

## **DETERMINATION**

**Case reference:** ADA2776

**Objector:** The Fair Admissions Campaign

**Admission Authority:** The governing body of the Manchester Mesivta School

**Date of decision:** 1 October 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 Manchester Mesivta School, in Bury.**

**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 has been referred to the adjudicator by the Fair Admissions Campaign, the objector, about the admission arrangements (the arrangements) for Manchester Mesivta School (the school), a voluntary aided school for boys aged 11 to 16 for September 2015. The objection is to the determination and publication of the admission arrangements for 2015. The objector also referred one aspect of the 2014 arrangements to the adjudicator.

### **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, on 20 February 2014. The objector submitted its 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. The objector also referred one aspect of the 2014 arrangements to me.

I have used my powers under section 88I(5) of the Act to consider this referral and to consider the arrangements for 2015 which are the same as those for 2014.

### **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
  - a. the objector's email of objection dated 30 June 2014 and further emails of 21 August and 11 September 2014;
  - b. the school's response to the objection dated 5 August 2014 and further emails of 2 September and 8 September 2014;
  - c. the composite prospectus published by Bury Council, the local authority (the LA) for parents seeking admission to schools in the area in September 2014 and 2015;
  - d. comments on the objection from the LA dated 7 August 2014;
  - 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.

### **The Objection**

6. The objector stated that the school's admission arrangements for 2015 were not available for inspection on either the school's or the LA's website. The objector said that this indicated that either the school had not determined the arrangements for 2015 as required by paragraph 1.46 of the Code, or they had not published them as required by paragraph 1.47.
7. The objector also considered that the 2014 arrangements did not comply with paragraph 1.8 of the Code as they required both of a boy's parents or guardians to attend daily worship which would be unfair to children with just one parent or guardian.

### **Background**

8. Manchester Mesivta is a voluntary aided school for boys aged 11 to 16 in the metropolitan borough of Bury. The school serves the Orthodox Jewish community in the greater Manchester area and shares a site with the independent Manchester Jewish Grammar School.
9. The school offers 40 places each year, and has not been

oversubscribed in recent years.

### Consideration of Factors

10. Paragraph 1.46 of the Code requires admission authorities to determine their arrangements by 15 April each year. I have seen the minutes of a governing body meeting dated 20 February 2014 at which the governors agreed to retain the admission arrangements used in 2014 for 2015. The chairman of the governing body has informed me that consultation on the arrangements last took place in 2012.
11. I am satisfied that the arrangements were determined as required by the Code and I do not uphold that part of the objection.
12. Paragraph 1.47 of the Code 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 displaying them for the whole offer year*”.
13. On receipt of the objection I looked for the school's website. I discovered that the school did not have a website in operation on 30 July 2014.
14. The objector had said they thought “*suitable alternative action would be having the policy on the Council's website which it is not.*” I looked at the LA's website on the same day, 30 July 2014, and I could not find a copy of the school's admission arrangements for 2015. Paragraph 1.49 of the Code requires LAs to publish by 1 May each year “*details of where the determined arrangements for all schools, including academies, can be viewed*”. While the 2014 arrangements were available on the LA's website, the 2015 arrangements were not and nor was there any indication of where they could be viewed. The LA has placed the 2015 arrangements on its website since that date.
15. Paragraph 1.47 of the Code says the determined arrangements must be published on the admission authority's website. Footnote 14 on page 8 of the Code says “*Where a school does not have a website it will have to take suitable alternative action. This applies to all further requirements in the Code to publish information on websites.*” The responsibility for publication remains with the governing body. If the governing body relies on another organisation publishing its arrangements it should ensure that publication is as required by the Code. If not, the governing body should take other action to meet those requirements.
16. I am not satisfied that the requirements of paragraph 1.47 of the Code have been met and I uphold this part of the objection.
17. The third part of the referral was to the 2014 arrangements because the 2015 arrangements were not available. The objector thought one aspect of the arrangements was unfair and did not comply with

paragraph 1.8 of the Code. This was, the objector argued, because to meet the faith based oversubscription criteria both of a boy's parents or guardians were required to attend daily worship and this discriminates against boys with just one parent.

18. As the 2014 and 2015 arrangements are the same, my comments on this part of the referral apply to both years.
19. The faith based oversubscription criteria give priority to "*Orthodox Jewish Boys*". The arrangements say "*In respect of applications on behalf of Orthodox Jewish Boys, the Governing Body takes the expression 'Orthodox Jewish' to mean 'boys whose parents or guardians participate daily in the worship and other observances of an Orthodox Jewish Congregation'.*"
20. The school believes the objector has incorrectly interpreted the use of plurals in this definition of "Orthodox Jewish". The school has said "*There is absolutely no need for any pupil to have 2 parents attending daily services, one is adequate.*" and has offered to change the wording of the definition to make this clear.
21. The objector has commented favourably on this response from the school. I have looked elsewhere in the school's arrangements to find confirmation of the governors' intentions.
22. The school uses a supplementary information form (SIF) to establish whether or not boys meet the faith based criteria listed above. This form is part of the admission arrangements and should have been easily available on a website but it was not. I have seen a copy of this form. Throughout the SIF "*I/we*" is available for deletion and there is a space for "*Signature of parent(s)*". The Rabbi is asked to confirm the participation in worship and observances of the "*above named*."
23. The form would allow one parent to complete it and for the Rabbi to confirm they met the definition of Orthodox Jew. However paragraph 2.4 of the Code says admission authorities "*must not ask, or use supplementary forms that ask, for ... e) both parents to sign the form.*" In this case I think the questions in the SIF are more of an invitation for both parents to be involved in the application than a requirement. However, it could be argued that by inviting both parents to sign it is possible the school might form an inappropriate view about families where only one parent signed. To comply with paragraph 2.4 of the Code and for avoidance of doubt about the school's intention the wording of the SIF should be revised.
24. Having considered its comments and its willingness to change the wording of the oversubscription criteria, I believe that it has never been the school's intention to require both of a boy's parents or guardians to participate in daily worship in order to be recognised as an Orthodox Jew. That would not have been acceptable under paragraph 1.8 of the Code as suggested by the referrer. However, paragraphs 14 and 1.8 of the Code require admission arrangements to be clear and I consider

that the current wording of the oversubscription criteria has a degree of ambiguity. The wording of the SIF does not help resolve this ambiguity and in itself does not comply with paragraph 2.4 of the Code. I must therefore find that these aspects of the arrangements do not comply with requirements.

## **Conclusion**

25. The governing body determined the arrangements for 2015 before 15 April 2014 as required by paragraph 1.46 of the Code. I therefore do not uphold this part of the objection.
26. The arrangements for 2015 were not published as required by paragraph 1.47 of the Code and I uphold this part of the objection.
27. For the reasons set out above I find that there is a degree of ambiguity in the definition of "Orthodox Jewish" used in the arrangements which does not comply with paragraph 14 of the Code.
28. I also find that although it is optional, the SIF asks both parents to sign it and this does not comply with paragraph 2.4 of the Code.
29. The school deserves credit for acknowledging the ambiguity in the oversubscription criteria and considering how this might be addressed.

## **Determination**

30. 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 Manchester Mesivta School in Bury.
31. 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.
32. 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: 1 October 2014

Signed:

Schools Adjudicator: Phil Whiffing