



DETERMINATION

Case reference: ADA2767

Objector: The Fair Admissions Campaign

Admission Authority: The governing body of the Jewish Community Secondary School

Date of decision: 8 December 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 the Jewish Community Secondary School in Barnet for 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.

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 the Jewish Community Secondary School (the school), a voluntary aided (VA) secondary school with a Jewish religious character for pupils aged 11 - 18 in the London Borough of Barnet for September 2015. The objection is to: aspects of the school's supplementary information form (SIF); aspects of its faith-based oversubscription criteria, and the reference in the arrangements to the admission of children with statements of special educational needs (SEN). The objection also questions whether the school has met all requirements relating to publication of the arrangements.

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 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. I have also used my power under section 88I of the Act to consider the arrangements as a whole for admission to Year 7 (Y7) and Year 12 (Y12).

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the objector's email of objection and attached paper dated 30 June 2014 and subsequent correspondence;
 - b. the school's response to the objection and supporting documents, and subsequent correspondence;
 - c. information provided by Barnet Council which is the local authority (LA) for the area about applications to the school and the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - d. the response of the Jewish Community Day School Advisory Body (JCDSAB), which is the school's religious authority, to the objection and the guidance issued by the JCDSAB to its schools;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
 - g. a copy of the determined arrangements.
5. I have also taken account of information received during a meeting I convened on 10 September 2014 at the school which was attended by representatives of the school, the objector, the faith body and the LA.

The Objection

6. The objector argues that the school's arrangements did not conform with the requirements relating to admissions in the following ways:
 - a. the arrangements for admission in 2014 were not published on the school's website for the whole of the offer year as required by paragraphs 1.47 and 2.14 of the Code;

- b. the arrangements did not state that children with a statement of SEN naming the school would be admitted as required by paragraph 1.6 of the Code;
- c. the priority given on the basis of synagogue membership breached paragraph 1.9e of the Code;
- d. the priority given on the basis of documentary evidence of a child's engagement in formal Jewish education breached paragraphs 1.9b and paragraph 1.9i of the Code;
- e. the priority given on the basis of documentary evidence of a parent/carer or child's involvement in a voluntary capacity in any Jewish communal, charitable or welfare activity in the last two years breached paragraphs 1.8, 1.9e and 1.9i of the Code;
- f. in relation to priority given to those of other faiths, the level of faith commitment or involvement required to secure a religious leader's endorsement was not specified and so breached paragraphs 1.8, 14 and 1.37 of the Code;
- g. the arrangements suggested that all parents must complete the SIF and this breached paragraph 2.4 of the Code, and
- h. the SIF asked if children are residing in accommodation provided by a Jewish care home or organisation and it was not clear how this related to the oversubscription criteria and thus breached paragraph 2.4 of the Code.

Other Matters

- 7. When I reviewed the arrangements as part of my consideration of the objection, I considered that there might be other matters which did comply with the requirements relating to admissions in relation to admission to Y7 or Y12 or both. These were:
 - a. in relation to Y12, no published admission number (PAN) was set which is a breach of paragraph 1.2 of the Code. The arrangements also did not provide for a young person to apply on his or her own behalf and required that a parent or carer accompany the child to a meeting to discuss admission to Y12 in breach of paragraph 2.6 of the Code and, in the case of the meeting, paragraph 1.9m of the Code;
 - b. the arrangements for Y7 appeared not to meet the requirement in paragraph 1.37 of the Code to give the highest priority after Jewish children to all non-Jewish looked after and previously looked after children;
 - c. in relation to Y7, the provision relating to places to be allocated on distance was not clear as required by paragraph 14 of the Code; and

- d. in relation to Y7 and Y12, the SIF asked for proof of date of birth which is a breach of paragraph 2.5 of the Code.

Background

8. The school is relatively new having opened in September 2010 with pupils in Y7 only. The school began to admit pupils (from outside the school) to its sixth form in September 2012. From September 2014, the school has had pupils in all age groups. The school has a PAN of 180 for Y7. For Y12, the arrangements on the website when I first reviewed this said "*In September 2014, we will admit approximately 40 students into Y12*", although this was subsequently changed as noted below to set out arrangements for 2015. The school is usually oversubscribed for Y7 and so has to apply its oversubscription criteria. The school was inspected by Ofsted in May 2012 when it had pupils only in Y7 and Year 8 and was found to be good. The school is designated under section 69 of the Act with a Jewish religious character. The school's full name is the Jewish Community Secondary School but it refers to itself and seems to be known universally – including on edubase and the Ofsted database - as JCoSS and so that is how I have referred to it below. The school describes itself as a pluralist Jewish learning community and its role in the community as thus described is endorsed and supported by its LA.
9. The school includes dedicated provision for up to 49 pupils with statements of SEN for autistic spectrum disorder. As these children do not count against the school's PAN and their admission to the school is managed separately by the LA, this provision is not part of my consideration of the school's admission arrangements.
10. When I reviewed the school's website in July 2014, I was able to find information about admissions by following a link from the homepage to an admissions page. This in turn gave access to the admission arrangements for entry to Y7 in 2015 and the SIF also for 2015. I was not able to find any information about arrangements for admission to Y7 in September 2014. So far as admission to Y12 was concerned, there was a link to information about admission to Y12. When I first reviewed this, the link was to admissions in 2014, but it was later replaced by information about admissions in 2015.
11. The Y7 arrangements state the PAN and explain that if oversubscribed the school will give first priority to Jewish children, second priority to children of other faiths and third priority to any other children. This section is followed by more detailed oversubscription criteria which provide for differentiation between children in each of the broad categories of Jewish, other faith and other children. I have summarised these below:

Jewish Children

- a. Looked after and previously looked after Jewish children.
- b. Jewish children on the basis of a social or medical need to attend JCoSS.
- c. Jewish children with a sibling at the school.
- d. Up to 30 places each for Jewish children attending Akiva (d1) or Clore Tikva (d3) primary schools and up to 15 places for Jewish children attending Clore Shalom (d2) primary school.
- e. 18 places for Jewish children on the basis of distance from the school.
- f. Other Jewish children.

Other faith children

- g. Other faith looked after and previously looked after children.
- h. Other faith children with a sibling at the school.
- i. Other children from other faiths.

All other children

- j. All other looked after and previously looked after children
- k. All other children with a sibling at the school
- l. All other children.

12. The arrangements explain that where the school reaches and exceeds its PAN in any category, places will be allocated by random allocation supervised by an independent scrutineer. Where the final place is allocated to a child who is one of twins, triplets or other multiple births, the sibling or siblings will also be offered a place or places. The arrangements also explain that the test of Jewish practice and commitment for the purpose of the school's oversubscription criteria will be met if documentary evidence is provided of at least one of the following:

- a. membership of a synagogue;
- b. attendance at a synagogue by parent/carer or child at a minimum of four services in the six months prior to application;

- c. child's engagement in formal Jewish education (either provided, where relevant, at a school having a Jewish religious character, a Cheder/Hebrew school or equivalent or by a tutor) and documentary evidence of a parent/carer's involvement in a volunteer capacity in any Jewish communal, charitable or welfare activity in the past two years.

13. The Y12 arrangements for 2015 stated that:

"..We will be able to accept a maximum of 180 students into Year 12 at JCoSS, and as priority will largely be given to existing JCoSS students we expect to offer a maximum of 25 places for entry in 2015 to external applicants.

Where we have a greater number of applications than places available we will accept applications in the following priority. First priority will be given to looked after Jewish children and Jewish children who were previously looked after. [This is followed by an explanation of what is meant by Jewish children which is the same as for Y7 described above.] Current students in Y11 of JCoSS have the next priority, followed by other Jewish children. Where places still remain, priority will be given to those who are not Jewish children and who are not already attending JCoSS. Of such applicants, looked after and previously looked after children who are not Jewish will be prioritised over such other children who are not Jewish children. All students will be required to satisfy the academic admissions qualifications set out below....

JCoSS will make conditional offers to all applicants on the basis of predicted grades. In relation to external applicants, we will seek from the current school of all applicants a prediction of GCSE performance and suitability for the chosen 6th form courses. ... We will then arrange a meeting with successful applicants to provide advice ... Applicants must be accompanied by a parent/carer to the meeting."

14. The application form for Y12 includes the same religious commitment and practice test that applies for Y7 and is set out above. Much of the information sought on the form is needed by the school to consider applications, not least as the LA does not co-ordinate admissions to Y12. Information requested includes a Statement of Application which is to be no longer than 500 words and is to include *"reasons for applying to the school, reasons for applying for the courses chosen, proposed career ambitions (if known), other interests (sporting, dramatic, artistic, musical, etc) and any other appropriate information."* The form also asks for details of any siblings attending the school but adds that the provision of this information *"is optional and for our internal records only"*.
15. Since the objection was made the school has been quick to recognise that in some ways its arrangements did not comply with the requirements relating to admissions. It has acted swiftly to vary its arrangements in accordance with section 88E of the Act and regulation 19 of the Regulations which allow an admission authority to vary

determined admission arrangements in order to comply with the Code or the Act. The school recognises also that further changes are required and has had committed itself to making these changes by 15 April 2015 following consultation.

Consideration of Factors

16. Publication of Arrangements: When I first reviewed the school's website, I could not find the arrangements for 2014 for Y7. The school responded to the objection stating that these arrangements were on its website and provided a web link. However, that link actually led to the arrangements for Y12 for 2014. When this was drawn to the school's attention it acted promptly to correct this and to ensure that the arrangements for Y7 for 2014 were published and easily accessible. Paragraph 1.47 of the Code requires that admission arrangements are published for the whole of the offer year. I uphold this part of the objection as the arrangements for 2014 were not published on the school's website at the time of the objection but the school need take no further action.
17. Admission of Children with statements of SEN: As noted by the objector, the arrangements as determined did not explain that children with a statement of SEN that named the school would always be admitted. It is important that admission arrangements do make clear that a child with a statement that names the school will be admitted. Otherwise, parents and others will not appreciate that the number of places available for children will be reduced by the admission of those with statements and the arrangements will not be clear. I accordingly uphold this aspect of the objection. Again, in response to the objection the school has acted swiftly and the revised arrangements include a prominent statement about the admission of children with statements of SEN.

The oversubscription criteria

18. I turn now to consideration of the school's oversubscription criteria dealing first with the provisions relating to satisfying the school's test of Jewish commitment and practice which is the same for Y7 and Y12. At the meeting the school confirmed that an applicant need meet only one of their three tests of practice and commitment (synagogue membership or synagogue attendance or involvement in Jewish education and voluntary activity). The school explained that none of these was preferred to the others and that no additional priority was gained by a candidate's meeting two or three of the tests. An applicant either meets the commitment and practice test or he or she does not; no higher priority is gained by, for example, attending synagogue more often than the specified number of times. The school and its religious authority explained at the meeting that they are keen to allow as many different ways as possible for families to demonstrate commitment to Judaism and involvement in Jewish religious activities. It was important to the school that each test was in itself modest in the requirements it made on families and that, so far as was possible, there would be

some way for a family to satisfy one or other of the tests whatever their circumstances. The school wanted to have arrangements that allowed families from a wide range of socio-economic and Jewish faith backgrounds to be able to gain priority for a place at the school as this was a founding principle of the school. The school said it wished equally to have admission arrangements that complied fully with the requirements relating to admission arrangements.

19. The school has since the meeting provided data which shows that the great majority of those applying and offered places for Y7 do so on the basis of meeting the first test, that of membership of a synagogue, with no more than 13 or 14 in any year meeting the second or third tests respectively. It should be noted that this might not reflect what families actually do in terms of attendance or participation in education and voluntary activities. This is because synagogue membership is listed first and the form makes clear that those who satisfy this test do not have to go on and put anything about attendance or education and activities. The objector has concerns about the use of synagogue membership and education and voluntary activities but no concerns about the use of synagogue attendance.

20. Membership of a synagogue: the objector argues that the fact that priority for a place at the school is given on the basis of membership of a synagogue creates an association between the synagogues concerned and the school. The objector argues from this that, where membership of such a synagogue requires the payment of fees, giving priority on the basis of membership of the synagogue breaches paragraph 1.9e of the Code which prohibits the giving of priority on the basis of financial support to an associated organisation. The school and its religious authority accept that some synagogues require the payment of fees for membership, although they say that others do not. They also argue that the synagogues are not associated organisations of the school. They draw attention to the fact that the school draws its pupils from those who are members of a very large number of synagogues (around 70 in the past three years in relation to Y7) and that there is no link between the school's religious authority and any particular synagogue, group of synagogues or Jewish denomination. They point out that the synagogues represent a wide range of Jewish denominations. The school argues that this is qualitatively different from a situation in which one or more synagogues (or corresponding places of worship in other faiths) have a close link with a particular school, possibly because they share the same religious authority. The religious authority believes that it is reasonable for a school to give priority on the basis of synagogue membership but recommends that this should not be the only way in which the test of Jewish practice or commitment can be shown. At JCoSS, membership of a synagogue is one of three ways to meet that test and the school has thus acted in accordance with the advice of its religious authority. In an email submitted after the meeting, the objector said that in hindsight he accepted that both parties (that is school and synagogue) being Jewish was too low a threshold to count as an association, but the objector still

maintained that the “*very fact that membership or attendance at a synagogue gains priority entry to the school does itself represent a form of association between school and synagogue.*”

21. I accept that the school gains no benefit from any synagogue which a pupil or his or her family might belong to and that no synagogue gains any benefit from the school. I have considered carefully the points made by the school and its religious authority, including those about the number and the wide range, in terms of Jewish denominations, of synagogues from which pupils join the school.
22. The school has secured from 16 of the synagogues of which its pupils’ families are members, details of their approaches to fees. All of these offer either concessionary fees and/or free membership to those of limited means. All those listed do charge fees to those not of such limited means. This means that to be a member of many synagogues, including some of those listed by the school as those which families who send their children to the school belong to, requires the payment of full or reduced fees – depending on a family’s circumstances. I have also concluded that where such membership gives priority for a place at the school, this creates an association between the school and the synagogue, because the membership of the synagogue directly affects the priority of the child for a place at the school. Paragraph 1.9e of the Code states that schools “***must not give priority on the basis of any practical or financial support parents may give to the school or any associated organisation***”. Payment of fees amounts to financial support. I accordingly uphold this aspect of the objection.
23. Engagement in formal Jewish education and involvement in Jewish communal, charitable or welfare activities. To meet the commitment and practice test under this heading both the education and involvement strands must be satisfied and I have therefore considered them together. In doing so, I have first to address the question of what can be considered a religious activity under paragraph 1.9i of the Code. This is because the objector has:
 - a. questioned whether the religious activities permitted by paragraph 1.9i can extend to participation in formal Jewish education rather than being limited to activities such as attendance at worship; and
 - b. argued that “*intended meaning of religious activity is intended as “ritual”, but even if a broader understanding is adopted, we still do not think that all Jewish communal, charitable or welfare activity is in some looser sense religious, even if it is explicitly permitted in the JCDSAB guidance*”.
24. The Code does not define religious activities but says only that “*schools which have been designated as having a religious character may take account of religious activities, as laid out by the body or*

person representing the religion or religious denomination". Against this background, I consider that it is for the religious authority to define religious activities which must not fall foul of other requirements of the Code. It is then for the adjudicator to consider whether those activities meet the tests of fairness, objectivity and clarity and the other specific requirements set out in the Code. The JCDSAB guidance to schools includes involvement in Jewish education and Jewish charitable and community activities among the factors that schools may include in their oversubscription criteria although it does not offer any definition of these. At the meeting, the religious authority explained that learning and charity are two of the three pillars on which Judaism is built (the third being worship) and that learning, charitable and community activities are thus accepted forms of religious activity within the faith. I consider that such activities - provided they do not breach any of the Code's other requirements - can accordingly be considered to be permitted religious activities for JCoSS.

25. We now turn to the different ways in which a child can be said to have participated in formal Jewish education. These are set out in the arrangements as attending a Jewish primary school or a Cheder/Hebrew School or by having a tutor. So far as attendance at a Jewish primary school is concerned, the objector also draws attention to paragraph 1.9(b) of the Code which states that admission authorities "**must not take into account any previous school attended unless it is a named feeder school**". The school does give priority (when distinguishing between those who have met the Jewish practice and commitment test) to those who have attended three named state funded Jewish primary schools. That is not the issue under consideration here, however. It seems to me that the school is not taking account of whether a child has attended a particular primary school or even a particular type of primary school which is prohibited by the Code except in the case of named feeder schools. Rather the school is seeking to establish whether a child has engaged in Jewish learning which might or might not have taken place in a school. The other ways of doing this would be equally valid and engagement in Jewish education is in turn only one of the ways to meet the test of practice and commitment. A parent who wishes her child to learn about the family's faith would reasonably expect that a school with the relevant religious character would contribute to this and might not therefore take any other steps to see that the child learned about the faith. A parent who also wished her child to learn about the faith but – for whatever reason - chooses a school without a religious character, on the other hand, might reasonably expect to make other arrangements for such learning.
26. JCoSS in its arrangements acknowledges both as equally valid approaches. The objector at the meeting suggested that a parent who had sent his child to JCoSS might then exercise his right to withdraw the child from collective worship and religious education and that this was a reason not to allow this aspect of the practice test. The school made the point that in a school with a religious character the faith

character would permeate all aspects of the curriculum. I have concluded that I do not consider that the school's arrangements breach the prohibition in paragraph 1.9(b) of the Code of taking account of any previous schools attended unless they are named feeder schools or the prohibition in paragraph 1.9l against naming fee paying schools. I also make the point that – as noted by the faith body - a Cheder/Hebrew School in the sense used by the school is not a school within the meaning of the Act, so there is no question that taking account of this might breach 1.9b. I do not uphold this aspect of the objection.

27. I consider next the taking into account of charitable, welfare or communal activities. The objector argued that this breached paragraph 1.9i if the activities were not religious activities and that they could not be so considered. The objector also argued that the activities breached paragraph 1.9e if they amounted to giving practical or financial support including to any associated organisation or religious authority. Linked to this, the objector argues also in a letter of 13 August 2014 that *“practically supporting any Jewish organisation is supporting an organisation associated with the school”*. However, in an email of 11 September 2014 about this case though about a different aspect of it, the objector accepts that the fact that two organisations are both Jewish does not create an association between them.

28. I have already determined that I find that charitable, welfare and communal activities can be religious activities as laid out by the relevant religious body. So far as the objector's argument that any Jewish charity is an associated organisation of the school is concerned, the objector has, as noted above, since the meeting submitted an email which states that the objector now considers that the fact that two parties are Jewish does not create an association. I do not consider a shared faith basis is itself sufficient to create an association between two organisations for the purposes of paragraph 1.9e of the Code. However, the school has varied its arrangements to specify that voluntary activities where they might constitute practical or financial support to a Jewish charity cannot be used to satisfy the test.

29. The objector also considers that those from less advantaged backgrounds may be less able to take part in voluntary activities and that the arrangements therefore breach paragraph 1.4 and 1.8 of the Code on the grounds of fairness and, in the case of paragraph 1.8, the requirement not to discriminate unfairly against children from a particular social background. The requirement which is set out above can relate to either the child or one parent/carer and is for involvement in any relevant activity in the last two years. This is a modest threshold of activity and I do not consider that it would be beyond the means of families from different social backgrounds.

30. Attendance at synagogue: attendance at a place of worship is a very common and commonly accepted faith-based oversubscription criterion, provided it is clearly defined and reasonable. The school's attendance requirement is modest and it would not seem that it would

present insurmountable challenge for families to demonstrate this. The objector has stated that there is no objection made to this aspect of the school's arrangements. I mention it only therefore in order to give a full picture of the school's arrangements.

31. In concluding this section of the determination, I note again that the school has provided a number of equally valid ways in which families can meet the practice and commitment tests. The objector has argued in respect of synagogue membership and learning and activities that each will be harder for some families and that they are accordingly unfair. I have determined that the test based on membership of a synagogue does not conform with the Code. It is almost inevitable that every family will find some things easier than other things. That does not necessarily make the arrangements unfair. The school's argument is that recognition of different family circumstances is precisely why it offers several options valuing all of them equally. The objector has also argued that those who meet the education and engagement test will have higher priority than those who not meet any of the school's tests. This is true, but it is also true that in any set of oversubscription criteria some applicants will have higher priority than others. That does not itself make arrangements unfair.

32. Ranking children who meet the Jewish practice test: I now turn to the aspects of the school's arrangements for Y7 concerned with distinguishing between applicants who meet the Jewish practice test. When I first reviewed the arrangements, I noted that they addressed the situation that might arise if the PAN were reached and exceeded among category d) which is those who attended three named Jewish primary schools. However, the next category e) which is "*18 places for Jewish children who live nearest the school*" did not contain any mechanism to cater for a situation in which fewer than 18 places remained. The school has varied its arrangements so that this now reads "*A maximum of 18 places...*" and the arrangements also explain that priority within this group will be on the basis of distance from the school and how this will be measured.

33. Priority for non- Jewish looked after and previously looked after children. When I first reviewed the arrangements, I noticed that for Y7 the highest priority after all Jewish children was given to looked after and previously looked after children who were practising members of other faiths, then to other children who were practising members of other faiths and only after this to other looked after and previously looked after children. As a Jewish school, the school can if it wishes give the highest priority to Jewish looked after and previously looked after children, followed by other Jewish children. Paragraph 1.37 of the Code requires that the next highest priority must be given to all other looked after and previously looked after children without regard to their faith background. The school has acted swiftly and varied its arrangements so that the highest priority after Jewish children is now given to looked after and previously looked after children. The

arrangements for Y12 already met this requirement when I first reviewed them.

34. Priority for children of other faiths: The school gives priority for Y7 after Jewish children and all looked after and previously looked after children to children who demonstrate or at least one of whose parents demonstrate commitment to another faith where this was supported by a religious leader. The objector argued that the arrangements did not specify the necessary level of commitment to the faith and that this meant that the arrangements lacked clarity and fairness in breach of paragraphs 14 and 1.8 of the Code. The objector also argued that the arrangements did not meet the requirement set out in paragraph 1.37 of the Code that *“admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.”* At the meeting, the school recognised that different faith leaders might interpret “commitment” differently and that this criterion did not meet the requirements relating to admissions. The school in its letter of 19 September 2014 has agreed to define more clearly this criterion. It considers that this cannot be done in time for admission in September 2015 but will be done for admission in September 2016. I uphold this aspect of the objection.
35. Matters relating to the SIF: The arrangements for Y7 when I first saw them stated that *“Parents who wish their children to be considered for admission to the School should complete the SIF.”* The admissions page on the school’s website said *“You should also complete the SIF below. Without this we cannot apply our over-subscription criteria correctly and will not be able to give you priority consideration”*. The objector argued that these provisions meant that the arrangements breached paragraphs 2.4 of the Code which states that supplementary forms can only be used when necessary to *“request additional information when it has a direct bearing on decisions about oversubscription criteria”*. The school has amended its arrangements and its SIF and it is now clear that those applying under its category of any other children do not need to complete the SIF. However, the revised SIFs continue to ask whether a child is a looked after or previously looked after child. For Y7, there is no need for the school to ask this as the question is covered on common application forms (CAF) used by LAs and which will be completed for all applicants. I uphold this aspect of the objection.
36. While the school has amended the Y7 SIF I also determine that in relation to the Y7 the SIF does not conform with the Code as the amended SIF continues to seek information which is not necessary to apply the oversubscription criteria. At the time of completing this determination, the school’s website says *“You should also complete the SIF. Without this we cannot apply our over-subscription criteria correctly and will not be able to give you priority consideration.”* It is true that without a SIF the school cannot apply its faith-based oversubscription criteria and it is quite proper for it to make this point. However, the current wording on the website goes too far in suggesting

that parents need to complete the SIF as this is not the case for those seeking admission not on the basis of faith or for looked after or previously looked after children who are not Jewish. The arrangements do not in this respect conform with the Code.

37. The SIF when I first saw it also asked for proof of the child's date of birth "such as a copy of their short birth certificate" Paragraph 2.5 of the Code states that admission authorities may ask for a copy of the short birth certificate after a place has been offered. The school has amended its SIF to remove the request for proof of date of birth. The SIF also included an invitation to provide "any other evidence to support the application as detailed above". Paragraph 2.4 of the Code as noted above states that only information which has a direct bearing on decisions about oversubscription criteria can be requested on the SIF and it was not clear that this aspect of the SIF met this requirement. The school has now removed this section from the SIF.
38. The objector argued that the question on the SIF '*Is your child residing in accommodation provided for them by a Jewish care home or a care organisation?*' breached paragraph 2.4 of the Code as it was not clear how this was relevant to the application of the school's oversubscription criteria. The school readily accepted that this was not necessary and has removed it from the SIF. I uphold this aspect of the objection as the arrangements when first determined and published did not conform to the Code.
39. Year 12 arrangements: The students who joined JCoSS in Y7 in 2010 will be of the right age to join Y12 in September 2015. Until then, the only students in the school's sixth form have been those joining it from other schools whereas from 2015 it can be expected that most of the students in the sixth form will be those joining from the school's Year 11 (Y11). In recognition of this impending change, the school consulted on new admission arrangements for Y12 for September 2015. At the meeting, the arrangements for Y12 were discussed and the school accepted that in a number of ways the arrangements did not conform to the Code.
40. The school has since the meeting been considering its arrangements for Y12. On 17 November 2014, the school notified the Office of the Schools Adjudicator that it had varied its arrangements for Y12 and published these on its website. The changes are quite extensive and I make clear below where changes have been made.
41. The arrangements for Y12 refer to an expectation to admit a minimum number of 25. However, I consider that this form of words does not constitute a clear PAN. Paragraph 1.2 of the Code requires a PAN to be set for each relevant age group. For JCoSS, Y12 is a relevant age group. A child who is in Y11 at JCoSS and meets the academic criteria set for Y12 has the right to remain at the school and does not fall to be considered against the oversubscription criteria in the way the school's arrangements suggest. In these respects the arrangements do not

conform to the Code. The varied arrangements make clear the distinction between children already at the school and those being admitted for the first time to Y12. The arrangements say “*we will admit up to 60 students who are not already at the school*”. The PAN is the minimum number that must be admitted if enough children apply, subject, in the case of admission to Y12, to meeting the academic criteria. By including “*up to*” before the number 60 the arrangements suggest an element of discretion which the Code does not allow for.

42. The arrangements for Y12 when I first saw them contained a statement: “*We do not operate a rigid policy regarding overall GCSE grades, but assess each application on its merits and on the likelihood that the applicant will thrive at JCoSS...*” This is subjective rather than objective and does not conform with paragraphs 14 and 1.8 of the Code. This element has been removed from the varied arrangements.
43. The arrangements for Y12 for 2015 refer to a meeting at which the applicant must be accompanied by a parent or carer. While a meeting can be held to discuss options, paragraph 1.9m of the Code states that this cannot form any part of the decision making process on whether to offer a place. It is not acceptable to insist that a parent or carer accompany a child to such a meeting as this in effect makes the meeting part of the process of offering a place as well as imposing a condition which is prohibited by paragraph 1.9 of the Code. This aspect of the arrangements has been removed.
44. Linked to this, the arrangement provided only for the parent or carer to sign the application form for Y12. Paragraph 2.6 provides that young people have the right to apply on their own behalf for a sixth form place. By not providing for this, the arrangements do not conform with the Code. The new SIF provides for parental and student signatures. However, it does not make clear that only one signature – parent or student - is required and hence does not conform with the Code.
45. The application form also provides for a statement of application as noted above. Such a statement is not capable of being part of objective oversubscription criteria as required by paragraphs 14 and 1.8 of the Code and cannot therefore form any part of the admission arrangements for a school. The provision for a statement of application has been removed.

46. The varied arrangements include the following statements:

“Where applications for a particular course exceed the numbers of places available, priority will be given to the students with the highest average GCSE points score, and alternatives offered to students not places on the oversubscribed course.”

“We will make conditional offers of places to external applicants on the basis of predicted grades. We will obtain from their current school a prediction of

GCSE performance and of suitability for the chosen 6th form pathway and courses.”

Where an applicant with a conditional offer does not achieve the required grades, or score a high enough average GCSE points score, he or she may need to take alternative courses at JCoSS or may not be able to attend JCoSS”.

47. Paragraph 2.6 of the Code permits admission authorities to set academic entry criteria for sixth forms and states that these **must** be the same for internal and external places. Paragraph 2.6 also requires that the highest priority in oversubscription criteria for **must** be given to looked and previously looked after children who meet the criteria. As a school with a religious character, JCoSS can for Y12 as for Y7 give higher priority to Jewish children who are not looked after or previously looked after than to non-Jewish looked after and previously looked after children. The core requirements in paragraph 14 and 1.8 that oversubscription criteria **must** be clear apply to Y12 as much as to other points of admission.

48. I consider that these requirements taken together do not allow the school to take the approach of deciding who should be offered places at the school on the basis of how far applicants exceed the academic entry requirements set for Y12. The school can set different requirements for different subjects or courses. However, these requirements must be set as a threshold (for example as a points score in particular subjects) which will either be met or not met by an applicant. If more applicants for a particular course meet that threshold than the school can accommodate then some other Code compliant oversubscription criteria must be used to separate them. As they stand the arrangements do not conform with paragraph 2.6. They are not clear as it is not possible from considering the arrangements to know whether a particular level of achievement is likely to secure a place at the school or not.

Conclusion

49. As explained above, in a number of ways the arrangements for Y7 and Y12 for this school did not comply with the requirements relating to admissions at the time the objection was made and when I first reviewed them. In respect of Y7, the school has already made a number of changes to its arrangements to deal with the breaches of the requirements identified and has undertaken to do more. I have where appropriate upheld the objection and noted where further changes need to be made. So far as Y12 is concerned, the school has made a number of changes, but the arrangements continue not to conform with the Code and must be revised as quickly as possible.

Determination

50. 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 the Jewish Community Secondary School in Barnet for 2015.
51. 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.
52. 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: 8 December 2014

Signed:

Schools Adjudicator: Shan Scott