



## **DETERMINATION**

**Case reference:** ADA2818

**Objector:** The Fair Admissions Campaign

**Admission Authority:** The Governing Body of St Gabriel's Roman Catholic High School, Bury

**Date of decision:** 17 November 2014

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body for St Gabriel's Roman Catholic High School, Bury for admissions in September 2015.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that they 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 was referred to the adjudicator on 30 June 2014 by the Fair Admissions Campaign (the objector), about the admission arrangements (the arrangements) for St Gabriel's Roman Catholic High School, (the school), a voluntary aided (VA) school with a Roman Catholic religious character for 11 to 16 year olds in Bury for September 2015. The objection concerns the non-compliance of elements of the admission arrangements with the School Admissions Code (the Code).

### **Jurisdiction**

2. The governing body, which is the admission authority for the school, considered and agreed the arrangements for admission in September 2015 during the autumn term 2013. The objector submitted the objection to these determined arrangements on 30 June 2014. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

3. In addition, I have also used my power under section 88I of the Act to consider the arrangements for admission to year 7 (Y7) in September 2015 as a whole.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation and 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 dated 11 September 2014;
  - c) the Bury Council's the local authority (LA) for the area response to the objection dated 12 September 2014;
  - d) the response from the Diocese of Salford (the diocese) which is the religious body for the school dated 18 August 2014;
  - e) the LA's composite prospectus for parents seeking admission to schools in the area in September 2014 and September 2015;
  - f) a record of the meeting held during the autumn term 2013 but otherwise undated, of the governing body at which the arrangements were determined; and
  - g) copies of the determined arrangements.

### **The Objection**

6. The objection cites the following elements of the arrangements which are believed to be non-compliant with the following paragraphs of the Code:
  - admissions policy on website undated - not clear if this is 2014 or 2015 policy (paragraphs 1.47/2.14 of the Code);
  - the supplementary information form (SIF) is not available on the website. It may contain further Code breaches (paragraph 1.47 of the Code);
  - requirements with respect to statemented children not made clear by 'Those children with a statement of special educational needs if we are the named school' (paragraph 1.6 of the Code);
  - criteria e/f - maintained Roman Catholic primary schools and other maintained primary schools not specified (paragraph 1.9b of the Code);

- admissions criteria do not make clear whether siblings includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address (paragraph 1.11 of the Code);
- there is no effective tie breaker to separate two applicants living equidistant from the school (paragraph 1.8 of the Code); and
- the statement “The governors will require evidence in support of a claim that the child is a Roman Catholic” does not make clear what evidence is required (paragraph 1.8/14/1.37 of the Code).

### Other Matters

7. I have studied the arrangements and consider that they do not conform to the Code because they are not clear and parents may find it difficult to understand the arrangements as a whole and how the faith based criteria will be satisfied. I draw the attention of the governing body to the requirements in paragraphs 1.8, 14 and 1.37 of the Code as follows;

- paragraph 1.8; *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair”*;
- paragraph 14; *“In drawing up their admission arrangements, admission authorities, **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated”*; and
- paragraph 1.37; *Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied”*.

### Background

8. This Roman Catholic VA school for 11 to 16 year olds falls within the diocese of Salford. The published admission number (PAN) for admission to Y7 in September 2015 was set at 209 by the governing body in the autumn term 2013 and was published as this number by the school and the LA at the time of the objection. Since that date other arrangements have been published on the LA website, alongside the original, which state the PAN is 210. These new arrangements have also been sent to me by the school although the original arrangements remain unchanged on the school website at the time of completing this determination.
9. The school is oversubscribed: in 2013, 225 applicants expressed a first preference for the school and in 2014 this number was 220.

10. At the time of the objection, the arrangements published on the school website and on the LA website within the 2015 composite prospectus began with a list of parishes and the names of associated primary schools. The oversubscription criteria for admission into Y7 are published as follows:

- (a) Roman Catholic children who are in public care and adopted children who were previously in public care or who became subject to a residence order or special guardianship order.
- (b) Roman Catholic children living in a contributory parish.
- (c) Roman Catholic children attending an associated Roman Catholic Primary School.
- (d) Other Roman Catholic children who have a brother or sister at the school.
- (e) Other Roman Catholic children in maintained Roman Catholic primary schools.
- (f) Roman Catholic children in other maintained primary schools.
- (g) Other children who are in public care and adopted children who were previously in public care or who became subject to a residence order or special guardianship order.
- (h) Children with exceptional needs
- (i) Other children.

Footnote 2 reads; *“If any of the categories (a), (b), (c), (d), (e), (f), or (g) is over-subscribed, places will be allocated by the Governors by reference to subsequent categories in order. For example, if category (a) is oversubscribed, children who satisfy both categories (a) and (b) will have priority over children who satisfy only (a).”*

Footnote 7 reads *“The governors will require evidence in support of a claim that the child is a Roman Catholic”.*

### **Consideration of Factors**

11. The objection dated June 30 2014 suggests that it is unclear in the published arrangements for which year they are intended as there is no clear date. The objection suggests that this is contrary to the following paragraph of the Code:

- paragraph 1.47; *“Once admission authorities have determined their admission arrangements, they **must** notify appropriate bodies and **must** publish a copy of the determined arrangements on their website”.*

12. In its response of 12 August 2014 the Director of Education for the Diocese of Salford provided the diocesan guidance for admission to all diocesan school and stated that he had no comment to make on the objection. The LA’s response dated 12 September 2014 stated that the school had addressed the points referred to in the objection but made no further comments on the objection.

13. The school's response dated 11 September 2014 suggests that a temporary website did omit/duplicate some information late in the summer term but that the website had been updated recently to show the correct date i.e. admissions for September 2015. The headteacher went on to say that the governing body had no further comment to make on this objection.
14. The arrangements which were published at the time of the objection did not include a date and therefore it was not clear which admission year they referred to. They were, in fact, the arrangements determined for admission in September 2014 and not those for September 2015 and were therefore not compliant with the Code at paragraph 1.47 and I uphold this element of the objection.
15. The objection states that there is no supplementary information form (SIF) published with the arrangements. This is correct. There is no reference in the arrangements to a requirement for parents to complete a SIF and I understand that no SIF is currently in use. I therefore do not uphold this element of the objection.
16. Paragraph 1.6 of the Code states that "*All children whose statement of special educational needs (SEN) names the school **must** be admitted.*" The objector suggests that this is not clearly stated in the arrangements.
17. The arrangements published at the time of the objection state "*Those children with a statement of special educational needs if we are the named school*" but it does not explain that these children will be automatically admitted. I am therefore of the view that the arrangements were non-compliant with the Code at paragraph 1.6 in this respect at the time of the objection and I therefore uphold this element of the objection.
18. Paragraph 1.9b of the Code states that "*It is for admission authorities to formulate their admission arrangements, but they **must not** take into account any previous schools attended, unless it is a named feeder school.*" The objector suggests that criteria e and f are non-compliant with this.
19. Criterion c refers to the named feeder primary schools and these seven schools are listed before the oversubscription criteria in the arrangements. Criteria e and f refer to unnamed "*maintained Roman Catholic primary schools*" and "*other maintained primary schools*". Feeder schools must, as noted above, be named. Criteria e and f do not name the schools concerned and merely say a type of school and I therefore uphold this aspect of the objection. In addition, paragraph 1.15 of the Code 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*". It could not be reasonable to name all maintained Roman Catholic Schools and all other maintained primary schools. I am accordingly of the view that criteria e and f –

even if the schools were named - would not comply with paragraph 1.15 of the Code because it would not be reasonable.

20. The objection says that the definition of siblings is not sufficiently clear in the arrangements and is contrary to paragraph 1.11 of the Code which states that *“Admission authorities **must** state clearly in their arrangements what they mean by ‘sibling’ (e.g. whether this includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address or siblings who are former pupils of the school).”*
21. At the time of the objection the arrangements defined the criteria as follows; *“sibling - a brother or sister will be defined as a sibling who resided in the same residence as a pupil who occupied a place in the school, if the sibling will still be in attendance at the date of admission of the applicant.”*
22. The Code requires that arrangements state clearly what they mean by sibling. The arrangements do not provide a definition of brother or sister and therefore I am of the view that this is not sufficiently clear and I uphold this element of the objection.
23. The objector states that there is no tie breaker in the arrangements in line with paragraph 1.8 of the Code which states that *“admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated”*.
24. The arrangements state that *“if there is over-subscription in any category, places will be offered using a straight line distance measured from home to school using the LA’s computerised mapping system”*. There is no statement in the arrangements which explains how two equi-distant applications would be separated. I, therefore, uphold this element of the objection.
25. The objection raised the issue of governors requiring evidence in support of a claim that the child is a Roman Catholic. The objector says that this does not provide parents with a clear requirement of what is expected of them and that this is contrary to three paragraphs in the Code; 1.8, 14 and 1.37.
26. I am of the view that the statement in the arrangements under footnote 7 which states that *“the governors will require evidence in support of a claim that the child is a Roman Catholic”* is not clear as it does not explain the nature of the evidence or the form in which the evidence should be presented. I therefore uphold this element of the objection.

## **Other Matters**

27. In addition to the objection I have reviewed the arrangements as a whole as published at the time of the objection. Footnote 2 states that if a criterion is over-subscribed (or in other words if the PAN is reached and exceeded within a criterion), then applicants who fulfil subsequent

criteria in order will be prioritised over those only fulfilling a higher priority. In fact, some of the school's arrangements simply do not permit this to happen. For example, criterion e is children in Roman Catholic Primary Schools. If the PAN were reached among such children, footnote 2 would suggest that the subsequent criterion be used to decide which of these children should be offered a place. However, criterion f is Roman Catholic children in other maintained primary schools, so can hardly be used to distinguish between children in Roman Catholic schools. In addition, footnote 2 in its entirety is different from and contradictory to footnote 3 in the arrangements which states that distance between home and school will be used if the PAN is reached within a particular criterion. This all makes the arrangements unclear and contrary to paragraph 1.8 of the Code. This section of the arrangements requires amendment.

28. At the time of considering this objection the school and the LA are actively engaged in the application process for admission in September 2015 and parents will have been seeking information concerning the arrangements for admission to the school. Currently the arrangements on the school's website are those to which I have referred in this determination although in a response from the school I have been sent an amended version. The amended version appears on the admissions section of the LA's website under a title which names the school but the entry in the general prospectus for all schools retains the original version. These different versions are confusing and are contrary to paragraphs 1.8, 14 and 1.37 of the Code. They require amendment and clarification.
29. In addition the response from the headteacher dated 11 September 2014 states that the arrangements on the school website are "*draft*" and that "*the governors have taken the opportunity to review their admission policy for admission to the school in September 2015*". He suggests that a period of consultation for these arrangements will commence on 1 November 2014. As secondary applications closed on 31 October 2014 for admission in September 2015 this suggestion can only apply to admissions in 2016.
30. The Code is clear at paragraph 3.6 that "*Once admission arrangements have been determined for a particular academic year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admission law, a determination of the adjudicator or any misprint in the arrangements*". The arrangements determined in the autumn term of 2013 apply to admissions in September 2015. Any major change to the arrangements will apply at the earliest to admissions in September 2016.
31. Paragraph 3.6 of the Code states that "*Once admission arrangements have been determined for a particular academic year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission*

*arrangements.*” Amendments required by this determination must be applied as soon as possible and no later than 15 April 2015.

## **Conclusion**

32. I uphold the following elements of the objection and agree that they are not compliant with the Code;

- admissions policy on website was undated and therefore unclear (paragraphs 1.47 of the Code);
- requirements with respect to children with statements of special educational need were not made clear (paragraph 1.6 of the Code);
- criteria e/f - maintained Roman Catholic primary schools and other maintained primary schools were not named (paragraph 1.9b of the Code);
- the definition of sibling is unclear in the arrangements (paragraph 1.11 of the Code);
- there is no effective tie breaker to separate two applicants living equidistant from the school (paragraph 1.8 of the Code); and
- the statement “The governors will require evidence in support of a claim that the child is a Roman Catholic” does not make clear what evidence is required (paragraph 1.8/14/1.37 of the Code);

33. I do not uphold the following element of the objection:

- that relating to the publication of a SIF as there is no SIF used by the school and there can therefore be no requirement to publish one in line with paragraph 1.47 of the Code.

34. In addition I conclude that the footnotes which apply to the oversubscription criteria are unclear and do not conform with paragraphs 1.8, 14 and 1.37 of the Code.

## **Determination**

35. 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 Gabriel’s Roman Catholic High School, Bury for admissions in September 2015.

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



37. 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: 17 November 2014

Signed:

Schools Adjudicator: Mrs Ann Talboys