

## **DETERMINATION**

**Case reference:** ADA/002302

**Objector:** The Diocese of Carlisle

**Admission Authority:** The Governing Body of Calthwaite Church of England Primary School

**Date of decision:** 31 August 2012

### **Determination**

**In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of Calthwaite Church of England Primary School.**

### **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 Diocese of Carlisle, (the Diocese), the objector, about the admission arrangements (the arrangements) for Calthwaite Church of England Primary School, (the School), a voluntary aided primary school for pupils age 4-11 years for September 2013. The objection is to the oversubscription criteria which do not give preference to children of the faith.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the School's governing body which is the admission authority for the School. The objector submitted their objection to these determined arrangements on 20 June 2012. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

### **Procedure**

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

The documents I have considered in reaching my decision include:

- a. the objector's form of objection dated 20 June 2012;
- b. the School's response to the objection and supporting

documents;

- c. Cumbria Council's, the local authority, (the LA) composite prospectus for parents seeking admission to schools in the area in September 2013;
- d. maps of the area identifying relevant schools;
- e. confirmation of when consultation on the arrangements with the Diocese took place;
- f. copies of the minutes of the meeting of 12 March 2012 of the governing body at which the arrangements were determined; and
- g. a copy of the determined arrangements.

## The Objection

- 4. The objector argues that the Diocese requires all its schools to use faith based oversubscription criteria and refers to paragraph 1.36 of the Code. "...Schools designated by the Secretary of State as having a religious character (commonly known as faith schools) may use faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed."
- 5. It further argues that the School must have regard to its guidance and has not done so. Paragraph 1.38 of the Code says: "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, to the extent that the guidance complies with the mandatory provisions and guidelines of this Code. They **must** also consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated. Church of England schools **must**, as required by the Diocesan Boards of Education Measure 1991, consult with their diocese about proposed admission arrangements before any public consultation."
- 6. It argues that that the governing body has failed to recognise that they must have regard to the guidance of the Diocese. In addition, it argues, that it is not clear whether the governing body of the School had been fully briefed or understood the decision they were being asked to make.

## Background

- 7. In 2011, the Carlisle Diocesan Board of Education (DBE) updated and issued its guidance on school admission policies in preparation for the new Code and legislation. It consulted with all its schools and relevant local authorities in October 2011. The DBE agreed its policies on 21 November 2011.

8. The DBE has identified five principles by which Church of England (CE) values and beliefs should impact on admissions policies;
  1. A concern for the disadvantaged / vulnerable ;
  2. The importance of neighbourhood and communities;
  3. Support for the family;
  4. The importance of the family in Christian nurture;
  5. Regard for the Law.
9. The DBE reports that there were concerns from respondents to the consultation about principle 4.

“Some respondents argued passionately that CE schools benefit from the Christian values and vision that guide their practice and are communicated to all stakeholders but they exist for people of any faith or none. Therefore, they argued, no preference should be given on the basis of a particular faith commitment.”

10. The DBE's response was that it “understands the strength of this vision but also recognises that we live in an increasingly secular society. Inappropriate and often hostile values are promoted through many media which can undermine the values and practices of a Christian home. CE schools provide an oasis of support and partnership for Christian families wishing to promote Christian values.

The DBE therefore requires all admission policies to give priority to those parents who regularly attend worship with their children. The DBE will usually refer to the office of the schools adjudicator any admission policies which do not.”

The example given is

“Children living within the catchment area who with a parent attend at last twice a month, a Church in membership of Churches Together in Britain or the Evangelical Alliance. Attendance may be at more than one Church but should be at least two years prior to the application date.”

11. The DBE required all its schools to include faith criteria in the oversubscription criteria and gave the appropriate wording which it wished to be used.
12. At the governing body meeting on 17 January 2012, the governors discussed the Diocesan proposals but decided not to amend the policy to include faith criteria and submitted the policy for consultation to the Diocese and the LA.
13. The objector reports that there was communication with the School during January, February and March and the Diocesan Director also visited. The governors were invited to write asking the DBE to exempt the School from the faith requirements. No submission was received by the time of the DBE meeting on 16 May 2012 so the DBE reconfirmed

their policy and decided to make an objection to the Schools Adjudicator.

14. On 12 March 2012 the governing body, having consulted for the required period, agreed to adopt their policy as originally submitted.
15. The governing body subsequently sent its submission to the Diocese which includes the following points, that the governors were;
  - “whole heartedly committed to putting faith and spiritual development at the heart of the curriculum and to ensuring that a Christian ethos permeates the whole educational experience”.
  - feeling “very strongly that Church of England Schools should be seen to promote inclusion by serving the whole/secular/multi-faith community”;
  - of the view that “in an under-subscribed small rural school such as ours they are unnecessary and potentially damaging to numbers on roll”; and
  - “confident we can preserve the ‘distinctiveness’ of our Christian character without these measures through a process of coherent development planning, quality teaching and partnership work with the local clergy and diocese”.

### Consideration of Factors

16. This objection is solely about the School’s decision not to include faith based oversubscription criteria to give priority for admission to the School. There are two parts to this objection.
17. The first is that the School has behaved contrary to paragraph 1.36 of the Code in not including faith based criteria in the oversubscription priorities. The DBE wished them to do so.
18. Paragraph 1.36 of the Code says faith schools “may use faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed.” Thus the Code clearly says ‘may include’ not ‘must include’. The School is not obliged under the Code to use faith based oversubscription criteria if it decides not to do so. I do not uphold this part of the objection.
19. The second part of the objection relates to the Code: paragraph 1.38  
“Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body ... when constructing faith based oversubscription criteria..... They **must** also consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated. Church of England schools **must**, as required by the Diocesan Boards of Education Measure 1991, consult with their diocese about proposed admission arrangements before any public consultation.”
20. The objector argues that insufficient weight was given by the governing

body in their deliberations to this guidance. Certainly the minutes of the meetings when the proposal was made and then adopted are brief. However, the subsequent submission by the governing body demonstrates that the governors have reflected on the guidance and gives clear reasons for their decision.

21. Both the School and the Diocese report that there were technical difficulties with communication in that emails between the parties went astray. However, the School had written exchanges and at least one meeting with the Diocese about its admission arrangements. I consider that this satisfies the requirement of the Code in paragraph 1.38 to consult with the Diocese. The School had regard for the guidance and wrote explaining in their rationale submitted to the DBE why they were not following it.
22. My view is that the School consulted the DBE about the admissions criteria and considered their advice. Within the required timescale they decided not to follow it. This not contrary to the Code.

### **Conclusion**

23. When considering its admissions policies the Diocese decided to require all its schools to include faith based oversubscription criteria in their admission arrangements. This is the wish of the DBE; it is not a requirement in the Code. The School decided not to do so. The Code says that faith schools may include such criteria. It further says that schools must have regard to the advice and guidance of the Diocese when constructing faith based oversubscription criteria, but there is no requirement to have such criteria.
24. I find that the school did consult the Diocese as required by the Code and did consider the advice and guidance, but decided not to follow it. The School is entitled to take this action. The School is compliant with the Code and therefore I do not uphold the objection.

### **Determination**

25. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of Calthwaite Church of England Primary School.

Dated: 31 August 2012

Signed:

Schools Adjudicator: Miss Jill Pullen