



## **DETERMINATION**

**Case reference:** ADA 2790

**Objector:** The Fair Admissions Campaign

**Admission Authority:** The Governing Body of Holy Trinity School,  
Barnsley

**Date of decision:** 22 October 2014

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body for Holy Trinity School, Barnsley for admissions in September 2015.**

**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 was referred to the adjudicator on 30 June 2014 by the Fair Admissions Campaign (the objector), about the admission arrangements (the arrangements) for Holy Trinity School, (the school) in Barnsley, the local authority area (the LA), a joint Roman Catholic and Church of England voluntary aided school for 3 to 16 year olds for September 2015. The objection concerns the non-compliance of elements of the admission arrangements with the School Admissions Code (the Code).

### **Jurisdiction**

2. The governors, as the admission authority for the school, discussed and agreed the arrangements for admission in September 2015 on 9 October 2013 in accordance with section 88C of the Act. 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.

3. In addition, I have also used my power under section 88I of the Act to consider the arrangements for admission to the reception year (YR) and year 7(Y7) in September 2015 as a whole.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the Code.
5. The documents I have considered in reaching my decision include:
  - a) the objector's letter of objection dated 30 June 2014;
  - b) the school's response to the objection dated 3 September 2014;
  - c) documents from the school requested by the adjudicator received on 22 August 2014;
  - d) the LA's response to the objection and supporting documents dated 20 August 2014;
  - e) the response to the objection from the diocese of West Yorkshire and the Dales (Church of England) dated 10 September 2014;
  - f) the response to the objection from the diocese of Hallam (Roman Catholic) dated 10 September 2014;
  - g) the LA's composite prospectuses for parents seeking admission to schools in the area in September 2014 and 2015;
  - h) copies of the minutes of the meeting of the governing body on 9 October 2013 at which the arrangements were discussed and agreed; and
  - i) a copy of the determined arrangements.

### **The Objection**

6. The objector cites the following elements of the arrangements which are believed to be non-compliant with the following paragraphs of the Code:
  - either the admission policy for 2015 not decided yet, paragraph 1.46, or 1.47 the admissions policy for 2015 not published yet; ;
  - "there is no effective tie-breaker to separate two applicants living equidistant from the school" (paragraph 1.8);
  - "criterion 2 refers to baptised Catholics, but then footnote 2 also talks about Catechumens and candidates for Reception. Are the latter also admitted? (paragraphs 1.8/14/1.37);
  - criteria 5/6 - 'practicing' and 'active' are not defined and are left up to the priest to decide (paragraphs 1.8/14/1.37); and

- the supplementary information form (SIF) says “in preparing a testimonial for a child we should like to know such things as how often the child participates in services, in what way the child and/or the family participates” and “To what extent is this child involved in the life of your Church?” which opens up the way for taking account of practical support beyond simply religious worship. (paragraph 1.9e).

### **Other Matters**

7. I have studied the arrangements and draw the attention of the governing body to the requirement in paragraph 1.7 of the Code regarding the priority for looked after and previously looked after children in the oversubscription criteria for admission to both YR and Y7.

### **Background**

8. The school opened on 1 September 2012 as a joint Roman Catholic and Church of England voluntary aided school following an amalgamation of a number of other schools. The joint faith school falls within the Roman Catholic Diocese of Hallam and the Church of England Diocese of West Yorkshire and the Dales.
9. The published admission number (PAN) for admission to YR is 60 and for external admissions to Y7 is 80. The school is oversubscribed at both points of admission.
10. The arrangements state that all children with a statement of special educational need which names the school are required by law to be admitted.
11. Oversubscription criteria for admission into YR and Y7 are the same and as follows:
  - 1) Children in Public Care and children previously in Public Care.
  - 2) Baptised Catholic Children, (footnote 2), from the Parishes of Blessed Sacrament, St Mary Magdalene, St Theresa’s, St Joseph’s and St Paul’s and children who are baptised members of the Church of England, (footnote 3), and reside within the Barnsley Deanery.
  - 3) Siblings of children attending the school at the time of admission.
  - 4) Baptised Catholic and baptised Church of England children who live outside the Catholic parishes listed or outside the Church of England Barnsley Deanery Boundaries.
  - 5) Children who are practising members of other Christian communities who are full members of Churches Together in England, (footnote 4), who have the written support of their minister of religion.
  - 6) Children who are active members of other world faiths who have the written support of their religious leader.
  - 7) Other children.

Footnotes define the terms 'Catholic children', baptised children in the Church of England, Churches together in England and Ireland and siblings. A SIF is required for both points of admission to the school.

### Consideration of Factors

12. The objection dated 30 June 2014 suggests that the arrangements for admission to the school in September 2015 may not have been determined in line with the Code and that they were not published on the school's website. Paragraph 1.47 of the Code states that "*Once admission authorities have determined their admission arrangements, they **must** notify appropriate bodies and **must** publish a copy of the determined arrangements on their website*".
13. The school's response to the objection on 4 September 2014 says that the determination of the admission policy was in compliance with the Code and took place at a governing body meeting on 9 October 2013. It goes on to say that the school's website has recently been redesigned and uploaded, but there was an oversight regarding publishing the arrangements and this was delayed until August 2014.
14. The LA's response dated 20 August 2014 acknowledges that there was a delay in the publication of the school's arrangements on the LA's website.
15. I have reviewed the minutes of the governing body meeting on the 9 October 2013. The item headed "*Admission Policy*" includes the presentation of a revised copy of the Admission Policy 2015-16. The minute's record that the proposed changes would not constitute a minor change and would need to go to consultation. The section concludes with the following resolution; "*Governors agreed that they are happy for IB/SB to consult and make the changes*". There is no explicit statement that the arrangements were formally determined at that meeting but as they were then sent to the dioceses and the LA I accept that the governors believe the arrangements were determined in line with the Code. The arrangements for 2015 are the same as those for 2014 so there was no consultation. If the governors propose any changes for 2016 there will need to be a consultation on the proposed changes as required and set out in the Code.
16. The arrangements were not published in line with the Code at paragraph 1.47 and I therefore uphold this element of the objection.
17. The objector states that there is no tie breaker in the arrangements in line with paragraph 1.8 of the Code which states that "*admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated*". The school accepts that there was no tie breaker in the 2014 arrangements but that, following discussion with the LA; a suitable tie breaker has now been included in the published 2015 arrangements.

18. I uphold this element of the objection as the arrangements which were originally determined did not include a tie breaker. I can confirm that a suitable amendment has now been made.
19. The objection raised the issue of criterion 2 in the oversubscription criteria. This refers to *“baptised Catholic children”* although the footnote includes Catechumens and Candidates for Reception. The objector suggests that this is contrary to three paragraphs in the Code:
- paragraph 1.8; *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair”*;
  - paragraph 14; *“In drawing up their admission arrangements, admission authorities, **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated”*; and
  - paragraph 1.37; *Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied”*.
20. The school acknowledges the lack of clarity in oversubscription criterion 2. The school states that the arrangements have been retained in this form *“under instruction”* from both dioceses. The school acknowledges that the arrangements do not include a mechanism to evidence whether a child or parent is a Catechumen or Candidate for Reception but states that the parish priest would be able to provide formal proof of this. In order to facilitate this, the school has amended the SIF to request evidence from the priest.
21. The dioceses both replied on the 10 September 2014. The representative of the Diocese of West Yorkshire and the Dales (Church of England) states that the school is required to send the arrangements to the diocese *“for approval”* and that *“advice is given to schools on a bespoke basis”*. The response says that specific guidance was given to the school jointly by the two dioceses and that the detail of the Church of England criteria for admission was the same as that which applied to the predecessor schools.
22. The response from the diocesan officer for the Diocese of Hallam (Roman Catholic) confirms that the footnotes concerning Catechumens and Candidates for Reception were inserted into the arrangements at the request and agreement of both dioceses.
23. I have studied the arrangements and the SIF and am of the view that it is not clear to parents where the priority for admission lies. Criterion 2 states *“Baptised”* Catholic children and the footnote states that other groups are also included. Those who are Catechumen or Candidates for Reception are, by definition, not baptised Catholics and it is therefore not clear to parents reading the arrangements if baptised children are given higher priority than Catechumens or Candidates for

Reception. The oversubscription criterion needs to be clear and the SIF should match what is required to test an applicant against that criterion. Requiring evidence from the parish priest is helpful to the school when checking authenticity of application but does not provide the necessary clarity for parents. I therefore uphold this element of the objection.

24. In addition paragraph 1.38 of the Code states that *“Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based oversubscription criteria, to the extent that the guidance complies with the mandatory provisions and guidelines of the Code. They **must** also consult with the body or person representing the religion or religious denomination when deciding how membership of practice of the faith is to be demonstrated.”* This makes it clear that it is for the admission authority, in this case the governing body of the school, to determine the arrangements having had regard to guidance and following consultation with the diocese. There is no requirement for diocese to *“approve” or “direct”* the governing body to make additions to or amend the arrangements.
25. The objector cites the same paragraphs of the Code (1.8, 14 and 1.37) in the part of the objection dealing with criteria 5 and 6 in the arrangements. The objector suggests that as the words *“practicing”* and *“active”* are not defined that they are unclear.
26. The school reports that there have been no previous issues regarding criterion 5 or 6 and that a letter from a minister or religious leader should be sufficient evidence of church/faith membership. The school says that they do routinely follow up letters submitted as evidence to check authenticity.
27. The representative from the Diocese of Hallam says *“practicing and active are not defined in the policy as it is the understanding of Diocesan officers from both dioceses that different denominations have different methods of measuring and defining both practising and active and it is therefore the decision of the providing minister to make that declaration”*.
28. The admission of children to a school in line with the arrangements is the responsibility of the admission authority. The arrangements must make it clear how a parent or child can fulfil the oversubscription criteria in order to be given priority for admission. Priests may provide information which supports parental application but the criteria on which this is based must be transparent, easily understood and published in the arrangements. This is not the case in these arrangements. Parents cannot see easily how the places are allocated using these criteria. If priests or religious leaders use different criteria to exemplify practicing or active members of the church this is contrary to the Code and confusing to parents. I therefore uphold this element of the objection.

29. The final element of the objection refers to the SIF and the inclusion of the following; *“In preparing a testimonial for a child we should like to know such things as how often the child participated in services, in what way the child and/or the family participates and how committed you feel the child and/or the family is to the general values of your church”* and the question; *“To what extent is this child involved in the life of your Church?”*. The objector suggests that this is contrary to the Code at paragraph 1.9e which states 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”*.
30. With reference to the priest’s testimonial the school states that *“they have not received any examples of ministerial references which focus on anything other than participation in worship.”*
31. The arrangements do not define the terms practicing or active in terms of attendance at worship and the addition of open questions on the SIF requesting information about the applicant’s and his or her family’s participation, commitment and involvement in the life of the church is unclear and open to misinterpretation. The question regarding the active involvement of a child in the life of the church suggests that the minister does, in fact, record practical activities which would not comply with paragraph 1.9e of the Code and I therefore uphold this element of the objection.
32. I draw the governing body’s attention to paragraph 2.4 of the Code which states that *“admission authorities **must** only use supplementary forms that request additional information when it has a direct bearing on decision about oversubscription criteria”*. The questions on the SIF do not relate directly to the published oversubscription criteria and are therefore not compliant with the Code.
33. In addition to the objection I have reviewed the arrangements as a whole and find that the first over-subscription criterion for both points of admission to the school is not compliant with the Code and requires amendment in line with paragraph 1.7 of the Code which says that *“the highest priority must be given... to looked after children and previously looked after children...”*. There follows definitions of these groups of children and these too should be included in the arrangements in order to be clear to parents and those with parental responsibility.

## **Conclusion**

34. I uphold the objection as the following elements of the arrangements are not compliant with the Code:
- I accept that the arrangements were determined in line with the Code. The arrangements were not changed and therefore consultation was not required. However, they were not published and this is contrary to paragraph 1.47 of the Code.

- The arrangements did lack of a final tie-breaker and thus contravened paragraph 1.8 of the Code.
- The arrangements do not make it clear which children are eligible under “Baptised Catholic” and therefore this element of the faith criterion does not comply with paragraphs 1.8/14/1.37 of the Code.
- Clarity is lacking in the definition of the terms ‘practicing’ and ‘active’ in oversubscription criteria 5/6 contrary to paragraphs 1.8/14/1.37 of the Code.
- Some of the information requested on the SIF contrary to paragraph 1.9e of the Code.

35. In addition I conclude that the first criterion in the oversubscription criteria is not compliant with the Code in terms of the definition of looked after and previously looked after children.

36. Each of these elements of the arrangements requires amendment.

### **Determination**

37. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body for Holy Trinity School, Barnsley for admissions in September 2015.

38. 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.

39. 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: 22 October 2014

Signed:

Schools Adjudicator: Mrs Ann Talboys