



DETERMINATION

Case reference:	ADA 2789
Objector:	The Fair Admissions Campaign
Admission Authority:	The governing body of St James Catholic High School, Colindale, London Borough of Barnet
Date of decision:	16 January 2015

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 of St James Catholic High School, Colindale, Barnet 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.

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 Office of the Schools Adjudicator by the Fair Admissions Campaign (the objector), about the admission arrangements for September 2015 (the arrangements) for St James Catholic High School (the school), a voluntary aided Catholic secondary school. The objection is to the arrangements not being determined or not published once determined (including the supplementary information form); and not being compliant with the School Admissions Code (the Code) in several ways.

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 the determined arrangements for September 2015 on 30 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

3. In considering this matter I have had regard to all relevant legislation and the Code.
4. The documents I have considered in reaching my decision include:
 - a. the referral from the objector received on 30 June 2014;
 - b. responses from the Diocese of Westminster (the diocese) to the objection and to my enquiries;
 - c. *“Joint Guidance on Admissions for the Governing Bodies of Catholic Voluntary Aided Schools”* provided by the diocese and written 2003 and revised 2007 (the guidance);
 - d. comments from the diocese to the school on the school’s proposed admission arrangements for 2015 in a note dated 5 November 2013;
 - e. responses from the school regarding the objection and my enquiries;
 - f. responses from Barnet Council (the local authority) to my enquiries;
 - g. the minutes of the governing body’s meeting on 29 April 2014 at which it determined the arrangements;
 - h. the school’s admission arrangements for September 2015; and
 - i. the local authority’s composite prospectus, *“A guide to secondary school education in Barnet”* for both 2014 and 2015.
5. The objector in this instance referred to the arrangements for 2014 as the arrangements for 2015 had not been published. I have considered the objection as against the 2015 arrangements.
6. Post 16 oversubscription criteria are the same as for year 7 entries and so the matters considered apply equally to post 16 admissions.

The objection

7. The objection is,
 - a. *“either 1.46 (admissions policy for 2015 not decided yet) or 1.47 (admissions policy for 2015 not published yet) being broken. The rest of the complaint is therefore about the 2014 policy;*
 - b. *1.47 (SIF and priest’s reference form are not on the school’s website. The priest’s reference form might contain further Code breaches);*
 - c. *1.9a) (‘It is essential that the Catholic character of the school’s education is fully supported by all families in the school. All applicants are therefore expected to give their full, unreserved and positive support for the aims and ethos of the school.’);*
 - d. *1.6 (not made clear that statemented children always get first priority);*
 - e. *1.8/14/1.37 (criterion 2/3 – frequency/duration of required practice not specified);*

- f. 2.4 (SIF asks child's gender, both parents'/carers' details (not just one), assumes parents are of opposite genders);
- g. 2.4e) (SIF and Priest's Reference Form ask for three parent/carer signatures); and
- h. 2.4 (Priest's Reference Form asks for details of both parents/carers (not just one), including frequency/duration of mass attendance, and for child's gender)."

Other matters

- 8. In the course of considering the objection I reviewed the arrangements as a whole. The arrangements appeared not to conform with the requirements relating to admissions in the following matters: using wording giving the impression that applications could only come from families living and attending schools in certain geographical areas; requiring the supplementary information form (SIF) to be completed by all applicants; confusing information about waiting lists; inappropriate information requested on the SIF; inconsistent information published with regard to admission of children with social, emotional or pastoral needs; and no guidance or information on how those of other Christian denominations evidence their faith.

Background

- 9. St James Catholic High School is a comprehensive co-educational school for children aged between 11 and 18 years in the London borough of Barnet. The school is voluntary aided and within the area of the Diocese of Westminster.
- 10. The school has a published admission number of 180. For places in year 7 for 2013 there were 431 applications of which 126 were first preferences. There were five appeals, none of which were successful. For places in year 7 for 2014 there were 496 applications of which 182 were first preferences. There were five appeals, none of which were successful.
- 11. The diocese responded to the objection and to my enquiries. The school agreed with the responses of the diocese and only added factual information which I had requested.
- 12. The objector played no part after placing the objection other than asking to receive a copy of the determination.

Consideration of factors

- 13. The objection was made on 30 June 2014 and only the arrangements for admission in September 2014 were available on the school's website at that date. The objector queried if the arrangements for 2015 had been

determined. The school has provided me with a copy of the minutes for the meeting of the governing body on 29 April 2014 when the arrangements for 2015 were determined. Arrangements must be determined by 15 April every year, so although the arrangements had been determined this was not by the specified date. The arrangements had been determined at the time the objection was made, but not in compliance with the Code by 15 April and therefore I partially uphold this part of the objection.

14. The first part of the objection continues that if the arrangements were determined, they should have been published as required by paragraph 1.47 of the Code which says, "*Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website.*" The arrangements were determined and should therefore have been published as soon as possible afterwards.
15. Paragraph 1.50 of the Code states, "*Following determination of arrangements, any objections to those arrangements must be made to the Schools Adjudicator by 30 June.*" The arrangements need to be published for this to be possible. The diocese's response dated 3 September 2014 says, "*The 2015 admission arrangements are on the school website.*" This does not explain why they were not on the website when the objection was made in June 2014. There is no comment on this from the school. The school did not meet the requirement of the Code to publish the arrangements once determined. I uphold this part of the objection.
16. The next part of the objection is that the SIF and priest's reference form were not published as part of the school's arrangements. The diocese disputes that the priest's reference form is part of the arrangements; the form states that, "*This form is a Diocesan Form. It does not form part of any school's admission arrangements.*" However, the completion of the form is required as evidence of meeting criteria 2 and 3 of the oversubscription arrangements. In these circumstances the priest's reference form is clearly part of the arrangements and must be treated as such. The arrangements, including the SIF and priest's reference form, must be published on the school's website once the arrangements have been determined. The SIF and the priest's reference form are now on the school's website but were not at the time of the objection and so did not meet the requirements of the Code. I uphold this part of the objection.
17. The objector raised that there may be other matters on these forms that do not conform with the Code but they could not be checked as they were not published. They are now published and I have considered them below.

18. The objection continues that the arrangements say, “*It is essential that the Catholic character of the school’s education is fully supported by all families in the school. All applicants are therefore expected to give their full, unreserved and positive support for the aims and ethos of the school.*” The objector believes that this does not conform with paragraph 1.9a of the Code which states, “*It is for admission authorities to formulate their admission arrangements, but they **must not** place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements.*”
19. In its response to the objection the diocese said, “*This is a Catholic school, set up to assist parents to give their children a good Catholic education. The school would be failing in its duty to parents and to its trust deed if it did not expect all concerned to support the aims and ethos of the school.*” The Code permits that when a faith school is oversubscribed it can give priority on the grounds of faith in its criteria. Any parent can apply for a place at the school, whether of the faith or not. As paragraph 1.36 of the Code says, “*As with other maintained schools, these schools are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available.*” The arrangements recognise this when they say, “*Although the school is oversubscribed with Catholic applicants it is, nevertheless, important to ensure that the school will accept applications from those who are not practising, of other faiths or none.*”
20. It is reasonable that the school makes clear its ethos, but it is unreasonable to phrase the school’s wishes as it does and to expect all applicants to give their “*full, unreserved and positive support for the aims and ethos of the school,*” and that this is described as “*essential.*” The strong statement in the arrangements implies a condition for admission which is that a parent should not apply to the school unless they can give their full, unreserved and positive support to the Catholic ethos of the school. This is incompatible with the provision of places if the school were to have places available and therefore must admit those who may be of other faiths or no faith. As the wording could be interpreted as setting a condition contrary to paragraph 1.9a of the Code I therefore uphold this part of the objection.
21. The next part of the objection is about children with statements of educational needs. The school’s arrangements say, “*The admission of children with a Statement of Special Education Needs is dealt with by a completely separate procedure which is integral to the making and maintaining of statements by the child’s home local authority. Details of this separate procedure are set out in the Special Educational Needs Code of Practice.*” The objection is that this does not make it clear that children with the school named on their statement will be admitted to the school.

22. The diocese's response in its letter dated 3 September 2014 was, "*The admission of children with Statements of Special Educational Need is not relevant to this policy. It is only necessary to remind parents that they must apply through their local authority SEN department, not through the school. It is misleading to say that statemented children will always get first priority. Parents do not always get the school they want and in October 2015 most statements will not yet have been finalised (the deadline is 15th February 2016). The naming of a school in part 4 of the statement is done in collaboration with governors, the school and the LA and a school admission policy is not the place for this discussion.*"
23. Paragraph 1.6 of the Code states, "*All children whose statement of special educational needs (SEN) names the school **must** be admitted.*" The Code requires at paragraph 14 that the arrangements are clear. The current wording does not explain to parents the right of a child, with the school named on its statement of special educational need, to be admitted. Nor does it make clear for other parents that some of the available places could be allocated before any of the oversubscription criteria are applied if the school is oversubscribed. The arrangements do not conform with the requirements of the Code and I uphold this part of the objection.
24. The objector says that it is not specified what frequency or duration of religious practice is required to meet criteria 2 and 3 and that this does not meet the requirements of the Code in paragraphs 14, 1.8 or 1.37. These paragraphs require clarity and objectivity with paragraph 1.37 stating, "*Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.*"
25. The oversubscription criteria, in order of priority, are:
- 1) "*Catholic 'looked after' children and Catholic children who have been adopted (or made subject to residence orders or special guardianship orders) immediately following having been looked after.*"
 - 2) "*Practising Catholic children with a brother or sister in the school at the time of admission.*"
 - 3) "*Practising Catholic children living closest to the school with places being offered on a geographical basis measuring distance in a straight line from the school. Distances are measured between the front door of the child's home and the main school gate. The distance between these points is calculated using the Local Authority's computerised geographical information system.*"
 - 4) "*Other baptised Catholics with those living nearest the school being accorded the highest priority.*"

5) Other 'looked after' children and children who have been adopted (or made subject to residence orders or special guardianship orders) immediately following having been looked after.

6) Children of other Christian denominations whose application is supported where applicable by a minister's reference with those living nearest the school being accorded the highest priority.

7) Any other applicants with those living nearest the school being accorded the highest priority."

26. The diocese said in its letter dated 4 September 2014 that frequency and duration of religious practice are not mentioned as they are not relevant and says that the definition of 'Catholic' in the arrangements is simply that of being baptised as a Catholic. This view is not substantiated by the information in the school's arrangements. Criteria 2 and 3 refer to 'practising Catholics.' The arrangements define being a practising Catholic as, "a Catholic child from a practising Catholic family where this practice is verified by a reference from a Catholic priest in the standard format laid down by the Diocese. 'Family' includes the Catholic or Catholics who have legal responsibility of the child." I note that criteria 1 and 4 refer to "Catholic" and "baptised Catholic" respectively whereas criteria 2 and 3 refer to "practising Catholic children" and the definition of a practising Catholic child includes their family.

27. I asked the school and the diocese to explain the apparent contradiction between the requirement for the form to be completed and the statement that it was not part of the arrangements. The diocese responded by email 17 September 2014 with, "The diocesan priest's reference form is a form that belongs to the diocese and not to any particular school. It is a vehicle for the parent to communicate with their priest alone and to give him information which will enable him to identify them and to ascertain their level of practice in order to comply with SAC 1.38 which requires the admission authority to have regard to the guidance of the Bishop when deciding how practice of the faith is to be demonstrated. The priest sends a sheet to the school stating whether or not the child is baptized and whether or not the family is practising. The rest of the form is kept by the priest and may not be seen by governors as it contains information that would be unlawful. In short, a piece of paper goes from the priest to governors ticking the 'yes' box for fully practising and the 'no' box for not fully practising."

28. The arrangements for 2015 on the school's webpage include the SIF and the priest's reference form. The SIF includes a link to the webpage of the diocese. The diocesan webpage includes the "Guidance for Parish Priests on Admission to Catholic Schools." This is dated 2003, revised in 2007, but the

webpage says that it is current. This guidance was written because, as it states, *“Every year, significant numbers of parents complain to their bishop about how schools judge whether people are ‘practising Catholics’.”* In its appendix the guidance says, *“The customary test for admission to a Catholic school has been based upon Mass attendance, as this is capable of being observed objectively, with a reasonable degree of accuracy. Therefore, for the purposes of this priests’ reference form, a person is a practising Catholic if they observe the Church’s precept of attending Mass on Sundays and holidays of obligation.”*

29. Under ‘length of practice’ the guidance says, *“Priests cannot judge whether a person’s pattern of attendance at Mass corresponds to that required by the Church unless it has continued for a substantial period of time. Priests should enquire very carefully into the circumstances where the pattern of practice has not continued over several years. A person is certainly not to be regarded as a practising Catholic if that practice has started recently solely in order to fulfil the requirements of entry into a Catholic school.”*
30. The information in the guidance, which is not available on the school’s website, say that to be defined as a practising Catholic, it is necessary to attend mass on Sundays and holy days of obligation and to have done this for several years. The word “several” is not defined and could be interpreted in different ways. In contrast the arrangements themselves define regular attendance as *“regular i.e. weekly attendance at Mass,”* which is inconsistent with the guidance to priests and also do not provide any indication for how long this should have been sustained. The arrangements are not clear and do not ensure that parents can easily understand how any faith-based oversubscription criteria will be reasonably satisfied as required by the Code. I uphold this part of the objection.
31. The objection includes that the SIF asks for the child’s gender, details of both parents or carers and assumes that parents are of opposite gender. The SIF for 2015 is the only one that is available to me and I have considered the objection against this. This was not available to the objector. The 2015 SIF does not ask for the child’s gender or details of both parents or carers. There is no assumption on the form of both parents being of opposite gender as there is no space for this type of information. I do not uphold this part of the objection.
32. The objection continues that the SIF and the priest’s reference form ask for signatures from three parents or carers. The SIF for 2015 only requires one signature. I do not uphold this aspect of the objection.

33. The priest's reference form does have space for three signatures for parents or carers. The priest's reference form serves no other purpose than school admissions and a child cannot meet criteria 2 or 3 unless it is completed. It therefore must conform with the requirements of the Code.
34. The priest's reference form has two parts. Part A is completed by the family and returned to the priest. The priest retains part A and uses it to inform completion of part B which is returned to the school. Part A asks detailed questions about the addresses, the religion and religious practices of a mother and a father. This is not acceptable as there will be families where this cannot be given, for example as a result of bereavement or other difficult circumstances. Information on both parents with regard to mass attendance is not appropriate for the reasons given above, but this is more complex because of the definition of a Catholic family. The guidance to priests who may be asked to complete the priest's reference form includes, "*a family is normally to be regarded as a practising Catholic family where at least one parent is a practising Catholic and is doing his or her best to hand on the faith to his or her children.*" There is also the scope for a grandparent or sibling to be endeavouring to ensure that a child is being brought up as a Catholic.
35. Fundamentally however, the oversubscription criterion is "*practising Catholic children*". There is a contradiction. The policy states, "*Priority will be given to practising Catholic applicants who have shown a firm family commitment to the Catholic faith and its practice as supported by a certificate of Baptism and a priest's reference which confirms their regular i.e. weekly attendance at Mass.*" The over-subscription criteria have no reference to anyone other than the child for whom a place sought at the school but a practising Catholic child is defined in the arrangements as a member of a Catholic family.
36. It remains, however, the person with parental responsibility who completes the form and information should only be requested if it is relevant to applying the oversubscription criteria. The Code requires that admission authorities, as in paragraph 2.14, "**must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria.**" There is also an assumption that the parents are of opposite gender and this is irrelevant, and inappropriate. Only one person with parental responsibility should be expected to complete this form which should only request relevant information to applying the over-subscription criteria.
37. This is emphasised in paragraph 2.4e of the Code which states that admission authorities **must not** ask, "*both parents to sign the form.*" Part A of the priest's reference form asks for three signatures of parents or carers. This does not conform with the Code and so I uphold this aspect of the objection.

38. The last part of the objection refers to the information asked for on the priest's reference form which includes gender and information on both parents. Information on gender is irrelevant and so should not be required. I have considered the relevance of information on both parents above. I uphold this part of the objection.

Other matters

39. I considered the arrangements as a whole and came to the view that there were other parts that did not conform with the Code and should be addressed.

40. The arrangements commence by stating, "*The Governors are responsible for the admission of students and intend to admit 180 students (published admissions number (PAN)) from primary schools each September from the London Borough of Barnet and other boroughs on request from parents.*" The specific reference to primary schools is not relevant to any other point in the arrangements and the reference may also suggest that those who are being educated at home or who have other arrangements may be excluded. The specific reference to the London Borough of Barnet could give the impression of a catchment area based on the borough but the arrangements make no further reference to this. It is also possible that the line referring to '*other boroughs on request from parents*' may give the impression that this is a special arrangement that has to be requested rather than their right. The wording needs to be reviewed and revised so that the arrangements are accurate, clear and easily understood

41. The arrangements say to parents, "*If you do not complete both the common application form and supplementary information form and return them by the closing date, the Governing Body may be unable to consider your application fully.*" It is my understanding that this means that the governing body may not have all the relevant information to inform its decision and this could have an effect on whether a place is offered or not. It would be helpful to parents if the wording was clearer and specified when it was necessary to complete the SIF. It should not be required of all applicants as the information provided is not relevant to all applicants. It should not repeat requests for information that parents have already provided in the CAF, such as names of siblings.

42. The statement on a waiting list for the arrangements for 2015 says, '*The school will maintain a waiting list which will remain open until 31 August 2015.*' Paragraph 2.14 of the Code states, "*Each admission authority **must** maintain a clear, fair and objective waiting list for at least the first term of the academic year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.*" The waiting list held by the school would close before the first term

of the academic year starts and so the arrangements do not conform with to the Code on this matter.

43. Elsewhere the arrangements refer to in-year admissions and describe another process for a waiting list. It is not clear how these two aspects referring to waiting lists relate. The section under *'in year'* refers to holding a waiting list until the end of the academic year which would meet the requirements of paragraph 2.14 above. This later section ends, *'When a place becomes available, the Governing Body will decide who is at the top of the list and the Governors will inform parents whether or not a place is to be offered.'* This gives the impression that the waiting list is not re-ranked on the basis of the over-subscription criteria although elsewhere in the same paragraph it says, *"unsuccessful applicants are offered the opportunity of being placed on the waiting list which will be maintained by the Governing Body in the order of the oversubscription criteria and not in the order in which the applications are received."* This last point conforms to the Code but the other references are confusing. The arrangements need to state clearly the policy for the waiting list.
44. The SIF requests the name of the current school. This is unnecessary supplementary information to apply the over-subscription criteria and therefore is information that cannot be requested.
45. The SIF also asks, *'Does your child have exceptional medical, pastoral or social needs that can only be met by attendance at this school?'* and includes a reference to *'evidence of exceptional need'* on its checklist. There is no other reference to exceptional need in the arrangements on the school's website. However, the arrangements relating to the school in the local authority's composite booklet, *"A Guide to Secondary Education in Barnet,"* has a paragraph which says, *"Exceptional Need: The governors will give top priority in any category, after the appropriate category of 'looked after' children, to children whose exceptional medical, social or pastoral needs justify a place at school. To demonstrate an exceptional social or medical need, which can only be met at this school, the Governing Body will require compelling written evidence at the time of application from an appropriate professional e.g. doctor, priest or social worker."*
46. In addition the priest's reference form also gives the opportunity for information to be provided by the priest to the school, *"If you think there are exceptional reasons to explain a family's lack of practice, or there are exceptional pastoral circumstances in which a child would benefit from a place at a particular school, you should give full details here."* There is no reference in the arrangements published by the school to any allocation of places on the basis of exceptional need. The information provided is inconsistent and

confusing. If the school intends to make provision for children on grounds of exceptional need as indicated on the SIF and the priest's reference form then the arrangements need to be clear and about how this priority is afforded and shown within the oversubscription criteria. As currently presented the arrangements do not have the clarity required by the Code.

47. Criterion 6 is, "*Children of other Christian denominations whose application is supported where applicable by a minister's reference with those living nearest the school being accorded the highest priority.*" There is no clarity, as required by paragraph 1.36 of the Code, as to what is required to meet this faith-based oversubscription criterion. This does not conform with the Code.

Conclusion

48. I have considered the arrangements as detailed above. There are matters on which the arrangements do not conform with the requirements of the Code and on these I uphold the objection. These are: the arrangements, including the SIF and priest's reference form, were not published once determined; the statement made in the arrangements that, "*It is essential that the Catholic character of the school's education is fully supported by all families in the school. All applicants are therefore expected to give their full, unreserved and positive support for the aims and ethos of the school;*" the arrangements do not make it clear that children with the school named on their statement of special educational need will be allocated a place at the school; the frequency and duration of religious practice not being defined; the priest's reference form requires three signatures; and the priest's reference form requires information on both parents. I partially uphold the objection to the arrangements not being determined in accordance with the Code.

49. I do not uphold the objection to: the SIF requiring the child's gender, details of both parents or carers and assuming that parents are of opposite gender; and the SIF requiring three signatures.

50. I have also considered the arrangements as a whole for admission to the school in September 2015 and have concluded that several aspects of the arrangements, as detailed above, do not comply with the Code. The Code requires the admission authority to revise its admission arrangements as quickly as possible with regard to these other issues of non-compliance.

Determination

51. 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 of St James Catholic High School, Colindale, Barnet for admissions in September 2015.

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

53. 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: 16 January 2015

Signed:

Schools Adjudicator: Mrs Deborah Pritchard