



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA 2793

Objector: The Fair Admissions Campaign

Admission Authority: The Academy Trust of St Columba's Catholic Boys' School, Bexley

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 for admissions in September 2015 determined by the Academy Trust for St Columba's Catholic Boys' School, Bexley.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the school does 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), about the admission arrangements (the arrangements) for St Columba's Catholic Boys' School (the school), an academy school run by the St Columba's Catholic Boys' School Trust for boys aged 11 – 16 in the London Borough of Bexley, for September 2015. The local authority (LA) is the London Borough of Bexley and the school is within the Catholic Diocese of Southwark (the diocese). The objection is in several parts and covers a range of issues that it identifies in the admission arrangements.

Jurisdiction

2. The terms of the funding agreement for this school between the St Columba's Catholic Boys' School 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 directors of the academy trust, which is the admission authority for the school, on 26 March 2014, on that basis.

3. 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. As the arrangements have been drawn to my attention, I am also using my power under Section 88I of the Act to review 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 school's response to the objection and further supporting documents;
 - c. the LA's comments on the objection;
 - d. the diocese's comments on the objection and supporting documents;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - f. minutes of the meeting of the directors of the trust held on 26 March 2014 at which the academy trust determined the arrangements; and
 - g. the determined arrangements for 2015.

The Objection

6. The objection that was received contained several points as follows:
 - 6.1 The arrangements do not comply with either paragraph 1.46 or 1.47 of the Code because the 2015 arrangements had either not been determined at the time of the objection in June or they had not been published in accordance with the requirements of the Code.
 - 6.2 The arrangements do not comply with paragraph 2.4 of the Code because *"the governors will require parents to complete a supplementary information form (SIF).....but a SIF is not required for those applying under the lowest category"*.
 - 6.3 The arrangements do not comply with paragraphs 1.7 and 1.37 of the Code because *"criteria 2.1 – does not give priority to baptised formerly looked after Catholics who are not in the care of Catholic families"*.

- 6.4 The arrangements do not comply with paragraphs 1.8, 14 and 1.37 of the Code because criteria 2.2 and 2.4 refer to “‘regularly’, ‘occasionally’ etc that are not defined in the admissions arrangements, (the) SIF asks ‘Does the family attend mass at least 3 out of 4 Sundays?’ which doesn’t match up either, nor is there a definition anywhere of how long worship is expected to have occurred for.”
- 6.5 The arrangements do not comply with paragraphs 1.8, 14 and 1.37 of the Code because in criterion 2.6 there are “no set criteria for what constitutes being a member of a faith community. The burdens are likely to be different for different faiths and for Jewish people membership of a synagogue typically entails financial support for that synagogue”.
- 6.6 The arrangements do not comply with the Code at paragraph 1.6 because there is “no mention of statemented children”.
- 6.7 The arrangements do not comply with paragraph 1.8 of the Code as “there is no effective tie-breaker to separate two applicants living equidistant from the school.”
- 6.8 The “SIF asks for details of both parents, labels the ‘mother’ and ‘father’” and breaches the requirements of paragraph 2.4 of the Code.

Background

7. The school became an academy in September 2012. The school was inspected by Ofsted in September 2014 and was judged to be a good school. Over the last 10 years the school has been undersubscribed with the result that all boys seeking a place at the school have been offered one and the oversubscription arrangements have not been used by the governing body. Following receipt of the objection, the school met with the diocese and reviewed its admission arrangements. The school accepts that there are some areas where the determined policy is not fully compliant with the Code and has made some suggestions about amendments that it could make.
8. The school’s website displays the 2014 admission arrangements but not the 2015 arrangements. However, the copy of the 2015 arrangements that was sent to me by the school is the same as the copy of the arrangements that has been published in the LA composite prospectus for September 2015. The 2015 arrangements are:
1. Baptised Catholic looked after children or looked after children in the care of Catholic families, or those who have previously been looked after
 2. Other looked after children including those who have previously been looked after.
 3. Baptised Catholic children and members of Oriental Rite Churches in union with Rome;
 4. Boys who are baptised members of Eastern Rite Churches that are not in communion with Rome;
 5. Boys who are Christians (either baptised or preparing for adult

baptism) who are members of Churches Together in England or the Evangelical Alliance....

6. Boys of other faiths....;
 7. Other boys.
9. The arrangements then set out how applicants will be prioritised within each criterion with highest priority to be given to those who show the greatest degree of religious practice. The arrangements say that this will be judged from the priest's reference form and will rank applicants on the basis of their attendance at mass with those attending Mass weekly having the highest priority.
10. Associated with this are a set of further criteria which the school describes as tie breakers. The first gives priority to applicants having a sibling at the school or at the neighbouring girls' Catholic secondary school or at Christ the King: St Mary's sixth form college. The second tie breaker gives priority to sons of, or those in the care of, a member of staff and the third prioritises places on the basis of distance.
11. In its response to the objection, the diocese commented that it had met with the school since the objection to discuss the matters raised and explained where the arrangements did not comply with the Code and/or the diocesan guidance. The arrangements have been subsequently revised and the diocese is of the view that the revisions now comply with the requirements of the Code.
12. The LA responded that it appreciates that it has a compliance role in relation to school admission arrangements. It acknowledges that the admission arrangements produced by the many academies and faith schools in the borough are of varying standard and complexity, and comments that it can be difficult to influence their content. It expects the Dioceses to advise their schools on acceptable criteria and content in relation to the faith elements of the arrangements. The LA did not make any specific comments in relation to the objection about these particular arrangements.

Other matters

13. Having had these arrangements drawn to my attention I have reviewed the overall arrangements using my power under section 88I of the Act. I have set out below where I consider that the arrangements do not meet the requirements of the Code and will refer back to these matters when I consider the points made in the objection.
14. Paragraph 14 of the Code requires arrangements to be "*clear*" and goes on to say "*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*". In section 3 of these arrangements there are three "tie breakers" that would be used if there were more applicants than places in one of the oversubscription criteria. It is unclear how these would be applied and which would take precedence in determining which

applicant had priority. It is also unclear whether these are in fact “tie breakers” or additional oversubscription criteria.

15. A further tiebreaker is given after paragraph 2.7 of the arrangements which says that the highest priority in a category will be given to those who show the greatest degree of religious practice. Although the guidance offered by the diocese mentions this as a possible way to prioritise applicants, the wording in these arrangements is such that it is difficult to understand how this prioritisation process will interact with the other priorities listed and how the school will ensure that it receives accurate information to enable it to make the necessary judgement about religious practice. This school has been undersubscribed in recent years so these criteria have not been tested in practice. These “tie breakers” make the arrangements unnecessarily complicated and make them difficult to understand.

Consideration of Factors

16. I shall first consider the determination of the arrangements. The objection questions whether these were determined before 15 April as required by paragraph 1.46 of the Code. The school has provided the minutes of the meeting where the determination took place dated 26 March 2014. It also detailed the consultation that it undertook. In this respect therefore the determination complies with the Code. I then looked to see when the school published its arrangements by placing them on the school’s website. The arrangements available on the school’s website refer to admissions in September 2014 and the SIF is dated September 2013 but no changes have been made to it since that time. Paragraph 1.47 of the Code requires an admissions authority to send its published arrangements to the local authority and to publish a copy on its website. The school has not published its 2015 arrangements on its website and in this respect I uphold the objection made. The school has complied with the requirement for a copy to be sent to the LA because the LA has published the arrangements in its composite prospectus for admissions in 2015.
17. The next part of the objection is that “*The governors will require parents to complete a supplementary information form (SIF)*” “*but a SIF is not required for those applying under the lowest category*”. I have read the introduction to the arrangements carefully and while it is the case that the quote above is included, the paragraph goes on to say that if an applicant does not complete a SIF then “*the application will be considered under the ‘other boys’ category.*” I understand from this that although the school has said it is a requirement for all applicants to complete a SIF; the school has also explained that if it does not receive a SIF it will consider an application under the criterion of “*other boys*”. On this basis I do not uphold the objection but I observe, however, that the wording is not clear and in this respect the arrangements do not comply with paragraph 14 of the Code that requires them to be “*clear*”.
18. The next element of the objection is that the arrangements do “*not give priority to baptised formerly looked after Catholics who are not in the*

care of Catholic families". The first two criteria in the arrangements refer to looked after and previously looked after children as follows:

1. Baptised Catholic looked after children or looked after children in the care of Catholic families, or those who have previously been looked after
2. Other looked after children including those who have previously been looked after.

19. Paragraph 1.37 of the Code says that "*Admission authorities for faith schools may give priority to all looked after and previously looked after children whether or not of the faith, but they **must** give priority to looked after and previously looked after children of the faith before other children of the faith. Where any element of priority is given in relation to children not of the faith they **must** give priority to looked after children and previously looked after children not of the faith over other children not of the faith.*"
20. The school must decide how it wishes to prioritise looked after children and previously looked after children in a way that is compliant with the Code. My view is that, the first criterion quoted above, as it is currently written, is not compliant with this paragraph of the Code. An example of a first oversubscription criterion that gives priority for looked after and previously looked after children over all other applicants irrespective of faith is given on page 31 in the appendix to the Code. The arrangements do give priority to all looked after boys and previously looked after boys over all other boys, but technically as currently written the first criterion is not compliant with the Code in respect of the priority given to looked after and previously looked after children and need to be revised. I uphold this element of the objection.
21. The objection goes on to say that criteria 2.2 and 2.4 refer to "*regularly*", "*occasionally*" etc that are not defined in the admissions arrangements, the SIF asks "*Does the family attend mass at least 3 out of 4 Sundays?*" which doesn't match up either, nor is there a definition anywhere of how long worship is expected to have occurred for." The school says in its arrangements that it will prioritise applicants within the two criteria that contain baptised members of a Church on the basis of "*their degree of religious practice*". I understand this to mean that applicants will be judged upon their attendance at Mass with those who attend "regularly", which is defined as attending 3 out of 4 Sundays on the SIF, taking priority over those who attend occasionally. The diocese sets out on page 7 of its guidance, its definitions for membership of the Church, which is baptism evidenced by a baptism certificate or a letter of affirmation from a Catholic priest, and Catholic practice. Practice involves attendance at Mass and it defines regular attendance as weekly, occasional attendance as once or twice a month and irregular as less than once a month. The school may have had these definitions in mind when it wrote its arrangements but it has not clearly defined what it means in its arrangements as the Code requires it to do. In addition, it is unclear whether the reference is to attendance

at Mass by the parent or the child or both. In these respects I uphold this part of the objection.

22. I am unclear how the prioritisation of applicants on the basis of their attendance at Mass operates alongside the tiebreakers set out in paragraph 3.1 to 3.7 of the arrangements works. If an applicant has met the requirements of a criterion in relation to religious practice then it would be possible to use the next tiebreakers to establish a priority order if the order of precedence of the tiebreakers was clear. As the arrangements are currently written this matter is far from clear and they do not comply with the requirement for clarity in paragraph 14 of the Code. In effect the priority for siblings or children of staff members are oversubscription criteria in their own right and could be included as such leaving the tiebreaker of distance as the principal means for establishing priority within a criterion.
23. While considering the tie breaker, the objection also points out that the arrangements do not comply with paragraph 1.8 of the Code as *“there is no effective tie-breaker to separate two applicants living equidistant from the school.”* This is correct and the school needs to introduce a simple tie-breaker to rectify this.
24. The objector then cites paragraphs 1.8, 14 and 1.37 in stating that there are *“no definitions for what constitutes being a member of a faith community. The burdens are likely to be different for different faiths and for Jewish people membership of a synagogue typically entails financial support for that synagogue”*. The school responded by saying that it is not qualified to judge whether or not an applicant is a member of a faith group and this is why it asks applicants to complete the SIF and provide a reference from a faith leader confirming membership of the faith. In this way, the school said that it did not have to make a judgement but leaves this to the faith leader providing a reference. I do not uphold this part of the objection that concerns including definitions for membership of other faiths as I do not consider that this is required by the Code. The faith leader needs to be sure that the procedure for deciding a boy is of the faith does not contravene the Code. I consider that the school meets the requirements of the Code by asking a faith leader to provide a statement confirming membership of their particular faith.
25. The next part of the objection is that the arrangements do not comply with the Code at paragraph 1.6 because there is *“no mention of statemented children”*. Paragraph 1.6 of the Code concerns oversubscription criteria and the requirement to have oversubscription criteria. It includes within the paragraph a reference to the requirement that all children with a statement that names the school must be admitted. However, the admission of such children is not via an oversubscription criterion but via separate legislation. There is no suggestion that the school does not meet the requirement to admit children who have a statement that names the school. In the interests of clarity admission arrangements ought to say that children who have

a statement that names the school will be admitted, but the omission of such a reference does not contravene paragraph 1.6. The school acknowledges that it ought to refer to the admission of children who have a statement and it has offered to include some suitable wording to rectify this.

26. The final part of the objection is that the “*SIF asks for details of both parents, labels the ‘mother’ and ‘father’*” and breaches the requirements of paragraph 2.4 of the Code. I uphold this element of the objection and the school needs to amend its SIF so that it does not infringe the requirements of the Code. The school has noted this point and has agreed to produce a revised SIF. In making the revisions there is the opportunity to reduce the amount of information requested from applicants and their families so that only that which is necessary to apply the oversubscription criteria is collected.
27. The school has consulted with the diocese about the objections made. It has accepted that there are elements of its arrangements that do not comply with the Code and has expressed its willingness to ensure compliance. It has provided me with some suggested revisions that it proposes to make to both the oversubscription criteria and the SIF in order to address the issues raised. My jurisdiction is over the determined arrangements and to identify areas where they are not compliant with the Code. Having done this it is for the school, in consultation with the diocese and the LA, to determine how it will amend the arrangements to ensure compliance.

Conclusion

28. I have carefully considered all the points made by the objector, by the school, the LA and the diocese. I have tested the school’s arrangements against the relevant provisions of the Code. The objection listed points that I have referred to above and I partially uphold the objection. The school has responded constructively and has indicated its willingness to accept the points made.
29. The school has informed me of how it intends to modify its admission arrangements in order to comply with the Code. It shared a draft of the changes proposed and asked for my comments. As stated above, my jurisdiction is confined to arrangements that have been determined and in the paragraphs above I have identified the areas that need to be modified in order to comply with the Code. In particular I refer the school to the requirements in paragraphs 1.46 and 1.47 concerning the determination of the arrangements and their subsequent publication. I have also drawn the school’s attention to the lack of clarity about how the various tiebreakers it describes operate. It is important that the school considers how to address this point to ensure that parents can easily understand how places will be allocated in the event that the school is oversubscribed and needs to use its oversubscription criteria in the future.

Determination

30. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for admissions in September 2015 determined by the Academy Trust for St Columba's Catholic Boys' School, Bexley.
31. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the school does not conform with the requirements relating to admission arrangements.
32. 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: 28 November 2014

Signed:

Schools Adjudicator: David Lennard Jones