



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2807

Objector: The Fair Admissions Campaign

Admission Authority: The academy trust of Bradford Academy,
Bradford

Date of decision: 7 November 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 academy trust for Bradford Academy, Bradford.

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 Admission Campaign (the objector), about the admission arrangements (the arrangements) for Bradford Academy (the school), a Church of England academy school for 4 to 18 year olds for September 2015. The objection concerns the non-compliance of elements of the arrangements with the School Admission Code (the Code).

Jurisdiction

2. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis on 26 March 2014 and

subsequently published on the school's website. 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 used my power under section 88I of the Act to consider the arrangements for admission to reception (YR), year 7 (Y7) and the sixth form 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 email of objection dated 30 June 2014;
 - b) the school's response to the objection dated 22 August 2014;
 - c) the school's funding agreement;
 - d) the LA's response to the objection dated 15 August 2014;
 - e) the diocese of West Yorkshire and the Dales's (the diocese) response to the objection dated 27 August 2014;
 - f) the Bradford, the local authority (the LA) composite prospectus for parents seeking admission to primary and secondary schools in the area in September 2014 and 2015;
 - g) confirmation of when consultation on the arrangements last took place;
 - h) copies of the minutes of the governing body meeting on 26 March 2014 at which the academy trust for the school determined the arrangements; and
 - i) copies of the determined arrangements dated April 2014 and August 2014.

The Objection

6. The objector cites the following elements of the arrangements which are believed to be non-compliant with the Code;
 - criterion 3 - all children of staff at the school get priority, not just those meeting 1.39a (paragraph 1.39 of the Code);
 - criterion 5 - 'where governors agree that a place should be offered on these grounds' (paragraphs 1.8/14/1.37 of the Code);

- criterion 5b which does not name the feeder schools (paragraph 1.9b of the Code);
- there is no effective tie breaker to separate two applicants living equidistant from the school (paragraph 1.8 of the Code);
- the supplementary information form (SIF) asks for child's gender (paragraph 2.4 of the Code);
- criteria 5 - religious attendance must be twice a month but for how many years? (paragraphs 1.8/14/1.37 of the Code);
- criterion 5 the 'child's family' must attend church – which may be interpreted by some to mean both parents/carers and not just one (paragraph 1.8/14/1.37 of the Code); and
- SIF asks 'Is the family involved in any other way in the life of the religious community?' and also asks priest whether the child/family member attends worship weekly, not just fortnightly (paragraph 2.4 of the Code).

Other Matters

7. I have studied the arrangements and draw the attention of the governing body to the requirement in paragraph 5 of the Code which states that *"It is the responsibility of admission authorities to ensure that admission arrangements are compliant with the Code."* The admission arrangements are defined as *"the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered"*. These requirements cover all three main points of admission to the school; YR, Y7 and the sixth form. As students may be admitted at year 12, arrangements are required for their admission. The school currently do not have specific arrangements for sixth form admissions.

Background

8. This Church of England academy school was opened on 1 September 2005 as a through school for 4 to 18 year olds. Admission of pupils to the primary phase of the school is progressing through the years and there are, as yet, no pupils in years 5 or 6. There are pupils in all other school years in the school. The school falls within the newly created diocese of West Yorkshire and the Dales. The published admission number (PAN) for YR is 60 and for Y7 is 205. The Department for Education records the school's capacity as 1250 and there are currently 1666 pupils on roll.

9. For admission to the school in September 2013, 213 applications were received for the 60 places in YR and 740 applications were received for the 205 places in Y7. (230 pupils were admitted; 25 over PAN). In 2014, 574 applications were received for admission to Y7 and the school admitted 230 pupils into Y7 (25 over PAN).
10. Oversubscription criteria for admission to YR and Y7 for admission in 2015 were published in April 2014 and were revised following receipt of the objection and subsequent discussion with the Department for Education in August 2014. This discussion took place in July 2014 and covered both the arrangements for the school and the arrangements for a new academy within the trust. Changes were made to the following parts of the arrangements;
 - criterion 3 relating to children of staff;
 - criterion 5 relating to governors' agreement; and
 - the SIF regarding family involvement in the life of the religious community.
11. In addition the governing body agree to add a tie breaker and review the religious attendance criteria. No changes were made to the arrangements with reference to the other elements of the objection.
12. The current published arrangements for YR and Y7 admit pupils with statements of special educational need or educational health and care plans where the school is named and then if the school is oversubscribed the following criteria are applied;
 - 1) Looked after children and previously looked after children;
 - 2) Special medical or social reasons;
 - 3) Children of staff at the school. (this criterion was amended in August 2014 to include the definitions from the Code)
 - 4) Brothers and sisters. (definition of these terms appear in the notes)

Criteria 1 to 4 (above) are common to the arrangements for YR and Y7.

For admission to Y7 the criteria continue with;

- 5) The faith proportion; (up to 35 per cent of the remaining places). (This criterion was amended in August 2014 to remove a sentence which stated "*where governors agree that a place should be offered on these grounds*").

15 per cent of the remaining places are allocated to children of the Christian faith, 10 per cent to children attending a Church of England Junior or Primary school that are either Voluntary Aided or Voluntary Controlled and 10 per cent to children of other faiths.

6) The feeder school proportion. The remaining places are divided equally between two sets of named feeder primary schools. There are four schools in one group and three in the other. These feeder schools are named in the arrangements.

7) Community proportion. (all remaining places)

For admission to YR the criteria continue with;

5) The faith proportion. (up to 35 per cent of the remaining places). (This criterion was amended in August 2014 to remove a sentence which stated "*where governors agree that a place should be offered on these grounds*").

20 per cent of the remaining places are allocated to children of the Christian faith and 15 per cent to children of other faiths.

6) Community proportion. (all remaining places)

In both sets of criteria the arrangements state that if there is oversubscription within a particular criterion then the places are allocated on the distance from home to school measured in a straight line from the main entrance of the academy. Applications for the faith proportions must be supported by a SIF and a religious leader's reference form.

Consideration of Factors

13. The objection dated 30 June 2014 says that the arrangements do not conform with paragraph 1.39 of the Code which states that "*Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances; a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or b) the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage*". The arrangements published in April 2014 stated "*Children of staff at the school*".

14. The school revised the arrangements in August 2014 to include the full definitions from the Code. However, the arrangements which were published at the time of the objection did not conform with the Code and I therefore uphold this element of the objection. I can confirm that a suitable amendment has now been made.

15. The objection raised the issue of criterion 5 in both sets of arrangements and the inclusion of the phrase *“where governors agree that a place should be offered on these grounds”* and says 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”*.
16. The inclusion of this sentence is not clear and could be interpreted as a subjective statement. The school has now deleted the sentence from the arrangements. As the sentence was published in the arrangements at the time of the objection I uphold this element of the objection.
17. The objector cites paragraph 1.9b of the Code in relation to part 5b of the secondary criterion 5 of the arrangements. The criterion states; *“children attending a Church of England Junior or Primary school that are either Voluntary Aided or Voluntary Controlled schools”*. Paragraph 1.9b states that *“admission authorities **must not** take into account any previous schools attended, unless it is a named feeder school”*.
18. In the school’s response of the 26 August 2014 it said that the inclusion of these, unnamed schools is a *“city wide”* criterion. The diocesan response of the 27 August 2014 said that *“Whilst this is not a list of named feeder schools there is a clear parameter which can be checked by a prospective parent”*.
19. If an admission authority chooses to give priority to children who have attended a particular school then it can only be a feeder school and must comply with both paragraph 1.9b and 1.15 of the Code concerning such schools. The responses of the school and diocese indicate that the schools are simply a type of school located in an administrative area. For a school to be a feeder school it must be named by its individual name and must be chosen on transparent and reasonable grounds. I am of the view that this criterion does not comply with the Code as the primary schools are not named feeder schools. I therefore uphold this element of the objection.
20. The objector states that there is no tie breaker in the arrangements as required by 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 is no tie breaker in the 2015

arrangements and is seeking to address this. I uphold this element of the objection as the arrangements do not include a tie breaker.

21. Paragraph 2.4 of the Code states that *“admission authorities **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria”*. The objector’s view is that requesting the gender of the child on the SIF is contrary to this paragraph.
22. The school states that there is no statement in the Code that says that gender cannot be requested and the diocese suggests that *“this is common practice which we believe is not specifically prohibited by the Code and is useful to schools as names can be non-gender specific”*.
23. The gender of the applicant has no bearing on the decisions relating to the oversubscription criteria and therefore the inclusion of the question in the SIF is not compliant with the Code. I therefore uphold this element of the objection.
24. The objector says that the faith-based oversubscription criterion 5 is unclear and cites paragraphs 1.8, 14 and 1.37 of the Code. The criterion states that the child’s family should attend a place of religious worship on average on two occasions each month or more. The objector asks the question *“for how many years?”*
25. The school has not amended this section of the arrangements but states that it is to be reviewed. The diocese suggests that there is no minimum number of years for church attendance as this would prejudice new converts and families recently moving into the area.
26. I am of the view that the criterion is reasonable as it states the frequency of expected attendance at a place of worship and covers both the places for children of the Christian faith and other faiths. However, it is not clear to parents as to whether or not there is a minimum time for which this level of attendance has to be maintained to achieve priority for admission. It does not state that there is no minimum qualifying period expected of attendance and the arrangements would be clearer if this was stated. The SIF asks for information on attendance and the religious leader’s reference also asks for the same information. There is no requirement within the Code to include the number of years during which worship has taken place, but parents reading the arrangements must be able to understand how places will be allocated and how the faith-based criterion will be reasonably satisfied. The criterion is not sufficiently clear and therefore I uphold this element of the objection.
27. The objector cites the same three paragraphs of the Code (1.8, 14 and 1.37) in relation to criterion 5 of the oversubscription criteria which states that *“the child’s family attend church on average on two occasions each month or more”*. The objector states that this is

unclear and therefore non-compliant with the Code because the term “*child’s family*” may be interpreted by some to mean both parents/carers and not just one.

28. The school makes no comment about this element of the objection but the diocesan representative reports that the SIF and religious leader’s form only requests one name.
29. The word ‘family’ is not defined in the arrangements and could therefore be confusing for parents. I am of the view that this is therefore not clear or easily understood by parents and I therefore uphold this element of the objection.
30. The objector states that information requested on the SIF does not conform with paragraph 2.4 of the Code. The SIF contained the question “*Is the family involved in any other way in the life of the religious community?*” and also asks the priest whether the child/family member attends worship weekly, not just fortnightly.
31. These questions do not relate directly to the published oversubscription criteria and are therefore not compliant with the Code. I can confirm that the SIF has been amended. The sentences were present in the arrangements at the time of the objection and I therefore uphold this element of the objection.

Other matters

32. In addition to the objection I have reviewed the arrangements for admission at YR, Y7 and the sixth form as a whole. I find that the arrangements for admission to the sixth form do not comply with the Code. The section in the arrangements which covers sixth form provision states; “*The Bradford Academy will publish specific criteria in relation to minimum entrance requirements for the range of courses available based upon GCSE grades or other measures of prior attainment. Applicants from schools other than the Academy will be admitted provided that there is a place available and that the applicant meets the academic criteria set down for those applying internally. The intake will allow for the pupils transferring from Year 11 and applications from other schools. Where more external applicants, who meet the attainment criteria, apply than there are places available, the oversubscription criteria shall apply*”. There is no reference to which oversubscription criteria are being referred to; the arrangements specify primary years R to 5 and secondary years 7 to 11 but do not reference years 12 or 13. The website steers applicants to the admissions form which asks for the name of someone at the current school who can provide a reference; asks whether or not the school is the applicant’s first choice and provides suggested dates for interviews.
33. The academy’s sixth form admission arrangements are not compliant with the Code. Paragraph 15 of the Code provides a summary of when admission arrangements must be determined and applies to admission arrangements for YR, Y7 and the sixth form. I can find no evidence

that sixth form arrangements have been written, consulted on or determined by the governors to date. The description of how students new to the school are allocated a place in the sixth form is non-compliant with the Code in the following ways;

- there is no PAN (paragraph 1.2 of the Code); “*all admission authorities must set an admission number for each relevant age group*”;
- there is no formal policy which includes oversubscription criteria; there has been no consultation, determination or publication of the policy in line with paragraph 15 of the Code (“*all schools must have admission arrangements...* ”); and
- current admission practices are not compliant with the Code at paragraph 1.9 a, c, g, and m. (*admission arrangements must not; a) place any condition on the consideration of any application other than those in the oversubscription criteria; c) give extra priority to children whose parents rank preferred schools in a particular order, including ‘first preference first’ arrangements; g) take account of reports from previous schools; and m) interview children or parents.*)

The school must meet its responsibility to have admission arrangements for entry to the sixth form in order to comply with the Code. The arrangements require amendment in this respect.

Conclusion

34. I uphold the objection concerning:

- clarity of oversubscription criterion 3 giving priority to the children of all staff (paragraph 1.39 of the Code);
- criterion 5 which states that governors may agree that a place should be offered (paragraphs 1.8/14/1.37 of the Code);
- criterion 5b which does not name the feeder schools (paragraph 1.9b of the Code);
- lack of tie breaker (paragraph 1.8 of the Code);
- the SIF requests information on the gender of the child (paragraph 2.4 of the Code);
- clarity of timescales for attendance at worship (paragraphs 1.8/14/1.37 of the Code);
- criterion 5 does not define the term “*child’s family*” (paragraph 1.8/14/1.37 of the Code); and
- the SIF requests information on the family’s contribution to the life of the religious community (paragraph 2.4 of the Code).

35. I acknowledge that the school has already amended the arrangements for some of these elements.

36. In addition I conclude that the arrangements for admission to the sixth form do not conform with the Code and require urgent attention.

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 academy trust for Bradford Academy, Bradford.

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: 7 November 2014

Signed:

Schools Adjudicator: Mrs Ann Talboys