



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2801

Objector: The Fair Admissions Campaign

Admission Authority: The directors of Cidari Education Limited for St George's School – A Church of England Academy, Blackpool

Date of decision: 10 October 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body for St George's School – A Church of England Academy in Blackpool on behalf of the directors of Cidari Education.

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

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by the Fair Admissions Campaign (the objector), about the admission arrangements (the arrangements) for St George's School – A church of England Academy (the school), an academy for children aged 11 to 16 for September 2015. The objection concerns five elements of the school's arrangements. The local authority for the area is Blackpool Council (the LA)

Jurisdiction

2. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. The school converted from voluntary aided to academy status on 1 April 2014. The arrangements are those determined on 16 December 2013 under section 88C of the Act by the school's governing body which was the admissions authority for the school at that time. The objector submitted its objection to these determined arrangements on 30 June 2014. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and is within my jurisdiction.
3. While considering the objection I became aware of a number of other matters where the arrangements may not comply with the Code. I have therefore used my powers under section 88I(5) to consider the arrangements as a whole.

Procedure

4. In considering these matters I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the objector's email of objection dated 30 June 2014;
 - b. the school's response to the objection and supporting documents;
 - c. the response to the objection from the Diocese of Blackburn (the diocese);
 - d. the response to the objection from the LA;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
 - h. a copy of the determined arrangements.
6. I have also taken account of information received during a meeting I convened on 15 September 2014 at the school attended by representatives of the school, the diocese and the LA.

The Objection

7. There were five points in the objection:

- a. the supplementary information form (SIF) was not available on the school's website as required by paragraph 1.47 of the Code;
- b. the governors have an expectation that all pupils will attend religious education lessons and take part in Christian worship and this does not comply with paragraph 1.9a of the Code;
- c. feeder schools are not named in the oversubscription criteria as required by paragraph 1.9b of the Code;
- d. there is no tie-breaker to separate two applicants living the same distance from the school as required by paragraph 1.8 of the Code; and
- e. a page on the school's website suggests that only people at certain churches can get foundation places, but elsewhere non-Christian faiths are referred to. This may not comply with paragraphs 1.8, 14 and 1.37 of the Code.

Other Matters

8. When I obtained a copy of the SIF I was concerned that it might not comply with paragraph 2.4 of the Code which says that schools may only ask for information on a SIF "*when it has a direct bearing on decisions about oversubscription criteria.*"
9. I was also concerned with the overall clarity of the arrangements in the context of paragraph 14 of the Code which says "*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*" There appeared to me to be two reasons why the arrangements were not clear:
 - a. the relationship between open and foundation places was confused; and
 - b. there were possible ambiguities in the wording of some of the criteria and possible inconsistency between them.

Background

10. The school converted to become an academy from a voluntary aided school on 1 April 2014. It is part of a multi academy trust established by the diocese called Cidari Education.

Consideration of Factors

11. I will begin by considering the five issues raised by the objector before commenting on the other matters identified above.

Publication of the supplementary information form

12. Paragraph 1.47 of the Code says that once determined, admission authorities "**must** publish a copy of their determined arrangements on

their website displaying them for the whole offer year". The SIF is part of the admission arrangements and should be published as required by paragraph 1.47.

13. I looked at the school's website on 30 July 2014 and I was unable to find a copy of the SIF. The only arrangements I could find on the school's website were those for 2014. The 2015 arrangements, without the SIF, were however available on the LA's website.
14. At the meeting on 15 September the head teacher explained that the school's website had been overhauled and some documents had been lost in the process. I am pleased to note that the school has quickly addressed this issue and the 2015 arrangements and the SIF are now clearly visible on its website. However as this was not the case in July I must uphold this part of the objection. I will discuss the SIF in more detail later in this adjudication.

Governors' expectations of involvement in religious education and worship.

15. The first paragraph of the arrangements says the school welcomes children from all faiths and of no faith and continues "*While welcoming all applications, the Governors have an expectation that all pupils will attend religious education lessons and take part in the Christian worship of the Academy.*" This is the sentence which the objector considers not to comply with paragraph 1.9a of the Code which says admission authorities **must not** "*place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements*".
16. Section 71 of the Act gives parents the right to withdraw their child from religious education lessons and acts of collective worship in all maintained schools. The school is an academy and its funding agreement says this section of the Act will apply. I can see nowhere in the school's arrangements where parents are asked to waive this right. It seems to me that the paragraph as a whole is setting out the ethos of the school for parents to consider before making an application.
17. During discussion at the school the head teacher explained that there were a small number of pupils who did not attend religious education lessons and did not participate in Christian worship. He explained that as well as the Church of England chapel, the school has a prayer room which is used by Muslim students.
18. At the same meeting the diocesan representative advised the school that this statement of ethos would be more appropriate elsewhere on the school's website and not in the admission arrangements. The school agreed to consider this suggestion.
19. I am satisfied that while the governors may have an expectation of involvement in religious education and Christian worship at the school after the child has become a pupil, they are not able to enforce it and the school does not seek parents' commitment to this as part of the

admission arrangements. I do not uphold the objection that the school contravenes paragraph 1.9a of the Code as it does not place any condition on the consideration of the application other than those in the oversubscription criteria.

Unnamed feeder schools

20. The objector has drawn attention to the third oversubscription criterion for the open places which is "*Children living outside the three parishes who will have spent their last two years of primary education in a Church of England Primary School.*" The objector considered this to be in breach of paragraph 1.9b of the Code.
21. Paragraph 1.9b of the Code says admission authorities **must not** "*take into account any previous school attended, unless it is a named feeder school*" and paragraph 1.15 says "*The selection of a feeder school must be transparent and made on reasonable grounds.*" In the first of the oversubscription criteria two local Church of England primary schools are clearly named and this does comply with the Code, however the third criterion would include any Church of England primary school anywhere in the country. It was agreed at the meeting that this criterion did not comply with the Code.
22. The chair of governors said the intention was to prioritise children who had experienced Church of England education. The diocesan representative put the case that few children were ever admitted under this criterion and, with larger numbers of pupils in the area due to transfer to secondary school in future years, the criterion would not be used and could be deleted. The head teacher suggested an alternative would be to look at the Church of England primary schools that current pupils had attended and name them in this criterion.
23. The Code is clear that feeder schools can be included in oversubscription criteria, but they must be named and chosen on transparent and reasonable grounds. I uphold this part of the objection.

No effective tie-breaker

24. The objector says there is no effective tie-breaker when two children live the same distance from the school as required by paragraph 1.8 of the Code.
25. The tie-breakers for open and foundation places are different. After saying that in any category the distance from home to school will be final determining factor, the tie-breaker for open places says "*Where there is more than one application from a postal address contained within a block of flats, priority will be given to the applicant residing on the lower storey flat.*"
26. This does not allow for the possibility that two applicants from a block of flats may live on the same floor, or that two applicants may live the

same distance away and in completely different buildings.

27. The tie-breaker for foundation places does not include any consideration of what happens when two or more applicants live the same distance from the school and relies purely on distance.
28. At the meeting the LA said it had advised the school to remove the reference to flats and had offered its independent random selection process to the school. This would align with the guidance on admissions from the diocese which puts forward in its guidance a tie-breaker which would address this issue for both open and foundation places. The school acknowledged that the current tie-breaker would not resolve all cases and that it needed to be reviewed.
29. I uphold this part of the objection.

The allocation of foundation places

30. On 30 July 2014 I looked at the reference to the school's website provided by the objector. On this webpage there is a heading "Can My Child Go To St George's?" there is a map with a column either side headed "Route 1" and "Route 2".
31. Under the "Route 2" heading it said there were 20 foundation places which were for

"1) Children whose families worship in any Anglican or Methodist Church in the Deanery of Blackpool then: 2) Children whose families worship in any of the churches named at the bottom of this page in the following."

This is followed by a bullet list of nine parishes and at the bottom of the page is a list of members of Churches Together.
32. The objector suggests that this means only people at certain churches can get foundation places, but elsewhere in the arrangements non-Christian faiths are referred to and this may be in breach of paragraphs 1.8, 14 and 1.37 of the Code. The objector also pointed out that a similar statement appears in the arrangements labelled (i) and (ii) quoted below.
33. The determined arrangements say that foundation places are to be offered to:

"(i) Pupils whose families are faithful and regular worshippers in an Anglican or Methodist Church within the Deanery of Blackpool.

(ii) Pupils whose families live within and are faithful and regular worshippers at any church in membership of Churches Together in England in one of the following Church of England parishes: St Luke's, Staining, Heyhouses (St. Annes), St Margaret of Antioch (St Annes), St Thomas (St Annes), St Nicholas (Ribby with Wrea), St Michael

(Weeton), St Paul's (Ansdell), St John's (Lytham) & St Cuthbert's (Lytham)."

The arrangements then give four oversubscription criteria:

"1. Children with a parent/guardian who are regular worshippers at St Wilfrid's, Mereside, St Christopher's & St Nicholas', or St Paul's, Marton, and St John's Blackpool.

2. Children whose parents are regular worshippers in an Anglican or Methodist Church within the Deanery of Blackpool.

3. Children whose families live in and are faithful and regular worshippers at any church in membership of Churches Together in England in one of the following Church of England parishes St Luke's, Staining, Heyhouses (St.Annes), St Margaret of Antioch (St Annes), St Thomas (St Annes), St Nicholas (Ribby with Wrea), St Michael (Weeton), St Paul's (Ansdell), St John's (Lytham) & St Cuthbert's (Lytham).

4. Children with a parent/guardian worshipping in a non-Christian faith which is in membership of the UK Interfaith network.

5. Children who have a sibling attending the school on the date of application and on the date of admission"

34. The wording on the website page under scrutiny appears to be an attempt to summarise this part of the arrangements, however it misses some important elements of the arrangements, in particular that foundation places can be allocated on the grounds of membership of other faiths or through having a sibling at the school. The diocese has said the places are designated as faith places not Christian places.
35. Paragraph 14 of the Code says *"In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of places are fair, clear and objection. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated."* A parent from say, the Sikh faith, might look at this page and reach the conclusion that they would not meet the criteria for a foundation place and read no further.
36. The objector also thought this page did not comply with paragraph 1.8 of the Code. That paragraph requires oversubscription criteria to be clear and having an incomplete summary of them available on the website does not help clarity. This part of the website is not sufficiently clear in helping parents understand how the faith-based criteria will be applied as required by paragraph 1.37 of the Code.
37. The information on this webpage about the allocation of open places is also inconsistent with the arrangements published elsewhere. For

example I noted that the number of open places was shown on this page to be 170, not 180.

38. I uphold this part of the objection. While I commend the school for quickly making it impossible to find this page from the links on its website, it was still possible to find the page by typing the uniform resource locator (URL) into a browser on 30 September 2014.

Other matters

The supplementary information form

39. In the third paragraph of the arrangements parents are advised that to be considered against the faith criteria they should complete the SIF as well as the common application form (CAF). Paragraph 2.4 of the Code says admission authorities “*must only use supplementary information forms that request additional information when it has a direct bearing on decisions about oversubscription criteria*”.

40. I have set out the oversubscription criteria for the foundation places above. The first four are based on where a child lives and where their family worships while the last is based on having a sibling at the school. To comply with paragraph 2.4 these are the only matters on which information can be asked on the SIF.

41. The SIF for 2015 which I downloaded from the school’s website asks the parent to tick a box to say if they are applying for a place because of:

- Living in the local area;
- Sibling in the school;
- Foundation Place;
- Special social/medical needs;
- Parental faith commitment.

42. Parents would not be filling in the form if they were not applying for a foundation place. Living in the local area is not an oversubscription criterion for foundation places and nor are social/medical needs. In my view these questions should not be asked on the SIF.

43. At the meeting the diocesan representative said this document appeared to be modelled on an old version of a diocesan form and undertook to supply the school with the current version.

44. The SIF then asks for the place of regular worship and the name of the faith leader. A “Clergy Reference Form” is also required which is filled in by the faith leader. On this form it says “*Our criteria require the parent to have attended their place of worship ... a month for ... months prior to September 2014*” and asks the faith leader to confirm if this has been the pattern for the parent or not.

45. There is a definition of regular worship on the third page of the

arrangements. This definition is monthly for a minimum of a year and is a clear and objective definition as required by the Code. I am concerned that leaving gaps on the clergy reference form might allow different values to be inserted.

46. This form is also modelled on a diocesan form on which it was intended the blanks would be filled in by schools to reflect their requirements. As it stands the form allows different figures to be inserted and as it could be manipulated unfairly does not comply with requirements.
47. The fourth paragraph of the arrangements says that "*Applications may also be made on-line using the Common Application Form with the supplementary questions.*" The 2015 CAF is available on the LA's website and does provide the information needed to assess the faith criteria. This however would not help applicants living in another LA.
48. I am not satisfied that the SIF met the requirements of the Code however I note that the SIF has recently been revised on the school's website although the clergy reference remains unchanged.

Relationship between foundation and open places

49. Paragraph 1.6 of the Code says "*The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied.*" It is not clear to me in which order the oversubscription criteria are applied. This view was supported by the diocesan representative who said at the meeting she felt the arrangements were unnecessarily complex and wordy.
50. The seventh paragraph in the arrangements describes how the 200 places at the school are split into 180 open places "*for the local community*" and 20 foundation places "*for practising Christians*". The Code however makes it clear that while priority for places may be given to these groups, applicants who are not from the local community or are not practising Christians must be given places if they are available. All parties at the meeting understood this and agreed this needed to be reflected in the wording of the arrangements.
51. My main concern here however begins with the statement "*If Foundation Places are undersubscribed, places will be allocated to applicants for Open Places.*" There is no statement saying whether unallocated open places would be allocated to applicants for foundation places; this implies that foundation places are offered first. However, the order in the arrangements appears to contradict this.
52. In the final paragraph on the first page of the arrangements it says "*In the event that the school is oversubscribed, after admitting all children with a statement of special educational needs naming the school, the Governing Body will allocate places using the following criteria, which*

are listed in order of priority.” The second page of the arrangements begins “*Wherever they live the Governing Body will apply the following criteria*”. Followed by two bullet points, the first identifying looked after and previously looked after children and the second children with special medical and social circumstances.

53. Then under the heading “*Open Places (180)*” it has four numbered criteria.

“1. *Children whose parents live within the three ecclesiastical parishes of:-*

- *St Wilfrid’s, Mereside*
- *Blackpool St Christopher & St Nicholas*
- *St Paul’s Marton*

and all children educated at Baines Endowed & St Nicholas’ Church of England Primary Schools

2. *Children living outside the three parishes who have a sibling attending the school on the date of application and on the date of admission.*

3. *Children living outside the three parishes who will have spent their last two years of primary education in a Church of England School.*

4. *Other Children.*”

54. This is followed by the tie-breaker and a heading “*Foundation Places (20) (Faith)*” and the wording of oversubscription criteria which has been discussed above.

55. The ordering of these criteria suggests that following looked after and previously looked after children and children with special circumstances, open places are allocated before foundation places. This is contrary to the conclusion formed earlier from the reference to transferring foundation places to open places.

56. At the meeting the school confirmed that, after the allocation of any places to children who were looked after or previously looked after or those with special circumstances, foundation places were allocated before open places.

57. Had this not been the case I could see a number of other ways in which the arrangements would not have complied with the Code. As it is the school’s practice and published arrangements are not consistent and to comply with the Code, specifically paragraphs 14 and 1.6, they should be consistent in all details.

58. This confusion in order in which places are allocated leads to possible difficulties with waiting lists. Paragraph 2.14 of the Code says the admission authority “**must maintain a clear, fair and objective waiting**

list for at least the first term of the academic year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.”

59. Testing the criteria against the requirement to have a waiting list further illustrates the problems with the order of the two categories. I am not satisfied that the requirements of paragraph 2.14 can be met using the oversubscription criteria as they are published.
60. My final comment on the order of the criteria is the labelling. Having two criteria labelled with bullets, then criteria numbered 1 to 4 for open places, two notes labelled with lower case roman numerals and then the foundation criteria labelled 1 to 5 does not help make it clear what the actual order of priority is.

Wording of the criteria

61. Paragraph 1.8 of the Code says “*Oversubscription criteria **must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.***” I have identified a number of points in the criteria where the wording could allow for more than one interpretation and could be construed as not complying with this paragraph.
62. The first of the criteria for open places begins “*Children whose parents live ...*” the second and third criteria both begin “*Children living ...*”. This could leave uncertainty over whether it is one parent, two parents or the child on whose address priority is based. If the wording of the first criterion is applied to a child whose parents have separated and one of them lives in the three parishes although the child lives elsewhere with the other parent, then that child would meet the criterion. I am not sure if that is the governors’ intention. It could also be construed that both a child’s parents had to be living in one of the three parishes, clearly this would be unfair to children with only one parent and not comply with paragraph 1.8 of the Code.
63. There are similar problems with the wording of the first two foundation criteria. The first begins “*Children with a parent/guardian who are regular worshippers ...*” The wording does not help the reader to understand if it is sufficient for one parent or guardian to be a regular worshipper, or if both a parent and the child are required to worship regularly.
64. The second criterion begins “*Children whose parents are regular worshippers ...*” Again this could be interpreted that both parents are required to be regular worshippers and this would be unfair to children with just one parent, or those with just one parent who worships regularly.
65. I am certain that it is not the governors’ intention to require both parents to be regular worshippers because the SIF only requires the faith

leader to confirm that one parent is such. Parents may however look at the criteria and decide they do not meet them so will not see the wording on the SIF.

Conclusion

66. For the reasons set out above I uphold the objection to the arrangements which do not comply with paragraphs 1.47, 1.9b, 1.8, 14 and 1.37 of the Code. I do not uphold the part of the objection referring to paragraph 1.9a of the Code.
67. I have reached the view that the SIF and clergy reference form do not comply with paragraphs 2.4 and 14 of the Code respectively. This is because the SIF asked for information not required to make decisions about oversubscription criteria and the reference form allowed a variable level of church attendance to be inserted while the arrangements stated an exact figure.
68. I consider that parents would not be able to look at the arrangements and easily understand how places will be allocated as indicated by paragraph 14 of the Code. Furthermore the order of the oversubscription criteria for foundation and open places is not clear as required by paragraph 1.6 of the Code. Consequently I do not think a waiting list can be drawn up that would comply with paragraph 2.14 of the Code.
69. I am also of the view that the wording of some criteria is not as clear as it might be and allows some criteria to be construed in a way that would not comply with paragraph 1.8 of the Code.
70. While I have found a considerable number of ways in which the arrangements do not meet requirements, I commend the school for acknowledging the issues I have raised and for quickly beginning to rectify matters. I also commend the diocese and the LA for their constructive contribution to discussion with the school and their offers of support to help the school develop admission arrangements that would fully comply with requirements.

Determination

71. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body for St George's School – A Church of England Academy in Blackpool on behalf of the directors of Cidari Education.
72. I have also considered the arrangements in accordance with section 88I(5). I determine that aspects of the arrangements do not conform with the requirements relating to admission arrangements.

73. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

Dated: 10 October 2014

Signed:

Schools Adjudicator: Mr Phil Whiffing