



DETERMINATION

Case reference: ADA 2410

Objector: The British Humanist Association

Admission Authority: The Academy Trust of The London Oratory School

Date of decision: 15 July 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 of the academy trust The London Oratory School for September 2014.

I have also considered the arrangements in accordance with section 88I(5). I determine that for admissions in September 2014 and September 2015 the arrangements do not conform with the requirements relating to admission arrangements.

By virtue of section 88K(2) of the Act, 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 British Humanist Association (the objector), about the admission arrangements (the arrangements) for The London Oratory School (the school), an academy Catholic faith school for boys aged seven to 18 for September 2014. The school is located in the London Borough of Hammersmith and Fulham, the local authority (the LA).

2. The objection is to the priority given to those seeking a place at the school on the basis of service within a Catholic parish or the wider Catholic Church, to the absence from the arrangements of a means by which those of no faith can be admitted, and to the school's failure to have regard to guidance from its relevant faith body in the construction of faith-based oversubscription criteria within the arrangements.

3. A determination on this objection which had been issued on 28 August 2013 was quashed by Consent Order on 18 March 2014. As a result, the objection remains undetermined and I was asked on 4 April 2014 to consider it afresh.

4. I wrote to the school on 10 April 2014 setting out and seeking its comments on matters within the arrangements which I considered may constitute breaches of the requirements concerning admission arrangements and seeking an early meeting with the school. It was not possible to finalise arrangements for this meeting until after 15 April 2014, which is the final date on which admission arrangements for September 2015 must be determined. On 23 April 2014 I sought confirmation from the school that the admission arrangements for September 2015 which had by that date been posted on the school's website were those which had been determined by the school, or if not whether I should be aware of any differences between them and the determined arrangements.

5. The school confirmed in a letter dated 23 April 2014 that these were the determined arrangements for September 2015, and at the same time responded to the contents of my letter of 10 April 2014 concerning the determined arrangements for September 2014.

6. Since I was concerned that the arrangements which the school had told me it had determined for September 2015 contained matters which I considered may fail to meet the relevant requirements set out in the School Admissions Code (the Code) and in legislation, I wrote again to the school on 28 April 2014 listing these and seeking the school's comments on my concerns. I also asked the school to provide a copy of the minute of the meeting at which these arrangements had been determined. I informed the school that I had decided to use the powers available to me under section 88I of the Act to consider the school's admission arrangements for September 2015.

Jurisdiction

7. 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 and the Code as they apply to maintained schools. These arrangements were determined by the governing body of the academy trust, which is the admission authority for the academy school, on that basis.

8. The objector submitted their objection to the determined arrangements for September 2014 in emails on 8 April 2013 and 13 May 2013. I am satisfied the objection was properly made within the period before 30 June 2013 for making an objection under section 88H(2) of the Act. Consequent upon the quashing of the determination of 28 August 2013 on 18 March 2014 the objection has been remitted to me for redetermination in accordance with paragraph 3 of the Consent Order and it is within my jurisdiction.

9. When I looked at the school's arrangements for September 2014, I was concerned that they contained matters which may constitute breaches of the requirements of the Code and I decided to use my powers under section 88I(5) to consider these matters further.

10. The arrangements for September 2015 came to the attention of the adjudicator in the manner described above, and I am satisfied that it is within my jurisdiction under section 88I(5) of the Act to consider them. I am therefore

dealing with two sets of admission arrangements, those for 2014 concerning which there has been an objection, and those for 2015 which have come to my attention as a result of that objection.

Procedure

11. In considering the arrangements for 2014 and 2015 I have had regard to all relevant legislation and the Code.

12. The documents I have considered in reaching my decision include:

- a. the objector's emails of objection dated 8 April 2013 and 13 May 2013;
- b. the school's response to the objection and supporting documents, dated 3 July 2013;
- c. the comments on the objection of the relevant faith body, the Catholic Diocese of Westminster, dated 4 June 2013 and supporting documents which included the Joint Guidance on Admissions (for school governors) for the Dioceses of Westminster, Southwark and Brentwood (the guidance);
- d. the school's letter of 8 July 2013 concerning the consultation carried out prior to the determination of the school's admission arrangements for September 2014;
- e. further submissions made by the objector dated 11 July 2013 and 23 July 2013 and by the school dated 22 July 2013;
- f. a copy of the minutes of the meeting on 4 March 2013 at which the school's governors determined the arrangements for September 2014, and of the meeting on 3 March 2014 at which they determined the arrangements for September 2015;
- g. copies of the determined arrangements for September 2014 and September 2015;
- h. the school's letter of 23 April 2014 responding to my letter of 10 April 2014 concerning the arrangements for September 2014;
- i. the school's letter of 30 May 2014 responding to issues raised in my letter of 28 April 2014 concerning the arrangements for September 2015 and to further points of clarification sought in my letter of 16 May 2014 following my meeting with the parties on 13 May 2014; and
- j. the responses of the objector dated 21 May 2014 and of the Diocese of Westminster dated 27 May 2014 to my letter of 16 May 2014.

I have also taken account of information received during the meeting which I convened for the parties held at the school on 13 May 2014.

The Objection

13. When the objector emailed the school's adjudicator on 8 April 2013, the matters which it was stated did not comply with the Code in the school's admission arrangements for September 2014 were that:

1. The priority given within the arrangements on the basis of "Service in any Catholic Parish or in the wider Catholic Church by the candidate or a Catholic parent" was in contravention of the provision of paragraph 1.9e that practical support to the school or an associated organisation **must not** be used to give priority to children.
2. The arrangements did not provide for the admission of children "of no faith", and that this did not meet the requirements of paragraphs 1.6 and 1.36 of the Code concerning what must happen if a school is not oversubscribed. Since there were no criteria within the admission arrangements for making such admissions that this also breached the requirement of paragraph 1.8 of the Code that there should be clear admission criteria.
3. The school had failed to meet the requirement in paragraph 1.38 of the Code to have regard to guidance provided by the Diocese of Westminster concerning the construction of faith-based oversubscription criteria within the arrangements since it gave priority to Catholic children based on their practice and that of their parent(s) concerning:
 - (i) receipt of first Holy Communion (Year 7 and sixth form);
 - (ii) attendance at Mass on Holy Days of Obligation;
 - (iii) the parental duty to secure a Catholic education for their child; and
 - (iv) the child's age of baptism.

Matters of Concern

A. The arrangements for September 2014

14. The matters of potential non-compliance which I raised with the school in my letter of 10 April 2014 are set out in the following paragraphs.

1. Matters which related to the determined arrangements for all three points of entry (except where indicated):

- (i) the arrangements referred repeatedly to parents, and the second paragraph stated that the term "parents" meant both parents. Certain parts of the arrangements required the involvement of two parents (concerning baptismal certificates and Mass attendance). The Code refers to equalities legislation in paragraph 1.1 and summarises the Equality Act 2010 on page 29, making specific reference to the Public Sector Equality Duty of admission

authorities and the need to eliminate discrimination concerning persons having relevant protected characteristics, which are listed;

(ii) the requirement that all candidates submit “original” birth certificates, which I considered may be contrary to the requirement of paragraph 2.5 of the Code that ‘long’ birth certificates or other documents that would include information about parents **must not** be requested;

(iii) the requirement that all candidates provide parental baptismal certificates, appeared to be contrary to the stipulation of paragraph 2.4a of the Code that personal details about parents **must not** be asked for;

(iv) there was no statement that boys with a statement of special educational needs (SEN) which names the school would be admitted, subject to the school’s right of appeal to the Secretary of State, and this appeared to infringe the requirement of paragraph 1.6 of the Code that admission authorities **must** set out in their arrangements the criteria against which places will be allocated, and that all such children **must** be admitted;

(v) the designation of two categories of oversubscription criteria appeared to have no rationale and was therefore potentially superfluous and confusing to parents and contrary to what the Code requires in its Introduction, paragraph 14, and in paragraph 1.8 concerning clarity, and in paragraph 1.37 concerning the clarity of faith-based oversubscription criteria;

(vi) the use of the term “first form” in connection with admissions to Year 7 without any explanation was potentially confusing, as this is not the first form of the school, which is Year 3. This was itself referred to in the arrangements as “the junior house”, which may again be not easily understood by parents who are not familiar with the school’s terminology. The Code requires that admission arrangements are clear in paragraph 14 of the Introduction and in paragraph 1.8;

(vii) oversubscription criteria referred to Catholic children and to practicing Catholics but did not define this term as it applied to admissions to the school and this therefore appeared not to meet the requirements of the Code in paragraph 14 of the Introduction and paragraph 1.8 concerning clarity generally and in paragraph 1.37 concerning the clarity of faith-based oversubscription criteria;

(viii) two oversubscription criteria used the phrase “the extent to which” a particular matter could be evidenced, as in “the extent to which the child fulfils the Church’s requirements concerning Baptism”, and so could only be understood by reference to other parts of the arrangements and were therefore in themselves not clear and appeared not to meet the requirement that faith-based oversubscription criteria **must** be easy for parents to understand in paragraph 1.37 of the Code;

(ix) the term “sustained” concerning Mass attendance was used in a footnote to the arrangements, but this term was not defined and this therefore may make the arrangements unclear and in contravention of paragraph 1.37 of the Code;

(x) the use of the age of six months in connection with baptism had been raised by the objector. The schools Religious Inquiry Form (RIF) permitted applicants to provide “a good reason” to have departed from this stipulation, but no indication was given to assist applicants to know the criteria against which any reason they give might be judged, or by whom. This appeared to render this aspect of the arrangements unclear and in breach of the requirements of paragraph 1.37 of the Code;

(xi) priority was given in the arrangements on the basis of previous attendance at “any other Catholic school”. Paragraph 1.9b of the Code says that admission authorities **must not** take into account any previous school attended unless it is a named feeder school, and this requirement appeared to have been breached;

(xii) priority was given in the arrangements to siblings of former pupils but without the meaning applied to “former pupil” being supplied, which appeared to fail to conform with the stipulation in paragraph 1.11 of the Code that this **must** be done;

(xiii) the school required all applicants to complete the school’s RIF. Paragraph 2.4 of the Code sets out the purposes for which the information requested on a supplementary form can be sought. However, these purposes will not necessarily apply to all applicants for a place at the school, and therefore not all should be required to complete the RIF, and

(xiv) the arrangements required a priest to provide a reference concerning Mass attendance. I did not have a copy of the terms in which the school made this request, or of any form which a priest was asked to complete. I therefore asked the school to provide me with a copy of the relevant documentation. In doing so I pointed out that the school’s RIF and any Priest’s Reference Form were part of the school’s arrangements and should be available on the school’s website and through the local authority’s composite prospectus as required in paragraphs 1.47 and 1.51 of the Code, but this did not appear to be the case.

2. Matters which related to admissions to the school’s sixth form:

(i) the arrangements stated that information concerning “suitability for an A level course” would be sought from an applicant’s current school. This appeared to contravene paragraph 1.9g of the Code;

(ii) no indication was given as to how applications were to be made, for example whether there was a form which was to be completed. This appeared

not to meet the Code's requirement in the Introduction, paragraph 14, that the practices used to decide places are clear; and

(iii) the section concerning offers referred only to parents and to applications made by parents. The Code at paragraph 2.6 makes it clear that children can apply in their own right for sixth form places and the wording of the school's arrangements did not appear to reflect this.

3. Matters relating to admissions to the school's Junior House:

(i) Paragraph 1.2 of the Code requires a published admission number (PAN) to be stated for each point of admission to the school. The arrangements did not appear to state this clearly for admissions at Year 3;

(ii) the phrase "may be offered to choristers" may have been unclear to parents as it could be read to imply that candidates must already be choristers not potential choristers, making this part of the arrangements unclear and not in compliance with paragraph 1.8 of the Code; and

(iii) it was not clear how assessed general ability and aptitude for music were used in combination to distinguish those candidates who "have musical potential and suitability for a specialist musical education". The Code at paragraph 1.21 states that partially selective schools "must publish the entry requirements for a selective place, and the process for such selection", which the school appeared to have failed to do.

4. Matters relating to in-year admissions:

(i) The phrase "in the light of the criteria for admission" describing how in-year admissions were considered did not appear to have a clear meaning. Paragraph 2.14 of the Code says in relation to year groups which are normal points of admission to a school that if there is oversubscription, the determined oversubscription criteria must be used to determine admissions for at least the first term of the academic year of admission;

(ii) it was not clear in the phrase "and the availability of suitable places", which also described this process, what the word "suitable" referred to. The number of places is determined by the PAN for the relevant year group and the school is obliged to admit a child who has applied if one of these places becomes available, as set out in paragraph 1.36 of the Code;

(iii) it was not clear what the phrase "as modified above" referred to in the reference made to the oversubscription criteria used to order waiting lists and this therefore appeared not to conform with the requirement of the Code in paragraph 1.8 concerning clarity; and

(iv) the arrangements stated that candidates would be selected through random allocation from a waiting list if a place became available. For age

groups at which pupils are normally admitted, the Code in paragraph 2.14 requires waiting lists to be maintained in the order determined by the oversubscription criteria for at least the first term of the academic year of admission, and so if a place becomes available it is the child who heads the waiting list who must be admitted. The school's oversubscription criteria employ random allocation as a tie-breaker and it would only be in order to separate two otherwise equally qualified candidates on the waiting list that it could be employed in the way described in the school's arrangements. If random allocation is used, paragraph 1.35 of the Code requires the process to be supervised by someone independent of the school, but no details were provided as to how this requirement is met.

5. Matters relating to the Notes which formed part of the arrangements:

(i) Note (1) stated that "consideration will be given" to other candidates if there are fewer Catholic applicants than places. This appeared not to reflect accurately the requirement of paragraph 1.36 of the Code that in such circumstances the relevant child will be admitted.

6. Matters relating to the school's Religious Inquiry Form:

(i) Information which it appeared had no direct bearing on decisions about oversubscription criteria was requested, in contravention of paragraph 2.4 of the Code namely:

- (a) details of the candidate's present school;
- (b) the full names of both parents;
- (c) the denominational status of two parents;
- (d) the length of time for which the applicant has lived in the parish; and
- (e) the length of time for which the parent has worshipped at their current church.

(ii) although the form asks for details of any medical or social need, it does not indicate how any such information would be used and therefore appears to be unclear and not to meet the requirement of paragraph 1.8 of the Code;

(iii) the form required signatories to accept conditions contained within it, which appeared to be in contravention of paragraph 1.9a of the Code, and

(iv) the form required the signatures of both parents. This is expressly prohibited by the Code, paragraph 2.4e.

7. Matters concerning the consultation carried out by the school prior to determining its arrangements:

(i) The Code in paragraph 1.44a requires that consultation, in the circumstances requiring it to take place, be with the parents of children between the ages of two and 18. This requirement appeared not to have been met.

15. When I met the parties on 13 May 2014 I also raised with the school the fact that I had been unable to locate the school's admission arrangements for September 2014 on its website and that paragraph 1.47 of the Code states that once determined they **must** be displayed for the whole of the academic year in which the offer of places is made.

B. The arrangements for September 2015

16. The arrangements for September 2015 contained several matters which I considered may breach the requirements concerning admission arrangements but which did not differ from those I had referred to in my earlier letter concerning the arrangements for September 2014. When I wrote to the school on 28 April 2014 concerning the arrangements for 2015, I therefore referred to my letter of 10 April 2014 and the relevant matters listed above which it raised, together with those further issues which I considered may not conform to the requirements.

17. The issues of potential non-compliance which I raised with the school concerning the arrangements for 2015 and concerning which I sought the school's comments were:

1. Matters which related to the determined arrangements for all three points of entry (except where indicated):

(i) Whether the means used to give priority to Catholic children based on their practice and that of their parent(s) concerning:

- (a) Mass attendance;
- (b) date of baptism;
- (c) receipt of first Holy Communion (Year 7 and sixth form); and
- (d) parental duty to ensure Catholic education

are reasonable, as required by the Code at paragraph 1.8, in the light of Diocesan guidance as referred to in paragraphs 1.9i and 1.38 of the Code.

(ii) those matters listed above under A1 (i), (ii), (iii), (vii), (ix), (x) (noting that "good reason" had been given definition in the 2015 RIF), (xi), (xiii) and (xiv);

2. Matters which related to admissions to the school's sixth form:

Those matters listed above under A2 (i), (ii) and (iii);

3. The following matters relating to admissions to the school's Junior House:

- (i) the matter described above under A3 (ii); and
- (ii) that the phrase "indicate average or above average ability " concerning the use of the results of tests of general ability to select candidates for further consideration did not appear to meet the requirement of paragraph 1.21 of the Code which states that where schools can partially select they **must** publish the entry requirements for a selective place.

4. Matters relating to in-year admissions:

- (i) A statement concerning the process for making in-year admissions was given within the section of the arrangements which deals with admissions to Year 7 only and it is therefore unclear whether the same process applies to other points of entry to the school, making the arrangements appear to be unclear and not to comply with paragraph 1.8 of the Code; and
- (ii) the arrangements did not contain a statement that each added child will require the school's waiting list to be re-ordered, as required by paragraph 2.14 of the Code.

5. Matters relating to the school's Religious Inquiry Form:

Those matters listed above under A6 (i) (all parts), (ii) and (iv).

Background

18. The London Oratory School is a very popular and heavily oversubscribed academy Catholic faith school. It was last inspected in April 2009 when the overall effectiveness was judged by Ofsted to be outstanding. It admits boys at the ages of seven, 11 and 16 and girls at the age of 16.

19. The school converted from voluntary aided to academy status on 1 August 2011. Its funding agreement with the Secretary of State specifies that it is a faith academy in the Roman Catholic Diocese of Westminster and that it will "act in accordance with.....all relevant provisions of the School Admissions Code.....as (it applies) at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Code(s) or legislation to "admission authorities" shall be deemed to be references to the governing body of the Academy Trust."

20. The school's funding agreement contains provisions which give it a right of appeal to the Secretary of State concerning the naming of the school in a child's statement of special educational needs, but this is the only matter in which the school is permitted to derogate from the requirements in relation to admission arrangements which apply to a maintained school.

21. As determined on 4 March 2013, the school's admission arrangements for

September 2014 state how places at each of the three points of entry to the school are allocated using oversubscription criteria which are very largely the same, but not identical, for each age group. In summary, the arrangements:

- (i) set published admission numbers (PANs) for Year 3 of “up to 20”, of 160 for Year 7 and of 40 for Year 12;
- (ii) divide the oversubscription criteria for each point of admission into two groups, “primary” and “other” oversubscription criteria;
- (iii) provide a statement of how points are awarded in relation to each of the oversubscription criteria for each point of entry, and of how a tie for a place will be determined;
- (iv) state that all applicants must complete both their local authority common application form (CAF) and the school’s own RIF;
- (v) make a statement concerning how in-year admissions are made;
- (vi) provide explanatory notes covering all points of admission which also state notes on Catholic practice in the form of extracts from Canon Law; and
- (vii) provide a RIF for use by all applicants.

The arrangements for September 2015, determined on 3 March 2014:

- (i) set PANs of 20 for admissions to Year 3, 160 for Year 7 and 40 for Year 12;
- (ii) provide oversubscription criteria which apply to Catholic children with a description of how points are awarded for those able to give specified answers in relation to each, followed by oversubscription criteria which apply to non-Catholic children;
- (iii) state that all applicants must complete both their local authority CAF and the school’s own RIF;
- (iv) make a statement concerning in-year admissions in relation to Year 7;
- (v) provide an appendix which explains how points accrued under oversubscription criteria are used to rank candidates;
- (vi) provide notes on Catholic practice in the form of extracts from Canon Law; and
- (vii) provide a different RIF for each point of entry.

Consideration of Factors

22. I shall set out my consideration of all the matters detailed above by reviewing those that concern the school’s arrangements for September 2014, and as I do so I shall make clear in each case where my consideration applies

also to the school's admission arrangements for September 2015. Where matters concern only the arrangements for 2015, I shall state this.

1. Matters which related to the determined arrangements for all three points of entry (except where indicated):

(i) Service

23. The fifth oversubscription criterion within the group entitled "primary" oversubscription criteria, is;

"Service in any Catholic Parish or in the wider Catholic Church by the candidate or a Catholic parent"

Applications are ranked on a scale of zero to two points, which are awarded according to the length of service. This is explained in the notes which form part of the arrangements, and if points are awarded, two are given for service which has been for over three years and one point is awarded for less lengthy service. Examples of service which would be recognised are also given in the accompanying notes in the following terms;

"Examples of involvement in parish activities:

Assisting in the liturgy; for example by reading, singing in the choir or playing an instrument, altar serving, flower arranging.

Assisting in parish pastoral work; for example by visiting those in need, participating in parish groups such as (examples given) or similar prayer groups or societies.

Examples of involvement in wider Catholic Church activities:

Assisting in or membership of organisations or groups

Voluntary work: by visiting or helping the sick, housebound or disadvantaged."

24. The school commented on the objection in an email dated 7 July 2013, saying that it did not regard Catholic service as a form of practical support but rather a religious activity and therefore permitted under paragraph 1.9i of the Code. It expanded on this position, quoting the Code of Canon Law to substantiate its view that such activities are not practical support for the Church but "fulfilment of its central religious purposes".

25. Paragraph 1.9 of the Code says:

*"...admission authorities....**must not**.....*

- e) *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;*
- i) *prioritise children on the basis of their own or their parents' past or current hobbies or activities (schools which have been designated as*

having a religious character may take account of religious activities, as laid out by the body or person representing the religion or religious denomination)."

26. Sections 6(7) and 6(8) of the Academies Act 2010 make provision for the conversion of a voluntary school designated under section 69(3) of the Act as a school having a particular religious character to academy status. The effect is that the school is to be treated on conversion as being designated as an independent school having that religious character. The effect of this is that paragraph 1.9i would not operate to prevent the school from taking account of activities provided that those activities are laid out by the relevant body or person.

27. The school's funding agreement applies the Code and relevant legislation to the school. Schedule 3 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 states that the representative body or person for a school designated as having a Roman Catholic religious character is "the Diocesan Bishop or the equivalent in canon law for the diocese in which the school is situated". The funding agreement states that "The London Oratory School is a faith Academy in the Roman Catholic Diocese of Westminster".

28. This means that the Roman Catholic Diocese of Westminster is the relevant body for the purpose of the Code, and I confirmed that both the school and the Diocese were clear and in agreement concerning this at the meeting which I held on 13 May 2014.

29. Both the objector and the school have made further written representations, commenting in detail on each other's expressed views concerning the nature of the service which the school's arrangements take into account and on whether or not paragraphs 1.9e and 1.9i of the Code mean that the school is not entitled to do so. Both refer to guidance to the school provided by the Diocese, which I shall consider below.

30. Paragraph 1.9e forbids the prioritisation of children on the basis of practical or financial support to the school or an associated organisation, including any religious authority. In this case, the school prioritises children on the basis of service provided to parishes or the wider Catholic Church, which in my view constitute such associated organisations. The objector says that the service which the school gives credit to candidates for amounts to practical or financial help. The school says that it does not, and the activities involved are religious activities.

31. The objector asserts in a letter dated 11 July 2013 that it is reasonable to equate practical or financial help with support that could be said to have some financial value. It seems to me that this is so, since the ordinary meaning of the words used would lead to such a view. However, at the same time I find it difficult to agree with the objector that "all of the activities in the Catholic service criterion are of financial value and therefore breach paragraph 1.9e." Neither do the arrangements provide a definitive list of activities, only examples.

32. There are some aspects of the service which the school uses to prioritise children under this criterion such as visiting on behalf of the Church and organising groups within the Church which in my view do amount to the provision of practical support to an associated organisation or support to it that could have a financial value since they could obviate the need for remunerated activities carried out by the relevant organisations. Even though they may also be religious activities these are not permitted under paragraph 1.9e of the Code. I therefore agree with the objector concerning these aspects of service used by the school. However, there are other activities such as flower arranging which would be more difficult to say with certainty had a financial value and others such as attending prayer groups which almost certainly did not. So I do not find the way in which the objector asks me to look at the service criterion as a whole particularly valuable, and I do not think that I need to determine this issue on that basis.

33. It is not for me to say whether a particular activity is or is not a religious activity. The school believes that all the activities listed above are religious activities and invites me to agree in its submissions dated 3 July 2013 and 22 July 2013 that it may therefore use them all because they are permitted under paragraph 1.9i. It says, firstly, that the Diocese states in its guidance that a test of whether candidates are practicing Catholics may not be enough to distinguish between the large number of applicants applying to a particular school in a particular year, and implies that this means that additional faith-based criteria are necessarily sanctioned by the Diocese. I do not agree that this is the import of the statement in the guidance since a school with a religious character is not of course compelled to use only additional faith-based criteria to distinguish between applicants, but may use any lawful oversubscription criteria which are not faith-based should it choose to do so. The Diocesan guidance follows the quoted statement by immediately referring to the use of Catholic practice, as referenced by a priest, as an oversubscription criterion. A previous paragraph, paragraph A29, not cited by the school, says that:

“Under no circumstances may governing bodies receive applications and then produce a “rank order” based on their own assessment of each applicant’s Catholicity instead of using the priest’s reference. Any rankings determined by reference to financial contribution, participation in parish committees, service in Church ministry in any capacity or the like are not acceptable.”

34. The school also says as part of this first argument that the Diocesan guidance says that there is no prescribed list of acceptable or unacceptable criteria, again implying that this refers to faith-based criteria. My reading of the guidance is that that is not the case. The statement is taken from a section clearly entitled “summary” which follows a review of oversubscription criteria generally, and which repeats the position described throughout the Code. The school quotes selectively from Diocesan guidance and does so out of context. The guidance says of oversubscription criteria generally that there is no list of acceptable or unacceptable criteria, which is what the Code says at paragraph 1.10. The Code is not at that point dealing with the specific permission which is given to schools of a religious character to discriminate between applicants for places on the grounds of faith, or the limitations which apply to that permission if they choose to do so. There is nothing in the Diocesan guidance

in my view that lends support to the school's argument that the Diocese has sanctioned the use of all and any oversubscription criteria that are of a religious nature.

35. The school argues that the activities it gives credit for under the "service" criterion are "generally required by Canon Law" and that "Catholics are enjoined under Canon Law to offer service through good works". That may be so, but I am considering faith-based oversubscription criteria which are used for admissions to a school. Paragraph 1.9i of the Code says that activities generally may not be taken into account but that faith schools can take account of religious activities provided that these have been laid out by the relevant body. I set what the Code says against the very clear statement from the Diocesan guidance quoted above. The Diocesan guidance was revised in 2007. A Note of Summary Guidance from the Diocese issued in February 2008 had the following to say, when listing the main provisions of its detailed guidance;

"Criteria relating to activity or involvement of the applicant or the parents is not relevant to practice and must not be used".

The Diocese's letter dated 16 October 2012 concerning a previous objection, forwarded with a covering email dated 4 June 2013 stating that the Diocese's position had not changed since it was written, makes the position plain. It says the following:

"In relation to the matter of the oversubscription criterion relating to "Service within any Catholic parish or in the wider Catholic Church".....This criterion is contrary to Diocesan requirements, and the school has been requested on a number of occasions to remove it. The Diocese is of the view that such a criterion also thereby remains contrary to the Admissions Code, paragraph 1.9i..."

36. I shall return to what the guidance which the Diocese has given to the school has been in considering other aspects of the arrangements below. However, as far as the oversubscription criterion relating to service is concerned I believe the view of the Diocese could not be clearer, and it is that none of the activities used by the school have been laid out by it as the relevant body for the purposes of paragraph 1.9i. since the use of any such activities has been specifically forbidden. Its view is unequivocal that the service criterion as a whole is not in accordance with the requirement of paragraph 1.9i of the Code. I agree with this view as in my opinion the service criterion, in taking account of "service in any Catholic Parish or the wider Catholic Church by the candidate or a Catholic parent", prioritises children on the basis of their own or their parents' activities, and it is my opinion that these have not been laid out by the Diocese.

(ii) Those of no faith

37. The school has disagreed with the objection, stating that the arrangements implicitly allow for the admission of non-Catholic children because the Notes say "The school will not offer a place to a non-Catholic applicant if it would thereby be unable to offer a place to a suitable Catholic

applicant". It also says that it would be unfair to non-Catholic applicants to hold out any hope of gaining a place at the school since it is always very heavily oversubscribed by Catholic applicants who will always have priority for places.

38. What the Notes say, before the sentence quoted by the school, is that "consideration will be given to non-Catholic applicants..." in these circumstances, and they provide an order of priority which covers only children of other Christian and non-Christian faiths, but not children of no faith, as the objector has pointed out.

39. I agree with the objector that this means that the arrangements do not comply with what the Code requires, since paragraph 1.6 requires admission authorities to set out in their arrangements how places will be allocated, and paragraph 1.36 states that faith schools "are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available". I uphold this part of the objection.

40. It is open of course to admission authorities to publish helpful information to parents such as the number of applications received and the oversubscription criteria under which places were allocated in the most recent admission round, and indeed it is good practice to do so.

(iii) Faith-based oversubscription criteria

41. The school's arrangements, both those for September 2014 and those for September 2015, contain the following oversubscription criteria:

- a) *"The extent to which the candidate and his Catholic parent (where only one parent is a Catholic) or parents meet their obligation in respect of Mass attendance on Sundays and Holy Days of Obligation."*

Maximum points are available for "sustained" attendance on both sets of occasions for at least three years.

- b) *"The extent to which the candidate fulfils the Church's requirement regarding Baptism."*

Maximum points are available for children baptised within six months of birth.

- c) *"Whether the candidate has received his first Holy Communion" (Year 7 and sixth form)*

The arrangements for September 2014 contain the following oversubscription criterion:

- d) *"Whether the candidate has attended the London Oratory Primary School or any other Catholic school for the whole of their primary education or the candidate's parent(s) have fulfilled their obligation to ensure a Catholic education for their child"*

The arrangements for September 2015 have the following, slightly different wording:

“Whether the candidate’s parent(s) have fulfilled their obligation to ensure a Catholic education for their child.....This should be endorsed by evidence such as attendance at any Catholic school named in the Westminster, Southwark or Brentwood pages of the Catholic directory website.....(the “named feeder schools”), parish catechism classes over primary years or other alternative provision”.

42. Paragraph 1.38 of the Code states:

*“Admission authorities 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 this Code.”*

43. The objector in a submission dated 11 July 2013 invited me to consider whether the requirement to have regard to guidance in paragraph 1.38 is given greater force in relation to faith-based oversubscription criteria generally by paragraph 1.9i of the Code. The duty to have regard to the guidance of the relevant faith body set out in paragraph 1.38 applies to the construction of faith-based oversubscription criteria generally. The school may depart from guidance concerning their construction provided it has had regard to that guidance. I shall return to this point below. Faith-based criteria however need not be related to taking part in religious activities. For example a test of membership of a faith group would commonly require an attestation or specified previous action. The effect of paragraph 1.9i is, I believe, that any religious activity which forms a faith-based criterion will only be saved from breaching the prohibition it contains concerning all activities if that activity is one which is laid out by the relevant body, which in this case is the Diocese. So I agree with the objector that what the relevant body says can have more force than advice, when what the body is doing is laying out religious activities for use in oversubscription criteria, but I do not think this is a general effect concerning all faith-based oversubscription criteria. For any faith-based oversubscription criteria which do not concern religious activities, what paragraph 1.9i says has no bearing.

44. The objection that the four faith-based oversubscription criteria give credit to candidates in a way which is contrary to Diocesan guidance must be considered in the context of paragraph 1.38 of the Code. When the school responded to the objection it pointed out that the effect of the requirement to “have regard to” the guidance is that it must be taken into account, but that it need not necessarily be followed. I agree. However, I do not think that this means that the guidance can be lightly disregarded. Guidance cannot be taken into account, but rejected, unless for a reason in my view. If no reason can be given, then either there is no reason not to accept the guidance or it has not been taken into account at all. If a reasoned decision not to follow guidance is taken, then in order for this to have been done on reasonable grounds, that reason would need to be a sufficient one.

45. Diocesan guidance to the school concerning the use of attendance at Mass is that:

“Where practice is prescribed as a conditionattendance or frequency of attendance at Sunday Mass should be used” (Guidance, paragraph A26)

The summary guidance, in the section referred to above, also states the Diocesan position concerning first Holy Communion as:

“Criteria relating to the sacraments of first Confession and first Holy Communion may not be used.”

46. The Diocese wrote to me on 27 May 2014 following my meeting with the parties. Responding to my request at that meeting to provide any further comments concerning the use by the school of a child’s age of baptism of less than six months within an oversubscription criterion, it stated that its definition of the term Catholic is that it denotes “a baptised person who is in full communion with the Catholic Church”. It then pointed me to eleven paragraphs in its written guidance which it says give clear direction to schools concerning this matter. Extracts from these paragraphs read:

“ A23 If a test of “practicing Catholic” is employed, the only test that is acceptable is frequency of attendance at Mass as demonstrated on the diocesan priest’s reference form. It is unacceptable for schools themselves to be making judgements on pastoral matters such as Catholic practice.”

“A29 Under no circumstances may governing bodies receive applications and then produce a “rank order” based on their own assessment of each applicant’s Catholicity instead of using the priest’s reference.”

47. I can only read these statements to mean that the use of the age at which a child was baptised as part of a test for a test of “practicing Catholic”, along with any other factors (other than frequency of attendance at Mass) which are used to produce a rank order of applicants is against the Diocese’s guidance to the school. I was therefore surprised that the Diocese should also say to me in its letter of 27 May 2014 that “The six month rule that the school uses is not unreasonable provided that there is the possibility of receiving exceptions for “good reasons”.” It seems that it has done so notwithstanding the fact that its overall guidance, which I believe is clear, is that the school should not use the age at which children are baptised to give additional credit to applicants. I understand what the Diocese has said to me is that if the school departs from its guidance on this matter, that the use of six months as opposed to some other age is not unreasonable. The school has provided me with further comments concerning its justification for adopting six months, as opposed to some other time period, as part of this criterion in its letter of 30 May 2014. It says that since the relevant Canon states that parent should ensure that baptism takes place within “a few weeks” that “to extend beyond six months would go too far in applying the Canon.” It also says that any change “would also compromise the integrity of the criterion as a means of filtering a very large number of candidates” resulting in more places being decided by random allocation “rather than on fair and objective “faith-based” criteria”. This of course pre-supposes both that the school may legitimately employ Canon Law in the way that it does in the face of the clear disapproval of its relevant faith body, and that other objective criteria for dealing with oversubscription are not available to it.

48. The school stated when I met its representatives that it justifies giving priority to candidates if parents have met the obligation to secure a Catholic education previously for the child, again on the basis of Canon Law. The general prohibition on the use of factors other than Mass attendance in the Diocesan guidance, it seems clear to me, means that this criterion is also against the guidance of the Diocese. The Diocese confirmed its position on this point orally at the meeting on 13 May 2014.

49. I have considered what the school has had to say to me concerning its reasons to depart from the guidance of the Diocese more generally. At my meeting with the parties the school told me that its reasons for departing from Diocesan guidance were already well documented and referred me to its submissions made in July 2013. Firstly, the school in its response to this part of the objection on 3 July 2013 said that it believed that it did not have to have good reason for departing from Diocesan guidance, but that in any case it justified the use of criteria that were contrary to Diocesan guidance, referring in this case to the service criterion, because its employment meant that the element of uncertainty involved in the application of random allocation as a tie-breaker to make the final allocation of places was reduced. This of course pre-supposes that there is a choice only between departing from Diocesan guidance and the use of random allocation to determine which boy is admitted. I do not accept that this is so, since it is plain that random allocation is not the only alternative oversubscription criterion which is available to the school, and this argument cannot be used as the school does to justify using criteria which are to contrary to Diocesan guidance.

50. Secondly, and referring to the use of alternative criteria, the school in this same letter said that "For the 2010 admissions, the school dropped its previous criterion of Catholic service and related matters, and applied distance as a tie-breaker" and that when it did so the effect of admitting boys who lived closer to the school concerned the governors because "the closest areas to the school were preponderantly white and middle-class in contrast to the high level of diversity currently found in the School" and because "the removal of the Catholic service criterion was inherently liable to undermine the extent to which the pupils came from a committed Catholic background". The school goes on to say that the existing admissions criteria "enhance the extent to which admissions reflect the intense and specific Catholicism which is at the heart of the School's mission".

51. Taking the latter point first, this is as I understand it a reference to the Catholic ethos of the school, and makes the assumption that the school can use as its justification for departing from Diocesan guidance its own desire to ensure a different level of Catholicism among its students than would be the case if that guidance were followed. Assuming for a moment that this is a legitimate aim, the school bases its argument on what it believes, but cannot evidence, was the effect, in one year, of using one of the alternative oversubscription criteria available to it. The school says in its submission of 3 July 2013 that:

"The removal of a Catholic service criterion was inherently liable to undermine the extent to which the pupils came from a committed Catholic background. Concerns in this regard were heightened because RE tests administered to

new pupils in Year 7 appeared to show a decline in levels of familiarity with Catholic doctrine and practice, although the School did not keep records of the results.”

I shall come back to the overall question of “good reason” below, but suffice it to say here that the school’s reasoning on this point is based on not much more than assumption and on no clear evidence that it can provide.

52. Secondly, even if the use of oversubscription criteria designed to secure particular characteristics within the school population were capable of being a justifiable departure from Diocesan guidance, such oversubscription criteria would not be in accord with what the Code requires if they “disadvantage unfairly, either directly or indirectly a particular social or racial group”. The school argues that there is a socio-economic justification for rejecting alternative oversubscription criteria such as the use of distance of a child’s home from the school. The objector has made much of what it sees as the socially selective effect of the school’s admission arrangements and both it and the school have made repeated submissions to the schools adjudicator on this matter. I have read and considered all of the points made by both parties.

53. The objector believes that there is academic evidence, which it cites, that faith-based oversubscription criteria “especially more strenuous criteria” are in practice socio-economic selection criteria, and that therefore the school’s argument is likely to be wrong because removing such criteria would make it more socially inclusive, not less so. The school cites work which shows that religious parents are better off than non-religious parents and says that the relevant issue is not whether the criteria result in a more advantaged intake than the average of the general population, but whether the intake is more advantaged than the group (that is, those of the Catholic faith in this case). I accept the view of the school that this would be very relevant, since even if the school adopted the use of alternative oversubscription criteria such as distance from the school or a catchment area or areas, it could only be expected to draw from those of the Catholic faith since it can be expected to be heavily oversubscribed by Catholic faith applicants and to give their applications priority. I have therefore considered this point further.

54. I have obtained the Department for Education publication “Schools, Pupils and their Characteristics” (often referred to as the “statistical first release”), and the data drawn from the annual school census in January 2013, as this is relevant to admission arrangements determined on 4 March 2013 for admissions in September 2014, and the data from January 2014 which is relevant to admission arrangements determined on 3 March 2014 for admissions in September 2015. I have considered whether the school’s use of oversubscription criteria which depart from Diocesan guidance can be supported on the grounds that the school uses, which is that they encourage diversity or whether this is not the case and that they are likely, compared to alternative oversubscription criteria which might be used, to have a socially selective effect as the objector complains. While a school with a religious character may use faith-based oversubscription criteria, paragraph 1.8 of the Code is clear in saying that no school, including a faith school, may use admission arrangements which “disadvantage unfairly, either directly or

indirectly a child from a particular social or racial group”.

55. The school says that its locality is predominantly white in contrast to the high level of diversity found in the school. Perhaps the school considers that it is justified in making such a statement because the percentage of those who did not declare themselves as “white British” at the school in January 2013 was 45.5%, compared to a national average for state-funded secondary schools of 21.0%. In January 2014 these figures were 46.0% for the school and 26.5% for schools nationally. However, the fact is that the equivalent figures for state-funded secondary schools in London as a whole (68.1% in 2013 and 69.5% in 2014) and for those in the London Borough of Hammersmith and Fulham (70.6% in 2013 and 70.7% in 2014) indicate a much lower level of ethnic diversity at the school than for schools in the area in which it is located. If the figures for those declaring themselves as “other white” and “Irish” are included, something which I think is a legitimate exercise, the “non-white” population of the school falls to 24.2% in 2013 compared to the figure for London schools of 57.5% and that for schools in the borough of 57.2%. In January 2014, the equivalent figure for the school was 24.2%, that for schools in London as a whole was 58.5% and for schools in the borough 67.5%. So I am not convinced that the school can claim a high level of ethnic diversity in real terms since it is clearly less ethnically diverse than other schools in the place in which it is located.

56. Of course, a better comparison is with the Catholic population at large, and while I have not found it possible to use the 2011 census data for this purpose, since this does not record Christian denominations separately, I have been able to compare the population of the school with those of the 12 other state funded Catholic secondary schools in Hammersmith and Fulham and the adjoining boroughs. Data recorded in the January 2014 school census for each for them shows the following for the percentages declaring themselves “white British”, for the “non-white” population calculated as above, and for what is by far and away the largest minority ethnic group across the schools is set out below, together with the proportion of Catholic children in the school as quoted in the school’s most recent section 48 Inspection carried out by the Diocese.

London Borough	School (% Catholic students)	White British%	“Non-white”%	African %
Hammersmith and Fulham	The London Oratory (100%)	54.0	24.2	3.9
	Sacred Heart High (100%)	43.5	29.0	4.7

Wandsworth	St John Bosco (50%)	11.9	68.6	19.1
Hounslow	Gumley House Convent (96.8%)	41.4	35.5	6.0
	Gunnersbury Catholic School (94%)	26.7	44.0	13.7
	St Mark's Catholic School (97%)	33.4	43.4	5.9
Kensington and Chelsea	Cardinal Vaughan Memorial School (99.7%)	45.4	27.1	6.1
	Sion-Manning RC Girls School (52%)	15.7	71.5	12.2
	St Thomas More Language College (99%)	20.0	56.5	18.4
Brent	Newman Catholic College (65%)	6.1	60.2	14.8
	St Gregory's Catholic Science College (53%)	13.3	61.6	19.2
	The Convent of Jesus and Mary Language College (77%)	8.3	63.6	17.4
Ealing	Cardinal Wiseman Catholic School (93%)	32.0	42.9	5.1

57. Of all 13 schools, The London Oratory has the highest proportion of “white British” pupils, the lowest proportion of “non-white” pupils and the lowest proportion of those of African heritage. Even allowing for the differences in the proportion of pupils in the different schools who are Catholic, I do not believe that the school can claim that its ethnic composition is even representative of that of the Catholic children attending schools in the part of London in which it is located. It seems to me instead that the diversity within the school is the lowest, or very nearly the lowest, of that found in all 13 schools.

58. Entitlement to free school meals is the best means we have of assessing

the relative disadvantage of pupils attending different schools. Data from the January 2013 school census which I have viewed gives the national average free school meal eligibility quoted in performance tables for secondary schools as 16.3%, that for London secondary schools was 25.2% and that for those in The London Borough of Hammersmith and Fulham was 31.5%. In January 2014 these figures were 15.7% nationally, 23.1% for London and 25.1% for the schools in the borough. The percentage of boys attending The London Oratory School entitled to free school meals was 7.0% in January 2013 and 6.4% in January 2014.

59. The school's argument has been that relative social advantage appears in faith schools but that this is because of the relatively socially advantaged position of the faith group itself. So I have looked, again, at the figures for free school meal entitlement at all of the state-funded Catholic secondary schools in Hammersmith and Fulham and in its adjoining boroughs to see if they are similar to those at The London Oratory School. Their free school meal entitlements are as follows:

London Borough	School (% Catholic students)	Free school meal entitlement 2013 and (2014) (%)
Hammersmith and Fulham	The London Oratory (100%)	7.0 (6.4)
	Sacred Heart High (100%)	6.3 (4.9)
Wandsworth	St John Bosco (50%)	20.8 (21.6)
Hounslow	Gumley House Convent (96.8%)	9.5 (9.1)
	Gunnersbury Catholic School (94%)	16.5 (15.7)
	St Mark's Catholic School (97%)	5.8 (5.8)
Kensington and Chelsea	Cardinal Vaughan Memorial School (99.7%)	9.3 (7.5)
	Sion-Manning RC Girls School (52%)	29.8 (30.3)
	St Thomas More Language College (99%)	21.5 (22.7)
Brent	Newman Catholic College (65%)	22.5 (25.1)

	St Gregory's Catholic Science College (53%)	20.2 (15.8)
	The Convent of Jesus and Mary Language College (77%)	21.8 (20.0)
Ealing	Cardinal Wiseman Catholic School (93%)	10.0 (9.1)

60. These figures do not present a simple picture, but if the level of free school meal entitlement within the Catholic population in these other schools were as low as that of the pupils attending the London Oratory, they would generally require a significantly higher level of entitlement to be present in their non-Catholic pupils than that quoted above for the London average. So the data tend to support the existence of some level of social selection within the Catholic population, at least by some schools, including The London Oratory School.

61. I have obtained from the LA the number of expressed preferences for admission to Year 7 in September 2014 at the school from those living in the different boroughs of London, and the initial offers of places that were made following the application of the school's oversubscription criteria. Parents living in 33 London boroughs applied to the school, and 28 of these were represented in the offers of places which were made. The arrangements clearly operate to the disadvantage of those living locally, with only eight offers of places being made to the 104 residents of Hammersmith and Fulham who were seeking a place. Much higher proportions of applicants from some more distant boroughs were offered places, and while the school justifies this intentional geographical spread of its intake on the basis of the pan-London mission which it says it has, it is nevertheless evidence of the selective effect of the school's arrangements, as it would seem by post-code, within what is undoubtedly the very predominantly Catholic population who apply to the school for a place.

62. In summary, the school says that even though it does not need to have good reason to depart from Diocesan guidance concerning the construction of faith-based oversubscription criteria, it has provided such. I believe that it does have to have good reason, and that it has failed to show this. The justification it offers concerns firstly the effect on the level of Catholicity in the school, but the school has provided no clear evidence that departure from Diocesan guidance is bound to affect this. Secondly it refers to the diversity of the school population, concerning which its reasoning does not seem to me to be in any way compelling. From the evidence which I have seen there is good reason to believe that the admission arrangements which the school uses have the effect of acting to produce at the very least a degree of social selection.

63. The school departs from the guidance of the Diocese not to a small degree, but in a wholesale manner. This requires it in my view to provide a more compelling justification than if the departure were minor. I am therefore

of the view that the reasons which the school gives for departing from the guidance of Diocese when constructing its faith-based oversubscription criteria are not reasons which are sufficiently compelling in the context of the Code and in the light of the statistical information and the clear view of the Diocese set out above. The evidence which I have seen also leads me to believe that the arrangements unfairly disadvantage Catholic families who are less well off, in contravention of paragraph 1.8 of the Code. I therefore uphold this part of the objection.

(iv) References to “parents”

64. The school commented on this matter, which affects the arrangements for both 2014 and 2015, at the meeting on 13 May 2014, but has provided nothing to me in writing. The view it expressed orally was that the school intended for example to assess the Catholicity of both parents because it saw this as important. So, if there were one lapsed parent, the obligation met by the other parent concerning attendance at Mass would secure a lower point score than the same level of attendance by two parents. The Diocese stated at the meeting that it regarded the school’s approach to be inappropriate since it would unfairly discriminate against single parent families. It also seems to me that the approach is unfair to any family in which one parent might not be lapsed but might have other commitments such as caring for a relative and so be unable to attend Mass regularly.

65. My concern, quite apart from the specific issue of the credit given through the school’s oversubscription criteria, is that the repeated reference to “parents” throughout the arrangements may well discourage some from applying to the school in the first place, and so indirectly discriminate unfairly against them. While I can see no evidence that the requirements of the Equality Act 2010 have been breached, the school’s practice does not in my view meet the test of fairness required of admission arrangements generally, and I therefore believe the school to be in breach of the requirements set out in paragraph 1.8 of the Code.

(v) Request for original birth certificates

66. For 2014 admissions, the school’s RIF requires an original birth certificate for the candidate to accompany the application. Paragraph 2.5 of the Code says that birth certificates may be asked for, but after a place has been offered, and these must not be “long” birth certificates. The school expressed the view at my meeting with them that the need for birth certificates arises from the application of its oversubscription criteria but that it is happy to use authenticated copies. The school’s practice of requiring proof of birth on application in any form is however in my view a clear breach of paragraph 2.5 of the Code. After an offer of a place has been made, proof can be sought but only in accordance with this provision.

67. The wording of the 2015 RIF has been changed so that the child’s birth certificate is no longer requested on application, but proof of date of birth is still required, and so this is still not in accord with paragraph 2.5 of the Code.

(vi) Request for baptismal certificates

68. The school said in their letter to me of 23 April 2014 that parental baptismal certificates are required in order to that it can be satisfied as to the Catholic status of parents as this is relevant to the application of oversubscription criteria. Again, the school accepted when I met them that original certificates may not be easy to provide and that it would in future accept authenticated copies. However, I do not see how a mother's baptismal certificate can fail to reveal her maiden name, something which paragraph 2.4a of the Code forbids. Baptismal records could reveal many details such as place of birth and ethnicity which the school does not need to know. Diocesan guidance does say that proof of Catholicism is normally by production of a certificate of baptism into the Catholic Church, but I fail to see why this proof of parents' baptism is needed at the point of application since the RIF has the purpose of allowing a priest to certify that the applicant comes from a practicing Catholic family. My view is therefore that this practice offends against the general prohibition in paragraph 2.4 of the Code concerning information which does not have a direct bearing on the application of oversubscription criteria.

(vii) Boys with a statement of SEN

69. The arrangements for September 2014 do not contain a statement setting out the position, as is required by paragraph 1.6 of the Code. I was pleased to note at my meeting with the school that deficiency had been rectified in the arrangements which it has determined for September 2015.

(viii) Two categories of oversubscription criteria

70. The school has not responded to the concern which I have expressed about the division of oversubscription criteria into two groups "primary" and "other" in the arrangements for September 2014. My view remains that the division of oversubscription criteria into two categories without a clear rationale renders the arrangements confusing and contrary to what the Code requires in paragraph 14 of the Introduction and in paragraphs 1.8 and 1.37.

The arrangements for 2015 have removed this categorisation of the oversubscription criteria.

(ix) Terminology: "first form" and "junior house"

71. Again, the school has not responded to me on this matter, which introduces lack of clarity into the arrangements for 2014, I believe, for those not familiar with the school's terminology. I am of the view that this fails to meet the requirements of the Code concerning the clarity of admission arrangements in paragraph 14 of the Introduction and in paragraph 1.8.

72. The school has taken care to ensure that these terms are used with clear reference to the National Curriculum years at which admissions are made to the school in the arrangements for 2015.

(x) No definition of "Catholic"

73. The school expressed surprise at my meeting with the parties that the term "Catholic" is not defined in the arrangements for 2014. I believe that this

breaches the requirements of the Code concerning the clarity of admission arrangements and in particular of faith-based oversubscription criteria which are to be found in paragraph 14 of the Introduction and in paragraphs 1.8 and 1.37.

The term “Catholic” is defined in the 2015 arrangements.

(xi) Clarity of faith-based oversubscription criteria

74. The use in two faith-based oversubscription criteria in the 2014 arrangements of the phrase “the extent to which”, means that these criteria are not easily understood, as required by paragraph 1.37 of the Code. They cannot be understood without reference to other parts of the arrangements and this is unnecessarily complex for parents in my view. The school did not respond to my concerns on this matter and I remain of the view that the arrangements fail to meet what is required by the Code.

The arrangements for September 2015 allow the reader to understand what is meant by the same phrase by providing as part of the criterion a description of how points are awarded by the school.

(xii) Clarity of the term “sustained”

75. Both the 2014 and the 2015 arrangements require “sustained” Mass attendance for the award of points, but do not define this term. As a result it is not possible for parents to look at the arrangements and know how many points their own practice would be likely to gain towards the admission of their son to the school. This is made even more difficult because the school does not provide information on how many points have been necessary for admission in previous years.

76. At my meeting with the school on 13 May 2014 I was given a copy of the priest’s reference form employed by the school and was informed that “sustained “ was defined by the form. What the form does is allow a priest to indicate for the applicant and for both their mother and father whether Mass attendance has been “weekly, fortnightly, monthly, occasionally, rarely or never”, and also whether this has been for a period of one, two or more than three years. I am unable to ascertain where amongst these possibilities the threshold of “sustained” lies, and it seems that for the arrangements for 2014 it consists of a combination of an unknown duration and an unknown frequency. I shall refer to the issue of the availability of the priest’s reference form below, but it seems to me that even if parents had a copy of it they would not know on what basis their Mass attendance would or would not be taken into account by the school.

77. The arrangements for 2015 make it clear that the minimum duration of Mass attendance looked for is three years, but do so in sentences such as “sustained Mass attendance for at least three years....” Again, “sustained” is used without definition. I find its employment alongside a defined duration perplexing, since I would have expected “sustained” itself to be a measure of duration, not of frequency as it is here. I believe the school wishes to state that maximum points are given to those who attend Mass every Sunday and

on Holy Days of Obligation over a period of time (of at least three years), and do not understand why it does not simply say this.

78. The arrangements for both years fail in my view to meet the requirement of paragraph 1.37 that “admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied”.

(xiii) **“Good reason” in relation to age of baptism**

79. The school has helpfully explained that a “good reason” put forward by a parent for not being able to have a boy baptised within six months of their birth is considered by the school admissions panel. Supporting evidence is frequently provided by a priest who is familiar with the circumstances of the case, verification for which is sought.

80. The RIF used for admissions in 2014 does not explain this or give any indication of the kinds of matter that the panel might find acceptable. It is therefore very difficult for parents to judge whether their own circumstances, if relevant, are likely to be considered favourably or not, and this renders the arrangements unclear in my view and contrary to the requirement of the Code at paragraph 1.37 concerning faith-based oversubscription criteria.

81. The religious inquiry form for each admission year for admissions in 2015 does provide helpful examples of matters that might be considered favourably, but would also benefit from a brief description of the process followed by the school.

(xiv) **Priority on the basis of having attended any other Catholic school**

82. The arrangements for 2014 give credit within the ranking system attached to the school’s oversubscription criteria to candidates who have attended any Catholic primary school. The school’s view, expressed at my meeting with the parties, was that this was permitted because it was a test of religious obligation on the part of parents as laid down in Canon Law. The Diocese expressed its own view that this was not an appropriate means for giving priority as there may be good reasons for a child not being able to secure a place at a Catholic primary school. Paragraph 1.9b of the Code says that admission authorities **must not** “take into account any previous school attended, unless it is a named feeder school”, and my view is that the school’s arrangements breach this requirement.

83. The revised wording used in the arrangements for 2015 names as feeder schools “any Catholic school named in the Westminster, Southwark or Brentwood pages of the Catholic directory website”. Paragraph 1.15 of the Code says that the selection of feeder schools **must** be “transparent and made on reasonable grounds”. I would expect such grounds to be to do with, for example, specific and active curricular or other links between the primary and secondary school. In many places Catholic primary schools have links of such a nature with a Catholic secondary school, often forming one or more of the curriculum “pyramids” of schools in an area, where continuity throughout a child’s period of schooling is provided through such collaborations and a clear progression route which most children will then follow. It is not possible for

The Oratory School to have such active and specific links with the schools it has named, which constitute a large proportion of London's Catholic primary schools. The majority of children in most of the schools named will go to other Catholic secondary schools. While the school's designation of feeder schools is clearly done in a transparent way, I do not think it has reasonable grounds for this approach and I am of the view that it has not named feeder schools on reasonable grounds therefore, in contravention of paragraph 1.15. Both versions of this criterion are, as I have said, also contradictory to the guidance of the Diocese in paragraphs A23 and A29 which are referred to above. The school has not given any good reason why it departs from this guidance.

(xv) Priority given to siblings: definition of "former pupil"

84. The school has not commented on the absence in the arrangements for 2014 of the definition of "former pupil" which is required by paragraph 1.11 when priority is given to siblings of former pupils. The arrangements are deficient in this respect.

The arrangements for 2015 do contain an appropriate definition of the term "former pupil".

(xvi) Requirement that all candidates complete the school's religious inquiry form

85. The school has provided written comments on this matter in letters dated 23 April and 30 May 2014, and also spoke to this point at the meeting with the parties on 13 May 2014.

86. I considered above the objection that the arrangements for 2014 do not allow for the admission of children of no faith and stated my view that this contravenes the Code's requirements in paragraphs 1.6 and 1.36. The arrangements for 2015 have rectified this defect.

87. Nevertheless, all candidates are required in both the 2014 and 2015 arrangements to complete and return the school's RIF. When the school wrote to me on 30 May 2014, it proposed that it might adjust the wording of the arrangements to say that all applicants should complete the form, but that those who did not would be considered if any places remained after those completing the form had been considered. While this is helpful, I am clear that any applicant who did not seek prioritisation of their application on the grounds of faith as set out in the school's admission arrangements would have supplied all the information necessary for the school to consider their application through the CAF. It is not necessary to ask all applicants to complete the school's RIF and doing so adds unnecessarily to the complexity for some applicants and does not conform to what paragraph 2.4 of the Code requires concerning supplementary information forms. I am of the view that both the 2014 and the 2015 arrangements are deficient in this respect.

(xvii) Availability of priest's reference form

88. At the meeting on 13 May 2014 the school met the request I had made earlier to be provided with a copy of the priest's reference form which it

employs. It stated that it would give further consideration to the view which I had expressed, and which I still take, that this form is part of the school's admission arrangements. Footnote 4 in the section of the Code which sets out its statutory basis contains the following definition :

“Admission arrangements means 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.”

The priest's reference form is completed for the sole purpose of considering an application for a place at the school and no place would be allocated on the grounds of membership and practice of the Catholic faith without it. So it clearly falls within the above definition and is part of the school's admission arrangements. Both those for 2014 and those for 2015 fail to comply with what the Code requires in paragraphs 1.47 and 1.51 because the school does not make the form available on its website and through the LA's composite prospectus.

2. Additional matters which relate to the determined arrangements for the school's sixth form:

(i) Request for suitability assessment from former school

89. The school has provided written comments on this matter in letters dated 23 April and 30 May 2014, and at my meeting with the parties when it provided me with a copy of the form which it asks candidates' former schools to complete. This form contains a section in which the candidate's former school is asked to answer the questions:

“will the candidate.....cope with 3 or 4 subjects to A level standard?...work conscientiously?.....manage independent study?.....be keen to go on to higher education?”.....take part in the co-curricular programme?”, and

“will the parents.....support and encourage the candidate?....support the school ethos?”

90. The school asserts that it uses this form to provide in addition to predicted GCSE grades an assessment of whether the candidate has “the required attributesfor academic study”, “with more general evidence of an inclination to a life of study in an academic sixth form”, because it “prefers to work on a broader definition of “academic entry requirements””.

91. Paragraph 2.6 of the Code says that if a school admits external pupils to its sixth form, it “can....set academic entry criteria....which must be the same for both external and internal places.” However, the Code as a whole applies to any point of admission to a school, including the sixth form.

92. Paragraph 1.9g states:

*“admission authorities..... **must not**....take account of reports from previous schools about children'sattitude....”*

The school asserts that since it does not ask for “specific information on pupil’s conduct, attitude, attendance or punctuality” it does not offend against this stipulation.

93. I have considered carefully what the school has said to me, but I cannot accept that it does not seek a report from the candidate’s previous school concerning their attitude in the questions quoted above. That is in fact what these questions are designed to elicit. In my view, the school’s arrangements for both 2014 and 2015 are in breach of paragraph 1.9g of the Code.

94. The school’s arrangements state that admission is conditional on final academic performance and since the Code at paragraph 2.6 requires that academic entry requirements are the same for internal and external candidates, they must be the same for all candidates.

95. The school does not define what it means when it invokes a “broader definition” of the term academic other than it consists of “more general evidence of an inclination to a life of study in an academic sixth form”, which seems to me to be the same as a child’s attitude, and which does not meet the requirement concerning objectivity and clarity.

96. My view is therefore that the arrangements for both 2014 and 2015 also do not comply with what paragraphs 1.8 and 2.6 of the Code require.

(ii) Clarity of application procedure

97. The school said when I met its representatives that it believed that the process of applying for a sixth form place was explained in the arrangements and provided me with a copy of its sixth form booklet which contains a leaflet setting out the academic entry requirements in terms GCSE or equivalent grades for Advanced level study, and a form on which applications for places can be made.

98. This form is not referred to within the admission arrangements for either 2014 or 2015 where the section setting out how to apply states only the requirement to complete the religious inquiry form. The arrangements for both years therefore fail in my view to meet the requirement of the Code in paragraph 14 of the Introduction that the practices used to decide places are clear within the admission arrangements.

(iii) The ability of children to apply in their own right

99. At the meeting on 13 May 2014, the school said that it had noted my concerns. These remain that the arrangements for both 2014 and for 2015 fail to make any reference to the ability of pupils to apply in their own right for sixth form places which is clearly stated in paragraph 2.6 of the Code. The arrangements for both years therefore fail in my view to meet the requirement of paragraph 14 of the Introduction to the Code that admission arrangements set out the practices that are used to decide places.

3. Additional matters which relate to the determined admission arrangements for the junior house

(i) The setting of a planned admission number (PAN)

100. The wording used in the arrangements for 2014 is that “up to” 20 boys will be admitted in Year 3. The school has not responded to my concern that this does not constitute a clear statement of the number of places that are available, and I remain of the view that this does not meet the requirement of paragraph 1.2 of the Code.

101. A clear PAN for admissions to the school in Year 3 is stated as part of the school’s arrangements for 2015.

(ii) The reference to “choristers”

102. The school has offered no comments regarding the concern which I have expressed that the phrase “may be offered to choristers”, which appears in the arrangements for both 2014 and 2015, implies that boys must already be choristers to be considered for a place. I remain of the view that this is insufficiently clear for parents and does not meet the requirements of paragraph 14 of the Introduction or of paragraph 1.8 within the Code.

(iii) The clarity of the selection process

103. The arrangements for 2014 state that “candidates will be tested for general ability and will be tested.... for....aptitude” but say nothing about how the outcome of these tests are used to decide which pupils are offered place. I also raised at my meeting with representatives of the school that although the arrangements state that in making this decision that priority will always be given to practicing Catholics, this may not make it clear what would happen in all possible circumstances.

The arrangements for 2015 contain the clarifying statement that:

“Those candidates whose ability test score indicated average or above average ability will then be considered in relation to suitability...”

104. However, while adding considerable clarity this statement begs the question as to how the term average is defined. The school wrote to me on 30 May 2014 to clarify this procedure and this information would be of considerable assistance to parents if it were included with the admission arrangements.

105. The school is permitted to continue its former practice of selecting part of its intake as part of its funding agreement with the Secretary of State. However, the determined arrangements for both 2014 and for 2015 do not meet the requirement that admission authorities for partially selective schools publish the entry requirements for a selective place, as stated in paragraph 1.21 of the Code, in my view.

4. Additional matters which relate to in-year admissions

(i) The use of the phrase “in the light of”

106. The school has not responded to my concern that this phrase does not

make clear that in-year applications are considered in accordance with the determined oversubscription criteria, which is the phrase employed in the arrangements for 2015. My view is that the 2014 arrangements do not meet the requirement in paragraph 1.6 of the Code that arrangements state clearly how places will be allocated since the requirement of paragraph 2.14 is that the oversubscription criteria are used to determine admissions for at least the first term of the academic year of admission”.

(ii) The use of the word "suitable"

107. The arrangements for 2014 refer to the availability of "suitable" places. The school has not offered any comments on this matter, but the arrangements for 2015 refer only to "places".

108. My view of the 2014 arrangements is that they do not make it clear, as required by paragraph 1.8 of the Code that the school is obliged to admit a boy who has applied for one of the places defined by the PAN if one of these becomes available, as stated in paragraph 1.36.

(iii) The use of the phrase "as modified above"

109. At my meeting with the school, its representatives explained that this phrase in the arrangements for 2014 refers to the re-ordering of the waiting list. However, I remain of the view that this is unclear for parents reading the arrangements and that they therefore do not meet the Code's requirement in paragraph 1.8 concerning clarity.

(iv) The use of random allocation

110. The school did not respond to my concern that in the arrangements for 2014, random allocation from the waiting list is used as the process for determining which boy would be admitted if a vacancy arises, whereas the Code makes it clear that it should be the child at the head of the waiting list held in the order of the oversubscription criteria. I remain of the view that the arrangements fail to meet the requirements of paragraph 2.14, where this is stipulated. Neither do they provide any details of how the requirement is met that any random allocation, whether from a waiting list or as a tie-breaker for one of the normal points of admission, is supervised by an independent person, as described in paragraph 1.35 of the Code.

(v) The applicability of the process for in-year admissions

111. When I met the school, I invited it to comment on the concern which I had expressed in relation to the arrangements for 2015 that it was unclear whether the process given for in-year admissions related to all points of entry to the school.

112. The school replied on 30 May 2014 explaining why arrangements for in-year admissions now appear within the arrangements in relation to only one of the points of entry, and suggesting a means for clarifying the arrangements as a whole. As they stand, however, I am of the view that the arrangements are unclear and do not meet the requirements of paragraph 1.8 of the Code.

(vi) The absence of a statement concerning the reordering of the waiting list

113. The school did not offer any comments to me concerning the apparent non-compliance with the requirements of paragraph 2.14 of the Code of the arrangements for 2015. No statement that each added child requires the waiting list to be reordered is included, and so my view is that the arrangements are defective in this respect. They also fail to comply with the requirement of this paragraph of the Code that waiting lists are maintained for at least the first term of the academic year of admission.

5. Matters relating to the Notes which form part of the arrangements

114. The school did not offer any comments relating to my concern that the statement in the “Notes” section of the 2014 arrangements concerning the position if there were fewer Catholic applicants than available places did not accurately reflect what paragraph 1.36 of the Code requires. I remain of the view that the arrangements do not meet the relevant requirements in this respect.

6. Matters relating to the school’s religious inquiry form

(i) The information requested

115. The school provided comments on the five pieces of information asked for on the school’s RIF at the meeting held with the parties on 13 May 2014, but did not comment further in writing. The school justified the relevance of each in terms of the faith-based oversubscription criteria in the arrangements.

116. Firstly, it says that the child’s present school could be used by parents to demonstrate their Catholicity. Paragraph 1.9b forbids a school from taking a child’s present school into account unless it is a named feeder school. I have given my view above about the school’s practice in the 2014 arrangements of giving priority to children on the basis of attending any Catholic primary school and about the blanket naming of Catholic primary schools as feeder schools in the arrangements for 2015. Neither is in my view permitted. Only named feeder schools which have been designated in accordance with what the Code requires may be taken into account and only on the basis that they are a feeder school.

117. Secondly, the school stated that the full names of both parents are required because the baptismal status of both is taken into account and their denominational status is required in order that the school knows which, if not both, of the parents to apply the tests of Catholic obligation to through the oversubscription criteria. I have given my view above concerning the school’s practice of using the assessed Catholicity of two parents in this way. I have come to the view that this is not permitted. The general prohibition in paragraph 2.4 of the Code regarding information which does not have a direct bearing on the application of oversubscription criteria therefore means that details concerning two parents are not needed and should not be sought. If the full names of both parents are given, their marital status is almost certainly revealed and this offends against the specific prohibition of paragraph 2.4a

regarding this information. My view therefore is that the information requested on the school's RIFs, both those for 2014 and for 2015 is contrary to paragraph 2.4 of the Code.

118. Thirdly, the school asks for the length of time for which the applicant has lived in the parish and for which the parent has worshipped at their current church, it told me, because of the need to use such information in connection with the assessment of Catholicity in the arrangements which employs the length of time for which the obligation of Mass attendance has been met. Again, the use of this oversubscription criterion was discussed above. If the priest's reference form provides the actual information which the school requires, there is no need to ask for related background information from every applicant completing the religious inquiry form. If the school wishes to provide for the circumstances of individuals who for example have moved into the area recently and who therefore wish their observance at a different church to that which they currently attend to be taken into account, the form could enable that in some way. I am of the view that it is not necessary to ask for the information concerning length of residency and duration of worship at the applicant's current church on the religious inquiry form, and therefore that in doing so the arrangements for both 2014 and 2015 breach paragraph 2.4 of the Code.

(ii) medical and social need

119. The wording of the 2014 form is:

"If there is a medical or social need, which may need to be considered in regard to Catholic practice and meeting the oversubscription criteria, please provide details and attach evidence."

120. The school told me in its letter of 30 May 2014 that it had made the use of this information clear in the wording used in the 2015 RIF. This says:

"If there is a medical or social need which impacts on the oversubscription criteria, please provide details and attach evidence."

121. The school believes that it has clarified in this statement that "such information will only be taken into account where it mitigates meeting the oversubscription criteria". It seems to me to be clearer than the statement used in the 2014 RIF only in that it says that the information should be about something which affects matters that are contained in the oversubscription criteria. It does not make clear that this would need to be information related to the candidate's ability to meet the criteria as the school claims and it does not say that that this is the only way in which the information would be used.

122. Neither the 2014 wording nor that used for 2015 say how such information would be used, for example by the school allowing additional points in relation to affected criteria, or to what extent that might happen. Neither do the arrangements make clear how these needs are defined or give details about the kind of supporting evidence that would be required, as stipulated for the employment of medical or social need as an oversubscription criterion in paragraph 1.16 of the Code. Both are therefore

unclear and fail to meet what paragraph 1.8 of the Code requires.

(iii) Conditions

123. The 2014 RIF requires signatories to say that they accept conditions contained within the admission arrangements and the form itself.

124. The school did not provide comments on this matter, and the 2015 form contains no equivalent requirement. However, I am of the view that the 2014 form fails to meet the requirement that admission arrangements must not place any conditions on the consideration of an application other than those contained within the determined oversubscription criteria in paragraph 1.9a of the Code.

125. At the meeting which I held with the parties, the objector referred to the statement in the 2015 arrangements concerning applications from non-Catholic applicants “who actively support the aims, values, expectations and ethos of the school”, saying that it offended against this same stipulation within the Code. The school stated in its letter to me of 30 May 2014 that it would remove the reference to support of the school’s ethos, which is helpful, since I believe that all of the statement is in the form of a condition which is not permitted by paragraph 1.9a.

(iv) The requirement that both parents sign the form

126. In commenting on this matter in its letter of 30 May 2014, the school referred to the change which had been made for the 2015 form, which allowed either one or two parents to sign. It did not comment on the 2014 form which does require both signatures and which therefore breaches what is expressly prohibited by paragraph 2.4e of the Code. If space is provided for two parents to sign, my belief is that even if both signatures are not required most parents would be loathe not to do so, believing that this would convey a negative message to the school. The arrangement for signing the form for 2015 admissions amount in my view to a requirement for two signatures and also falls short of what the Code requires.

7. The consultation carried out by the school prior to its determination of the arrangements

127. The school responded to my request for information about how the school had met the obligation to consult with the parents of children between the ages of two and 18 prior to determining its admission arrangements for September 2014 in its letter of 23 April 2014. It had previously written to the adjudicator on this point in an email dated 8 July 2013.

128. The letter of 23 April 2014 set out the timetable of actions carried out by the school which gave the dates on which e-mails and letters were sent variously to schools in and beyond the area of the LA, to the Directors of Children’s Services of the LA and neighbouring boroughs, and to the Diocese of Westminster. It also gave the date on which a consultation document was lodged on the school’s website to which a link was provided in the school’s weekly bulletin to current parents. These dates fell within the timescale

specified in paragraph 1.43 of the Code.

129. The school's email of 8 July 2013 said that the school consults parents in the specified age range "via the website and indirectly via other schools." Copies of the correspondence referred to above had been provided previously and I have considered its contents. Although the letter to Directors of Children's Services refers to an invitation to parents to comment on the proposed arrangements, I have been unable to find any suggestion in the correspondence that the addressees should bring the school's proposed arrangements to the attention of the parents of children in the required age range. The school has provided me with no evidence either of any newspaper or similar advertisements that would have had this effect. In summary, I have seen nothing which I can say constitutes a meaningful attempt to bring the school's proposed arrangements to the attention of the group in question.

130. The school told me on a date after the period for consultation on its arrangements for September 2015 that it carries out the same process of consultation each year, and I must infer that the equivalent procedure was therefore followed in relation to these arrangements also. In view of the absence of any evidence to this effect I have come to the view that the school did not meet the requirement of paragraph 1.44a of the Code concerning consultation with parents between the ages of two and eighteen prior to determining either its arrangements for September 2014 or those for September 2015.

8. The publication of admission arrangements

131. When I last checked the school's website on 9 June 2014 I was unable to locate a copy of the school's admission arrangements for September 2014, and I am therefore of the view that the school has failed to meet the requirement set out in paragraph 1.47 of the Code.

Conclusion

132. I have set out in the previous section the view that I have formed concerning all of the matters raised by the objector concerning the school's admission arrangements for September 2014 and of the matters of potential non-compliance which I have raised with the school concerning its admission arrangements for September 2014 and September 2015.

133. For the reasons given there, I am of the view that the arrangements for September 2014 are in breach of what the Code requires:

- (i) in paragraph 1.9e concerning the prioritisation of applications on the basis of practical or financial help to an associated organisation;
- (ii) in paragraph 1.9i concerning its use of religious activities which are not as laid out by the relevant religious authority;
- (iii) in paragraph 1.36 in not allowing for the admission of children of no faith;
- (iv) in paragraph 1.38 in not having sufficient regard to Diocesan guidance in constructing faith-based oversubscription criteria;

- (v) in paragraph 1.8 in using admission arrangements which disadvantage unfairly children from a particular social group;
- (vi) in paragraph 2.5 in requesting birth certificates to accompany applications for places at the school;
- (vii) in paragraph 2.4 concerning information asked for in supplementary forms that does not have a direct bearing on oversubscription criteria, and in asking all applicants to complete the school's RIF;
- (viii) in paragraph 1.6 by failing to include a statement about the admission of boys with a statement of SEN which names the school;
- (ix) in paragraph 14 of the Introduction to the Code and in paragraph 1.8 concerning the clarity of the arrangements in a number of respects set out above;
- (x) in paragraph 1.37 concerning the ease with which faith-based oversubscription criteria can be understood;
- (xi) in paragraph 1.9b by taking into account previous schools attended which are not named feeder schools;
- (xii) in paragraph 1.11 in failing to define "former pupil" ;
- (xiii) in paragraphs 1.47 and 1.51 in failing to make the school's priest's reference form available as specified there;
- (xiv) in paragraph 1.9g in taking into account of reports from their previous schools concerning the attitude of candidates for places in its sixth form;
- (xv) in paragraphs 1.8 and 2.6 because of the lack of clarity concerning the means used to determine applications for places in the school's sixth form;
- (xvi) in paragraph 14 of the Introduction in failing to set out clearly the procedure for applying for places in the school's sixth form;
- (xvii) in paragraph 2.6 and in paragraph 14 of the Introduction in failing to refer to the ability of pupils to apply for sixth form places themselves;
- (xviii) in paragraph 1.2 in not stating clearly the PAN which applies to admissions to Year 3;
- (xix) in paragraph 1.21 in not publishing selective entry requirements for Year 3;
- (xx) in paragraph 1.6 by failing to state clearly how in-year applications are considered;
- (xxi) in paragraphs 1.8, 1.36 and 2.14 concerning the manner in which available places are offered to those on the waiting list;
- (xxii) in paragraph 1.35 concerning the use of random allocation;

- (xxiii) in paragraph 1.16 concerning medical and social need;
- (xxiv) in paragraph 1.9a concerning conditions placed on applications;
- (xxv) in paragraph 2.4e in requiring two parental signatures;
- (xxvi) in paragraph 1.44a concerning consultation; and
- (xxvii) in paragraph 1.47 concerning publication.

134. For the reasons also set out above, I am of the view that the school's admission arrangements for September 2015 are in breach of what the Code requires:

- (i) as set out for the arrangements for September 2014 in (iv),(v),(vi),(vii),(ix) and (x) above;
- (ii) in paragraph 1.15 concerning the naming of feeder schools;
- (iii) as set out for the arrangements for September 2014 in (xiii),(xiv),(xv),(xvi)(xvii) and (xix) above;
- (iv) in paragraph 2.14 concerning the ordering of waiting lists; and
- (v) as set out for the arrangements for September 2014 in (xxi),(xxiii),(xxv) and (xxvi) above.

Determination

135. 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 of The London Oratory School.

136. I have also considered the arrangements in accordance with section 88I(5). I determine that for admissions in September 2014 and September 2015 the arrangements do not conform with the requirements relating to admission arrangements.

137. By virtue of section 88K(2) of the Act, 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: 15 July 2014

Signed:

Schools Adjudicator: Dr Bryan Slater