



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA2690</b>
<b>Objector:</b>	<b>A parent</b>
<b>Admission Authority:</b>	<b>The Governing Body of The John Henry Newman Catholic School, Stevenage</b>
<b>Date of decision:</b>	<b>23 September 2014</b>

### **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 John Henry Newman Catholic School, Stevenage, for admissions in September 2015.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.**

**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 a parent, (the objector), about the admission arrangements (the arrangements) for The John Henry Newman School (the school) in Hertfordshire, the local authority, (the LA) for September 2015. The objection is to the way in which the tie-break of distance is applied in cases of oversubscription; the fairness and reasonableness of the arrangements; and the admission authority's insufficient regard to diocesan guidance in constructing faith-based oversubscription criteria.

### **Jurisdiction**

2. The terms of the academy agreement between the Diocese of Westminster Academy Trust and the Secretary of State require that

the admission policy and arrangements for each academy school are in accordance with admissions law as it applies to maintained schools. The arrangements were determined by the governing body of the school, which is the admission authority for the school on behalf of the academy trust, on that basis.

3. The objector submitted the objection to these determined arrangements on 25 June 2014. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
  - a. the objection, dated 24 June 2014;
  - b. the response to the objection and accompanying documentation from the chair of the school's governing body, dated 11 July 2014;
  - c. the LA's response to the objection, dated 15 July 2014;
  - d. the diocese's responses to the objection, dated 18 and 22 July 2014;
  - e. the school's determined arrangements for admissions in September 2015;
  - f. the diocesan education service's model admissions policy for 2015/16 for secondary schools
  - g. 'Joint Guidance on Admissions' by the Archdioceses of Westminster and Southwark and Diocese of Brentwood, revised February 2007;
  - h. 'Admissions: new regulations affecting Catholic schools, a note of summary guidance' issued by the Diocese of Westminster in February 2008;
  - i. the diocese's response to further enquiries from the adjudicator, dated 2 September 2014;
  - j. the school's response to further enquiries from the adjudicator, dated 11 September 2014; and
  - k. the school's website.

## The Objection

6. The objection concerns the tie-breaker in the oversubscription criteria. The objector contends that the way in which this is applied *“is prejudicing the ability of children at St Mary’s Roman Catholic Primary School, Royston to access Catholic secondary schooling at their local Roman Catholic secondary school.”* Although St Mary’s is named as a feeder school in the arrangements, the objector argues that the use of a simple distance tie-breaker is prejudicial against children attending St. Mary’s; it is the furthest of the feeder primary schools, but The John Henry Newman School is the closest Catholic secondary school to St. Mary’s. The objector contends that the arrangements thereby fail to meet the tests of *“fairness”* and *“reasonableness”* as laid down in paragraph 1.8 of the Code.
7. The objector argues that, in determining the arrangements, the admission authority has failed to comply with paragraph 1.38 of the Code, which states that *“Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based oversubscription criteria ... “*. The objector refers to guidance on admissions for governing bodies issued jointly by the Archdioceses of Westminster and Southwark and the Diocese of Brentwood which provides advice on situations such as that which has brought about the objection.

## Other matters

8. In the course of considering the objection I reviewed the arrangements as a whole and noted that the explanation of the distance tie-breaker does not state which two precise points are used in making the measurement. Insufficient detail is provided about the procedures used in drawing lots as the designated final tie-breaker within the oversubscription criteria. It is not made clear on what basis an application might be accepted on behalf of a child who had not attended one of the named feeder schools. The supplementary information form (SIF) requests information that is already available to the school from the LA’s common application form (CAF). The Priest’s Reference Form (PRF) requests information that is not permitted by the Code and lacks transparency. Neither the SIF nor the PRF published on the school’s website are for September 2015 admissions. There are aspects of the school’s arrangements for sixth form admissions that are not compliant with the Code.

## Background

9. The school, which is a Catholic mixed academy for pupils aged 11-18, with over 1500 pupils on roll, became one of four academies within the Diocese of Westminster Academy Trust in March 2012. It admits pupils at the ages of 11 and 16 and is heavily oversubscribed with applicants for year 7; for entry in September 2014, a total of 644

applications were received for the 210 places provided by the published admission number (PAN). An Ofsted inspection in 2006 graded the school as outstanding overall, as did an inspection in 2013 conducted under Canon 806 on behalf of the Archbishop of Westminster and under section 48 of the Education Act 2005.

10. The arrangements for 2015/16 were determined by the governing body of the school on 25 March 2014 using a common or 'model' policy provided by the archdiocese. Extracts of minutes of meetings of the governing body and its committees supplied to the adjudicator show that comments on the proposed policies for both 2014/15 and 2015/16 had been received from the diocesan education service, and had been duly considered by governors. Suggested changes, for example to terminology and definitions, were accepted and incorporated. None of these suggestions addressed the issue raised by the objection.
11. The school has a PAN of 210 for admissions at age 11. The arrangements name 12 feeder primary schools, one of which is in a neighbouring LA, which are given priority in the allocation of places. It is stated that applications "**may**" be accepted on behalf of children not attending one of these schools "*providing evidence is submitted ... that it was not possible..., for some good reason.*" The arrangements provide, as required, that children with a statement of special educational need or education, health and care plan in which the school is named, will be admitted. Oversubscription criteria are then, in summary:
  1. Catholic looked after or previously looked after children
  2. (1) Catholic children from practising Catholic families  
(2) Other Catholic children
  3. Other looked after or previously looked after children
  4. Catechumens and baptised children of Eastern/Orthodox churches
  5. Children from Christian families
  6. Children from families of other faiths
  7. Any other children
12. In categories 1, 2, 4, 5 and 6 above, support from a priest, minister of religion or religious leader, as appropriate, is required. Within each category, applications are prioritised in the following order:
  - (i) attendance of a sibling at the school and by the child at a feeder primary school
  - (ii) attendance by the child at a feeder primary school but no sibling at the school
  - (iii) attendance of a sibling at the school but the child does not attend a feeder primary school
  - (iv) the child does not attend a feeder primary school and has no sibling at the school

13. The tie-breaker used is the LA's measurement of distance from home to school, although the precise points used are not defined in the arrangements and applicants are referred to the LA in order to ascertain this information; should an additional tie-breaker be needed, *"then a drawing of lots will determine who gets the place."*
14. The school is heavily oversubscribed. The arrangements, as well as providing the raw numbers of applications quoted above, explain that in the previous year's round of applications, the distance tie-breaker was invoked in category 2(1)(ii), that is, in respect of applications on behalf of Catholic children from practising Catholic families who were in attendance at a named feeder school but did not have a sibling at the school. Data supplied by the LA shows that for 2014/15 there were 278 applications from the named feeder schools and that there were successful applications on behalf of children attending all of these schools, ranging in number from one to 54. The LA comments, *"... for at least the last 2 years, the school has filled to capacity under the feeder primary school rule and, with the application of the distance tie-break, children living furthest from the school (most likely attending St Mary's, Royston) are least likely to get a place."*

### **Consideration of Factors**

15. I have considered carefully the detailed evidence submitted by the objector, the views expressed by other parties and published documents that provide additional context in making my determination. Put at its simplest, the objector's concern is that, by virtue of the distance between the school and St. Mary's Roman Catholic Primary School, Royston, children from that primary school – despite its being a named feeder school – are disadvantaged by the school's distance tie-breaker. This problem is compounded by the fact that there is no other Catholic secondary school near to Royston. Moreover, there is no straightforward secular secondary option in Royston itself, as local schools are organised on a three-tier system of first, middle and upper schools.
16. Data supplied by the objector, which I find to be accurate, shows the linear distances between the school and its named feeder schools, and the alternative (nearer) Catholic secondary schools available to all the named feeder schools except for St. Mary's, Royston. The following table shows this information.

Feeder school		Nearest Catholic secondary school	Distance in metres	
			Nearest Catholic secondary	John Henry Newman
1	Stevenage, St. Vincent de Paul	Stevenage, John Henry Newman	(JHN)	2767
2	Stevenage, St. Margaret Clitherow	Stevenage, John Henry Newman	(JHN)	3780
3	Letchworth, St. Thomas Moore	Stevenage, John Henry Newman	(JHN)	5785
4	Hitchin, Our Lady	Stevenage, John Henry Newman	(JHN)	6494
5	Baldock, St. John's	Stevenage, John Henry Newman	(JHN)	7336
6	Luton, Sacred Heart	Luton, Cardinal Newman	4335	12,235
7	Welwyn, Holy Family	St. Albans, Nicholas Breakspear	10,144	12,235
8	Welwyn, Our Lady's	St. Albans, Nicholas Breakspear	7784	14,341
9	Hertford, St. Joseph's	Bishops Stortford, St. Mary's	14,711	15,729
10	Ware, Sacred Heart	Bishops Stortford, St. Mary's	14,572	17,671
11	Hatfield, St. Phillip Howard	St. Albans, Nicholas Breakspear	4535	18,094
12	Royston, St. Mary's	Stevenage, John Henry Newman	(JHN)	19,710

17. I have ascertained that the next closest Catholic secondary school to St. Mary's Royston, after The John Henry Newman School, is St. Mary's, Bishops Stortford, at a straight line distance of approximately 23,300 metres, that is, some 3600 metres further than The John Henry Newman School. St. Mary's, Bishops Stortford, has a PAN of 155 and there were 586 applications for entry to year 7 in September 2014. Applications from parents of children attending St. Mary's, Royston, would be considered under oversubscription criterion 7 (Catholic children living outside the "*designated areas*"), and would be unsure of the likelihood of being offered a place. Data for entry in 2012 and 2013 show that eight and six children respectively were allocated places under this criterion. Other Catholic secondary schools within Hertfordshire or adjoining LAs in ascending order of

distance from Royston are at Bedford (31,900 metres), Harlow (32,100), Luton (32,800 metres), St. Albans (39,400), Hemel Hempstead (45,100 metres), Rickmansworth (54,900 metres) and Watford (50,800 metres). St. Bede's School in Cambridge is nearer than any of these schools at about 20,200 metres from Royston, but this is a joint Catholic/Church of England school with a relatively small PAN of 155 and even so is still further from Royston than The John Henry Newman School. The oversubscription criteria, in which distance from the home to the school plays a significant part, would again cast considerable doubt on the likelihood of a successful application for year 7 entry to St. Bede's, Cambridge, on behalf of a child attending St. Mary's, Royston.

18. On the basis of the data presented thus far, I would agree there is a strong case to be made for oversubscription criteria for the school to be constructed in such a way that applicants from St. Mary's, Royston, could have at least some of chance of being allocated a place at what is their nearest Catholic secondary school, albeit one at some considerable distance.
19. The objector points out that, while the Code does not specify in detail what oversubscription criteria should be, it nevertheless *"mandates that the **outcomes** produced by the criteria should be 'fair' and 'reasonable' and should not unreasonably prejudice one group in order to benefit another group."* So much is clear from paragraph 1.8 of the Code. Of relevance also to this objection is paragraph 1.9b) of the Code, which states that admission authorities *"**must not** ... take into account any previous schools attended, unless it is a named feeder school"* and paragraph 1.15, which states that *"Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds."* The school is not in contravention of the Code in naming a number of feeder schools. What I must consider is whether it is *"reasonable"* to name these particular schools given the effect this has on the application of oversubscription criteria and thus on the outcomes for applicants when the arrangements are applied.
20. All but one of the 12 named feeder primary are Catholic primary schools within the parishes attached to the five Catholic churches that are closest to the school in the LA of Hertfordshire. Apart from these parish links, I have been given no information that suggests the school has close curricular links with every one of the feeder schools. The feeder schools have a combined PAN of 405; when a school is named as a feeder, an applicant might expect some realistic degree of priority when applying for a place at the secondary school. This is hardly the case when the PAN of The John Henry Newman School is 210. Moreover, this arrangement precludes any child who, for whatever reason was unable to attend one of these named feeder schools, from gaining a place at The John Henry Newman School.

21. The one school which does not fit this pattern is the Sacred Heart Primary School (number 6 in the table above), which is in the parish of The Sacred Heart, Stopsley, Luton, in the local authority area of Luton Borough Council and the diocese of Northampton. This school, as indicated in the table above, is considerably closer to a Catholic secondary school in Luton than to The John Henry Newman School. It is also a named feeder school in the oversubscription criteria for Cardinal Newman secondary school, Luton; Cardinal Newman raised its PAN for admissions to year 7 in September 2015 from 248 to 270 and, from reading this school's arrangements, I am of the opinion that Catholic applicants from the Sacred Heart Primary School would have a good chance of being offered a place there. Nevertheless, 12 pupils from this school were allocated places at The John Henry Newman School in September 2014, while seven applications from St. Mary's, Royston, were unsuccessful. In all, 18 children attending the six named feeder schools at a greater distance from the John Henry Newman school than is the Sacred Heart Primary School, Luton (that is, numbers 7 to 12 in the table above) were unsuccessful in obtaining places in September 2014.
22. As may be seen from the table, for only one of these primary schools is there an alternative Catholic secondary school as close as is Cardinal Newman School to the Sacred Heart Primary School; but for each of these six schools the alternative provision is closer than The John Henry Newman School. St. Mary's, Royston is alone in having no alternative provision closer than The John Henry Newman School, while also being the furthest from that school of its named feeder primaries.
23. In its response to the objection the LA, while pointing out that most other Catholic secondary schools in its area also use the home to school distance tie-breaker in their oversubscription criteria, did agree that *"if John Henry Newman RC School is oversubscribed with applicants from feeder primary schools, children from St Mary's Royston would, in all likelihood, be the least likely pupils to be allocated a place because of the distance between Royston and Stevenage."* The LA further comments that *"JHN is the only Catholic secondary school serving north Hertfordshire and has been significantly oversubscribed for many years ..."*. I am of the opinion that as they stand, the arrangements do not provide a fair opportunity for children from St. Mary's, Royston to be allocated a place at the Catholic secondary school which, geographically, is the most reasonable choice for them.
24. I will now consider the second aspect of the objection. Apart from the unreasonableness of the distance criterion in combination with feeder schools as applied to applicants from St. Mary's, Royston, the objector questions also whether the admission authority has complied with paragraph 1.38 of the Code, which states that *"Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing*



*faith-based oversubscription criteria ... “.* The most recent guidance to Catholic schools from the Archdiocese of Westminster and Southwark and the Diocese of Brentwood anticipates the issue that has given rise to this objection by noting that *“Schools which serve more than one parish or deanery may wish to ensure that children from the more distant areas of the parishes or deaneries served are not disadvantaged.”* The advice goes on to suggest that *“places may be offered to children from a named parish or deanery for whom this is the nearest Catholic school. This potentially displaces children who live nearby but for whom there are nearer alternatives, thereby releasing places for children at a distance for whom there is no alternative.”* On examining several sets of admission arrangements for Catholic schools in dioceses to which this guidance would apply, I note that a typical oversubscription criterion is *“Catholic children ... who cannot reasonably attend another Catholic school nearer their home, with priority given to those who have the furthest to travel to the nearest alternative Catholic school”* and that this criterion, for example, is given third priority in a list of six criteria.

25. The diocesan guidance also includes the overarching statements that admission authorities should ensure that *“the maximum number of Catholic children are able to take advantage of a Catholic education provided at their local Catholic schools”* and that *“no group of Catholics is disadvantaged by the system”*. From my analysis of the situation thus far, I would argue that children at St. Mary’s, Royston, are disadvantaged by the present arrangements. In its initial response to this objection, the diocesan spokesperson commented *“The issues with St. Mary’s are longstanding and complex and the correct way forward would be for the Chair of Governors ... of St. Mary’s to have discussions with the governing body of John Henry Newman”* and goes on to say that *“this has been done in the past ... “.* If so, then the situation has clearly not been resolved. In reply to my enquiries, another representative of the diocesan education service wrote that *“The John Henry Newman School covers a wide area and takes children from a number of counties, parishes and schools. The Chairs of each school have met with me to discuss the unique situation regarding applicants from St. Mary’s School, Royston. I felt this was productive and that an agreement can be made to recognise the issues ... “.* From the submissions I have received, I would say that the issue is not one that needs any longer to be “recognised”, but is one that needs to be addressed and rectified. My further enquiries about this meeting between the diocese and the schools resulted in an email from the head teacher of the school informing me that this *“was an informal meeting; so no minutes were taken. A proposed way forward was discussed, but has yet to be approved by the Governing Body of the John Henry Newman School and in reality would not significantly change the situation as we are not in a position to guarantee any school future places [sic] at the John Henry Newman School.”* The head teacher did not elaborate on what the “proposed way forward” might be, nor why it was considered to be a ‘way forward’ if it was unlikely to make

any significant difference to the situation that has given rise to this objection.

26. I note with interest that subsequent to discussions at a meeting of the school's admissions committee on 1 October 2012, it was decided to add Sacred Heart Catholic Primary School, Ware, to the list of feeder primary schools. As is the case with its namesake primary school in Luton, to which I have previously referred, Sacred Heart school in Ware is also named as a feeder school for another Catholic secondary school through an established parochial link, in this case St. Mary's, Bishops Stortford, to which I have previously referred. Despite being described in the committee minute as "*a very small school*", Sacred Heart in Ware has a PAN of 30 and, although only one child from that school was allocated a place at The John Henry Newman School for September 2014, the inclusion of this additional establishment in the list of named feeder schools has the potential to limit even further the availability of places for children attending St. Mary's, Royston if the current oversubscription criteria are retained. It seems strange to me, when the school knows of a long-running and difficult situation in providing sufficient places for its most distant feeder school, for which there is no nearer alternative provision, that it should choose to add another, nearer, feeder school to its list when that school has named access to, and an established link with, another Catholic secondary school. The Code, in paragraph 1.15, as referred to above, says that "*The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.*" Given the high levels of oversubscription at the school, and the known issue concerning the availability of places for children from St. Mary's, Royston, I do not accept that the addition of Sacred Heart school in Ware to the list of named feeder schools is either transparent in intent or reasonable in its potential impact. The effect could only be to disappoint a greater number of applicants from the feeder schools who are not successful in gaining a place at the school.

27. The school did not choose to make a detailed response to the objection; it did not at first make any reference to discussions with the diocese and other schools on the issue raised by the objection until asked for further comments. The school's initial response merely stated that "*Each year, prior to consultation, the proposed admissions policy is sent to Westminster Diocese for amendment and approval. Any suggested amendments are incorporated into the policy prior to its publication for consultation.*" Emails and minutes copied to me show this to be true. Moreover, minutes of the meeting of the admissions committee held on 17 October 2013 record that the issue subsequently raised in this objection was considered. These minutes record that the committee was "*asked ... for their thoughts on the list of feeder schools. It was agreed that the list remain as for the 2014/15 policy. [The Chair] asked if there were other possible changes governors would like to consider. [A governor] raised the point of whether there is merit in introducing a sub category of JHN being the candidate's closest Catholic school, During the discussion*

*it was noted that this could have an impact on the feeder schools which lay the furthest North and furthest South ...* ". Although the committee decided not to amend its arrangements to take account of the difficulties faced by applicants from Royston (that is, the "*furthest North*" school), it is clear that they considered and implemented specific diocesan comments on other details in their proposed arrangements. Given the acknowledged difficulties posed by the feeder school and distance tie-breaker combination, I am surprised that more discussion of this specific issue did not take place with a view to addressing the known problem. The Code, in paragraph 1.38, states that the admission authority of a faith school "***must have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based oversubscription criteria***" but the minute to which I refer does not indicate that any consideration was given to the diocesan guidance quoted earlier with reference to eliminating disadvantage for those children living in distant parishes.

28. The initial diocesan response to the objection closed by stating that "*The school has not acted unlawfully in this matter and has always followed diocesan guidance regarding admissions.*" I believe, however, that insufficient consideration has been given by the admission authority to the effect of the named feeder schools on those applicants whose children attend the feeder school that is furthest from the school and yet for whom the school is the nearest Catholic secondary school. In this respect, I do not believe that the school has met the requirement of paragraph 1.38 of the Code to "*have regard to any guidance from the body or person representing the religion*". The school would be at liberty to disregard the particular advice to which I have referred but, given the circumstances, would need to discuss the issue fully and present good reasons for going against the diocesan recommendation regarding preferential consideration for applicants where distance from the next nearest Catholic school is a factor. While accepting that no parent can ever be guaranteed a place for their child at any secondary school, I believe the admission authority could amend its arrangements in such a way as to improve the chances of children attending St. Mary's, Royston, being offered a place at the school and of making it easier for parents making such applications to understand better the likelihood of their being successful.
29. That the admission authority has been willing to be flexible with regard to accepting additional children is shown in that, while the PAN has been fixed at 210 for the past five years, the numbers of children currently in years 7-11 varies between 221 and 233. The LA points out that, following concerns raised with the previous head teacher of the school in 2011, the school allocated an additional 15 places to include the children from Royston who would otherwise not have obtained a place. In admitting above its PAN, the school has thus made some attempt to alleviate a specific problem, but this presents two difficulties: (a) the school might be seen as having *de facto* increased its PAN without informing the LA or publishing this

change on its website as required by paragraph 1.4 of the Code, and (b) this “unofficial” raising of the PAN contravenes paragraph 14 of the Introduction to the Code, where it is required that *“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”* If the PAN is observed only in the breach, as it were, with varying numbers of children admitted above PAN each year, parents have no way of knowing if and whether the oversubscription criteria will be applied fairly and what the effect might be on their application.

30. In its response to the objection, the LA states that *“The combination of the large number and location of the feeder primary schools named by John Henry Newman RC School, in conjunction with the use of a distance tiebreak within that specific criteria: [sic] do appear to disadvantage children attending St Mary’s, Royston. However, the inherent nature of oversubscription criteria is the prioritisation of some children over others – there will always be some children ‘disadvantaged’.”* That is the crux of the matter: the naming of feeder schools and the use of the distance tie-breaker are not, in themselves, prohibited by the Code and I accept that some applicants will inevitably be disappointed at the outcomes of applying oversubscription criteria in the allocation of places. But I have a duty to consider the *“reasonableness”* of the school’s arrangements, with regard to both the naming of specific feeder primary schools, as required by paragraph 1.15 of the Code, and with regard to the arrangements overall, as required by paragraph 1.8. I believe the way in which the arrangements, in the event of oversubscription, propose the use of a distance criterion in conjunction with the 12 named feeder schools without regard to other factors such as the proximity of the next nearest Catholic secondary school is unreasonable and unfair, given the potential effect on applications from those feeder schools furthest from The John Henry Newman school, and in particular on applications made on behalf of children attending St. Mary’s, Royston for whom the school is the nearest Catholic secondary school, albeit at some distance. I do not believe that the school has taken sufficient account of diocesan advice that might help to resolve the situation. I therefore uphold the objection.

### **Other Matters**

31. I turn now to the other matters mentioned above. Paragraph 14 in the Introduction to the Code says that *“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”* It is not evident on what basis an application might be accepted on behalf of a child who had not attended one of the named feeder schools. The arrangements state that *“If a child at the time of application is not attending a Feeder Primary School then the Governing Body **may** accept this providing evidence is submitted at the time of application that it was not possible to attend a Feeder Primary School for some good reason. In such cases the application will be considered within the category.”* I see this as problematic in two ways. First, parents are given no

indication at all of what might be “*some good reason*”, nor are they told on what basis governors might or might not accept the reason, even if it were deemed sufficiently “*good*”. Second, the second sentence quoted above lacks clarity; it might be presumed to mean that, if the application is accepted, then it is considered within the appropriate category of the oversubscription criteria, given the applicant’s status in relation to them. Nevertheless, the statement needs to be clarified, and some explanation is certainly needed as to where in the four priorities that refer to feeder schools and/or siblings such an application would be ranked if the feeder school aspect, by definition, is not applicable.

32. Explanation of the distance tie-breaker in the arrangements is insufficiently precise. The arrangements state that when the criteria have been applied and oversubscription within a category results, then places “*will be offered to those living nearest the School. The home to school distance will be measured using the home-school measurement system used by Hertfordshire County Council as outlined in the County’s admission arrangements and application literature.*” In the interests of transparency and ease for parents when making applications, and again to help them “*understand easily how places for that school will be allocated*”, it would be helpful for the school’s arrangements to indicate, for example, which two precise points are used for the measurement, and whether it is a straight line or some other measurement. Parents should have access to this basic information within the arrangements and not have to seek clarification from the LA.
33. The arrangements provide insufficient detail about the procedures to be used in drawing lots as a final tie-breaker within the oversubscription criteria. The arrangements simply state that “*If two or more children have equal priority after applying all the criteria then a drawing of lots will determine who gains the place.*” This statement is insufficient to reassure parents that the process of random allocation complies with paragraph 1.35 of the Code, which says that it “***must be supervised by someone independent of the school***”. Neither do the arrangements state that, as required by the same paragraph, “***a fresh round of random allocation must be used each time a child is offered a place from a waiting list.***”
34. The supplementary information form (SIF) requests information that is already available to the school from the LA’s common application form (CAF). Paragraph 2.4 of the Code states that admission authorities “***must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria ...***”. In this case, additional information concerning the nature of the child’s and the family’s religious observance would be legitimate; other information requested by the SIF, that is, parental contact details, the primary school attended by the child and details of siblings already at the school, are collected on the LA’s CAF and should not be requested a second time. The question on the SIF which asks, “*Are there any exceptional social,*

*medical or pastoral needs of the candidate which you feel can only be met at [the school]?”* is understandable, but this situation is dealt with in section 3 of the arrangements themselves. The SIF also raises the question, discussed above, concerning an applicant who *“for good reason”* was unable to attend a feeder primary school. The vagueness I have criticised above continues here, in that parents whose child falls into this category are invited to *“enclose any supporting documentation”* without any indication, either on the SIF or in the arrangements as to what appropriate documentation might be. The admission authority should consider again how much additional information is needed alongside the CAF and the religious reference form and amend the SIF accordingly.

35. The PRF, despite the disclaimer of its being *“a Diocesan Form. It does not form part of any school’s admission arrangements”*, is nevertheless part of the school’s arrangements since without it an applicant will not be considered as a Catholic applicant. The PRF must therefore comply with the Code. Part A asks for information that is not permitted by paragraph 2.4 in the Code, for example, personal details of two parents and of details of the child which will already have been collected by the LA’s CAF. Note A in the school’s arrangements states that *“the degree of family faith practice will be assessed by the Parish Priest on the Diocesan [PRF]”*. The form asks about both the mother’s and the father’s attendance, which could be recorded as over any period of time, in four possible categories of attendance pattern in relation to different masses. Nowhere is it made clear how this information would be used, what are priorities within each category or how these priorities would inter-relate to present an overall picture. It would be impossible for an applicant to form any idea of what constitutes, in the opinion of the admissions committee of the school, a practising Catholic and hence what information might be likely to give an application a reasonable *chance of success*.
36. The arrangements for sixth form admissions do not contain a tie-breaker to be used in the eventuality of two applicants being inseparable using the home-school distance measurement, except in the case of twins, triplets or siblings of the applicant, in which case the school says it will exceed the sixth form PAN. A suitable process must be identified for students with an equal claim on the last place who are not covered by this provision, in order to comply with paragraph 1.8 of the Code.
37. The sixth form application form for internal candidates contravenes the Code by requiring candidates to *“outline any possible career or higher education plans you may have”* and by asking them to provide details of applications to any other sixth form or college. Applicants may not be required to sign a commitment to the ethos of the school or to attend an induction course before the start of the academic year. Applicants may complete forms on their own behalf, as is made clear in paragraph 2.6 of the Code, and so it is not appropriate to require a signature from a parent and a member of staff as well as

from the applicant himself or herself. Indeed, I interpret paragraph 2.6 of the Code to mean that no application form should be necessary for internal applicants in stating that *“Children and their parents applying for sixth form places may use the CAF, although if they are already on the roll they are not required to do so in order to transfer into year 12.”* The same non-compliance with the Code is found on the application form for external candidates, with some additional issues: it is not permitted to require parents’ names, or to ask for a statement of reasons why the applicant wishes to join the sixth form of the school.

38. Paragraph 2.6 of the Code allows admissions authorities to set only academic entry criteria for sixth forms, and paragraph 2.7 states that *“Admission authorities must allocate places on the basis of their determined admission arrangements only ...”*. In this school’s case, details of the applicant’s parents, the applicant’s aspirations, his or her commitment to the ethos of the school, applications that may have been made elsewhere, reasons for wanting to join the school and willingness to attend an induction course are not relevant to the application of the determined oversubscription criteria. The application forms should be amended as soon as possible.

## **Conclusion**

39. I have set out in the previous section the view that I have formed about the matters raised by the objector concerning the school’s admission arrangements for September 2015 and of other matters of non-compliance with the Code that I found when considering the school’s arrangements as a whole.
40. In considering the objection, I found that the use of a simple home-school distance tie-breaker in combination with the naming of a number of feeder schools is unreasonable given the location of alternative Catholic secondary provision in relation to the feeder school at the greatest distance from the school, and so have upheld the objection. The admission authority has paid insufficient attention to diocesan guidance on this very matter, given the long-standing nature of the problem and the school’s awareness of it. Previous attempts to circumvent its effects by admitting over the PAN lack transparency and are unfair. A way forward should be found so that children attending the furthest feeder school, and without easy access to alternative provision, are not disadvantaged and so that parents with children attending a named feeder primary school at the greatest distance from the school understand clearly the likelihood of their applications being successful.
41. I also considered other aspects of the arrangements that do not meet the requirements of the Code. I found that they provide insufficient information to parents regarding how the distance tie-breaker is measured, and how the random allocation of places would be operated if required. I found a lack of clarity in references to applications on behalf of children who had not attended one of the

named feeder schools, both in the arrangements and on the SIF. The SIF itself contravenes the Code in requiring parents to resubmit information already provided on the LA's CAF; the PRF also asks for information that is not permitted, and does not make clear to applicants how the information it gathers will be used. There is no clarity in the notes to the arrangements as to what is meant by a practising Catholic and so the relative significance of different information required by the PRF cannot be understood by an applicant. Although the arrangements on the school's website are for admissions in September 2015, neither the SIF nor the PRF show this date. A number of areas of non-compliance with the Code were found in the arrangements for sixth form admissions, particularly in the application forms for internal and external applicants, which require information, and commitments, from candidates that are irrelevant to the application of the oversubscription criteria. There is no final tie-breaker for sixth form applications.

42. It is for these reasons that I conclude that the arrangements are not compliant with the Code and must be revised as soon as possible.

### **Determination**

43. 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 John Henry Newman Catholic School, Stevenage, for admissions in September 2015.
44. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
45. 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: 23 September 2014

Signed:

Schools Adjudicator: Andrew Bennett