practical way"*, which it acknowledges would be in breach of paragraph 2.4d) of the Code. The LA further argues that *"whilst the 2012 Code does not, unlike its predecessor, state explicitly that an admission authority may include a factual statement in its admission arrangements setting out what the school's ethos is, the fact that paragraph 2.4d) merely prohibits asking applicant parents to agree to support the ethos of the school in a practical way would appear to suggest that the admission authority for a faith school ... remains at liberty to include such a statement."* From my reading of the Code, and of the school's full statement regarding its ethos, together with the evidence of recent patterns of admission to the school, I do not regard the statement about the ethos as placing a condition on an applicant and therefore do not uphold this aspect of the objection.
13. The objector further states that criterion 2 in the arrangements, which requires *"family attendance at a Catholic church"* is broadened in an explanatory note to refer to a range of family members, that is, both parents, a mother, a father, or a grandparent. The objector contends that this lacks clarity fails to meet the requirements of paragraphs 1.4 and 1.8 of the Code to be *"reasonable"* and *"clear"*.

The diocesan view of the explanatory note is that it lists these family members so as to “*ensure that no child is disadvantaged due to their individual family situation.*” That is my interpretation also, that is, that the attendance at church of *any one* of these listed family members satisfies the criterion. The LA also supports this reading of the explanatory note, stating that it is “*of the view that the determined definition of ‘family’ for the purposes of the application of criterion 2 ... is sufficiently wide to ensure that there is no unfair disadvantage, either direct or indirect, to a child from a particular social or racial group, or a child with a disability or special educational needs.*” The broader point made here by the LA underlines that, for example, where one parent was unable to attend church because of issues relating to care, then another parent or family member’s attendance would be taken into account when processing an application. The objector asked the questions “*Could parents alternate? Does this disadvantage children with just one parent, or whose Catholic grandparents have died?*” I have no difficulty in replying to the first question, “Yes”, and to the second, “No”; I find criterion 2 to be perfectly clear and transparent in its attempt to allow for different family circumstances that might affect attendance at church. Accordingly, I do not uphold this aspect of the objection.

14. The objector then questions the lack of definition of any required frequency or duration of religious attendance in criterion 2 citing, as well as paragraphs 14 and 1.8 again, paragraph 1.37 of the Code, which says that “*Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.*” It is true that there is no information in the arrangements themselves concerning patterns of church attendance other than the reference in criterion 2 to the need for an application to be supported by the applicant’s parish priest “*on the Supplementary Information Form, stating their family attendance at a Catholic Church.*” The objector points out that, on the SIF, the priest is asked to confirm “*Weekly*” or “*Other please specify*” attendance by the family at mass; there is no indication of whether, or to what extent, “*other*” patterns of attendance might affect the potential success of an application.
15. The diocese did not respond to this specific point, although the school commented that “*the consequence of lack of evidence of ‘weekly’ or ‘other’ attendance at Mass would be to place the candidate in a lower criterion.*” This, again, does not address the question of what difference would be made to the likely success of an application if “*other*” were indicated rather than “*weekly*” as the applicant’s pattern of attendance at church. If there are alternative designations, I can only assume there are alternative outcomes, but these have not been explained to me and I concur with the LA’s comment on this aspect of the objection that it “*should be clarified by the school in their determined admission arrangements and supplementary information form.*” I therefore uphold this part of the objection.

16. I turn now to the other matters mentioned above. Neither the determined arrangements for 2015/16 nor the SIF are published on the school's website as required by paragraph 1.47 of the Code. The school prospectus currently available on the website includes admissions arrangements but is dated 2013/14 and the SIF cannot be found online. Although the arrangements for 2015/16 (but still without the SIF) are available through the LA's website in its composite prospectus for secondary transfer in September 2015, prospective applicants and other interested parties could reasonably expect to find this information complete, and easily accessible, on the school's own website. Paragraphs 1.46 and 1.47 of the Code require admission authorities to determine their arrangements by 15 April each year; a requirement met in this case, but then, once determined, that they "**must publish a copy of the determined arrangements on their website ...**".
17. In the arrangements, criterion 2 mentions and briefly explains "*siblings*", a term that is clarified helpfully in note 3, but to which applicants' attention is not drawn. In the case of all other explanatory notes, there is a cross-reference from the main body of the arrangements. While not directly contravening the Code, in the interests of clarity and transparency the admission authority might consider drawing attention to the explanatory note concerning siblings at the appropriate place in criterion 2 of the arrangements.
18. The sixth form arrangements provide no details of a final tie-breaker to be used in the event of applicants for the final available place not being separable by the criterion of distance measurement. A suitable tie-breaker is proposed in the arrangements for admissions to year 7, and the admission authority should ensure that a similar procedure is included in respect of applications for sixth form places.
19. The sixth form application form requires applicants to submit a considerable amount of information that the Code does not allow the school to seek. Paragraph 1.9o) of the Code makes clear that photographs of applicants may not be requested other than as proof of identity when selection tests are part of the arrangements. The sixth form arrangements do not state if applicants should also submit a SIF, although the oversubscription criteria imply that one would be needed; if so, the question regarding the applicant's religion is redundant, and the question concerning nationality is irrelevant as regards the application of the oversubscription criteria. Paragraph 1.9b) states that applications "**must not ... take into account any previous schools attended, unless it is a named feeder school**", thus making invalid the question about the applicant's current school.
20. Applicants may not be required to explain their reasons for applying to the school, nor to outline their future aspirations. I take the wording of the statement "*After consideration of your application you will be called for a transition discussion*" to contravene paragraph 1.9m) of the Code, which states that "*In the case of sixth form*

*applications, a meeting may be held to discuss options and academic entry requirements for particular courses, but this meeting cannot form part of the decision making process on whether to offer a place.”* Furthermore, it is not permitted for the school to request information concerning the applicant’s *“behaviour, attendance, attitude or achievement”* (Code, paragraph 1.9g)), thus rendering the whole of Part B of the application form inadmissible. Paragraph 2.6 of the Code makes clear that it is not necessary for both the applicant herself and a parent to sign the form.

21. The admission authority needs to redesign the sixth form application form as a matter of urgency so that it complies with the requirements of the Code.

### **Conclusion**

22. The objection concerns the school’s statement regarding its Catholic ethos, which is seen to impose conditions on applicants additional to those in the oversubscription criteria. Further objections are made to a perceived lack of clarity in criteria relating to family attendance at church, in respect of both eligible family members and the frequency of their attendance at church.
23. I find that the ethos statement does not impose any extra requirement on applicants and that the objector has failed to quote the statement in full, thereby omitting that part which makes clear that applications from other faiths are welcomed, as indeed is demonstrated by admissions data covering recent years. I find the reference to a range of family members whose attendance at church would be regarded as supporting an application to be clear and helpful. However, it is unclear what the consequences might be of a family’s church attendance being recorded on the SIF as either *“weekly”* or *“other”*. For these reasons, I partially uphold the objection.
24. I find that the current determined arrangements are not published on the school’s website as required by the Code. Only the arrangements for 2013/14 are to be found, in the prospectus, and the obligatory SIF is not any part of that.
25. I also find that, while not in contravention of the Code, the arrangements could be made clearer and easier for applicants to understand if their attention were drawn, in the oversubscription criteria, to the helpful explanatory note concerning siblings.
26. The sixth form arrangements lack a final tie-breaker and the application form requests a considerable amount of personal information about applicants that is not permitted by the Code, including a photograph and a reference from their current school. Some wording implies that an interview will form part of the application process.

27. It is for these reasons that I conclude that the arrangements are not compliant with the Code and must be revised as soon as possible.

### **Determination**

28. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for St. Paul's School for Girls for admissions in 2015 as determined by the governing body.

29. I have also considered the arrangements in accordance with section 88I(5). I determine that they do not conform with the requirements relating to admission arrangements.

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: 13 October 2014

Signed:

Schools Adjudicator: Andrew Bennett