



DETERMINATION

Case reference:	ADA 2600
Objector:	The Fair Admissions Campaign
Admission Authority:	The Governing Body of The Blue Coat School, Oldham
Date of decision:	30 September 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 Blue Coat School, Oldham 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 has been referred to the adjudicator by the Fair Admissions Campaign (the objector), about the admission arrangements (the arrangements) for The Blue Coat School, (the school) in Oldham, the local authority area (the LA), a Church of England academy school for 11 to 18 year olds for September 2015. The objection concerns "*the overall extent to which preference is given to children from Christian families and its effect of excluding applications from children from the local South Asian families*".

Jurisdiction

2. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined admission authority for the school on that basis. The governors determined the arrangements for admission in September 2015 on the 31 March 2014 and they were subsequently

published on the school's website. The objector submitted the objection to these determined arrangements on 17 April 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.

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 dated 17 April 2014 and the detailed form and further submissions dated 30 April 2014, 16 May 2014, 28 May 2014, 13 June 2014 and email of 11 July with paper dated 10 July 2014;
 - b) the school's response to the objection and supporting documents dated 2 May 2014, 12 May 2014; letter dated 23 May 2014 and email of 16 July 2014;
 - c) the Diocese of Manchester's (the diocese) guidance to schools and its response to the objection dated 7 May 2014;
 - d) the response from the LA dated 7 May 2014 and 12 May 2014;
 - e) a response from solicitors representing the school dated 4 June 2014;
 - f) the LA's composite prospectus for parents seeking admission to schools in the area in September 2014 and 2015;
 - g) a map of the area identifying relevant schools and recent admission information concerning the school;
 - h) the school's most recent Ofsted report (December 2011);
 - i) copies of the minutes of the meeting at which the governing body of the school determined the arrangements; and
 - j) a copy of the determined arrangements;
 - k) a copy of the funding agreement.
5. I have also taken account of information received during a meeting I convened on 8 July 2014 at the school. The meeting was attended by a representative of the objector and by representatives from the diocese, the LA and the school.

The Objection

6. The main objection states that the arrangements do not comply with paragraph 1.8 of the Code; " *Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.....*" The

objector maintains that the admission arrangements indirectly discriminate against local South Asian children as they are unlikely to attend a Christian church.

7. The objector acknowledges that paragraph 1.36 of the Code permits faith schools to have faith based oversubscription criteria and this is enabled by schedule 11 paragraph 5 of the Equality Act 2010 which disapplies the general prohibition on discrimination by religion or belief in section 85 of the same act. However, the objector maintains that this is not a blanket freedom as limitations are placed on this by the rest of the act and the Code. The objector suggests that the arrangements are contrary to paragraph 1.8 of the Code because *“the extent to which selection due to Church attendance and membership in the school’s oversubscription criteria also serves to control admissions on racial lines, namely that the policy disadvantages children from South Asian families whom in large part, are non-Christian”* The objector cites section 19 of the Equality Act which *“outlaws indirect discrimination on the basis of race if it cannot be shown ‘to be a proportionate means of achieving a legitimate aim.’”* The objector maintains that the arrangements do not comply with the provisions of Equality Act as they result in indirect discrimination on the basis of race because they cannot be justified as a proportionate means of achieving a legitimate aim
8. The objector goes on to cite the public sector equality duty (PSED); section 149 of the Equality Act 2010 and suggests that the school has not considered this appropriately.
9. The objector maintains that the means by which the school’s faith ethos is maintained, including the faith-based oversubscription criteria in the arrangements, disadvantage children from South Asian families who in the main part are non-Christian.
10. The objection includes other issues concerning the admission arrangements;
 - a) the school admits pupils whose statement of special educational needs names the school and the objector suggests that these pupils are included in the 22 additional places created by an extension to the school and allocated only to children who are of a faith other than Christian, thereby reducing the number of places for pupils of other faiths;
 - b) the school had not published the 2015 arrangements in breach of paragraph 1.46 and 1.47 of the Code. (*“all admission authorities **must** determine admission arrangements by 15 April every year”* and *“..admission authorities **must** publish a copy of the determined arrangements on their website”*);
 - c) the supplementary information form (SIF) is not published in breach of paragraph 1.47 of the Code; and

- d) the arrangements include a statement that *“the governors may admit in any year which may otherwise be full a child who, as a member of Manchester Cathedral Choir has been attending Chetham’s School of Music and has now had that place withdrawn”*. The objector maintains that this is in breach of paragraph 1.9e of the Code. (*“...admission arrangements **must not** give priority to children on the basis of any practical or financial support parents may give to the school or associated organisation including any religious authority.”*)

Other Matters

11. At the meeting on the 8 July 2014 I raised a number of other matters concerning conformity with the Code as outlined below. These matters related to the admission arrangements for entry to year 7 and year 12 in September 2015.

Background

12. The school became a Church of England academy on 1 August 2011. It is an 11 to 18 mixed school within the Diocese of Manchester. It is a large school with an assessed maximum capacity of 1356 and currently has 1450 students on roll. It is heavily oversubscribed for admissions to year 7 and to the sixth form. A recent building programme provided the opportunity to increase its published admission number (PAN) for September 2014 to admit 240 students. (The PAN previously had been 218).
13. The school’s funding agreement states that the school is bound by the Code. Paragraph 1.36 of the Code states that *“schools designated by the Secretary of State as having a religious character may use faith – based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed.”* The funding agreement does not place any restriction on the proportion of pupils to which the school’s faith-based criteria can apply.
14. For the admission arrangements for September 2014, appropriate consultation was undertaken between 3 January 2013 and 28 February 2013 and the arrangements were determined by the governing body on 25 March 2013. The arrangements for September 2015 were unchanged and were determined by the governing body on 31 March 2014 and published on the school’s website.
15. The arrangements were agreed following consultation with the diocese and having had due regard to the diocesan guidance. They begin with a commitment to Christian ecumenism and interfaith dialogue and report that the school serves Anglican families and a wide community of faith across the region. It goes on to say that the governing body welcomes applications from all families of all faiths and none, wherever they live. The school does not have a catchment area.
16. The over subscription criteria for the first 218 places in the arrangements are as follows;

1. looked after and previously looked after children of the faith;
2. children of staff;

Children whose parent (s) or legal guardian (s) show evidence that the child and one parent/ guardian are active members of the Church of England by;

3. weekly worship over a minimum of four years;
4. not less than fortnightly worship over a minimum of four years;
5. not less than fortnightly worship over a minimum of three years;
6. not less than monthly worship over a period of three years;
7. weekly worship over at least one full year.
8. All looked after and previously looked after children.

Children whose parent (s) or legal guardian (s) show evidence that the child and one parent/ guardian are active members of Churches Together in Britain and Ireland by;

9. weekly worship over a minimum of four years;
10. not less than fortnightly worship over a minimum of four years;
11. not less than fortnightly worship over a minimum of three years;
12. not less than monthly worship over a period of three years;
13. weekly worship over at least one full year.

14. Children whose parent (s) or legal guardian(s) show evidence that the child and family are active members of a faith other than Christian which is associated with the UK Inter-Faith Network.

15. Any other children.

17. A building programme has allowed 22 additional places to be offered in September 2014 and this number has been reserved for families who are active members of a faith other than Christian which is associated with the UK Inter-Faith Network. This number is separate from and in addition to those families who may gain admission under the same definition in criterion 14.

18. In 2013 195 of those admitted (89 per cent) were worshipping members of the Church of England, 9 students (4 per cent) were worshipping members of Churches Together in Britain and Ireland and 4 (2 per cent) were from the UK Interfaith Network. The other ten places were taken by children with statements of special educational need, non-faith looked after or previously looked after children or children of staff.

19. In 2014 201 of those admitted (83 per cent) are Church of England, 7 students (3 per cent) are from Churches together in Britain and Ireland and 22 (9 per cent) are from the UK Interfaith Network. As in the previous year the other ten places were taken by children with statements of special educational need, non-faith looked after or previously looked after children or children of staff.

Consideration of Factors

20. The main objection states that the arrangements do not comply with paragraph 1.8 of the Code. The objector maintains that the admission arrangements result in indirect racial discrimination of local South Asian children as they are unlikely to attend a Christian church.
21. The objector defines families of South Asian heritage as those who, on census information, describe their ethnicity as Indian, Pakistani or Bangladeshi.
22. The objector suggests that the school is located in an area where race and religious belief within its local residential population very strongly correlate for some sections of the population. The objector is concerned about the extent to which “*selection*”, in the objector’s words, due to church attendance and membership in the school’s oversubscription criteria also serves to control admissions on racial lines, namely that the policy disadvantages children from South Asian families who, in the large part, are non-Christian.
23. The objector uses census information to show the ethnicity of the local population and compares it with the ethnic population statistics of the school. The objector concludes that there is a far greater proportion of South Asian families living in the community around the school than can be found attending the school. Neither the school nor I disagree with this conclusion.
24. The school was established in 1834 as a Christian school for poor boys. It has developed into a large Church of England academy school for boys and girls with a clear and well publicised Christian ethos. The Christian faith is central to its curriculum. The school points out that it does not have a catchment area and the map of student distribution shows a wide geographical spread of students from across and beyond the Diocese of Manchester area. I have studied the distribution map and note that children come to the school from a very wide geographical area.
25. The school does not accept that its admission policy results in indirect racial discrimination against South Asian families. The school considers that students of its own faith and other Christian denominations should be given priority in order to preserve the school’s religious character. The oversubscription criteria only give priority to students based on faith and not on ethnic background. The school cites the exemption in schedule 11 paragraph 5 of the Equality Act 2010 which states that “*section 85 (1) and (2)(a) to (d) so far as relating*

to religion or belief does not apply in relation to a school designated as a school with religious character.” Section 85 states that;

“ (1). The responsible body of a school to which this section applies must not discriminate against a person—

- a) in the arrangements it makes for deciding who is offered admission as a pupil;*
- b) as to the terms on which it offers to admit the person as a pupil;*
- c) by not admitting the person as a pupil.*

(2)The responsible body of such a school must not discriminate against a pupil—

- a) in the way it provides education for the pupil;*
- b) in the way it affords the pupil access to a benefit, facility or service;*
- c) by not providing education for the pupil;*
- d) by not affording the pupil access to a benefit, facility or service;”*

26. The diocese points out that the school has its origins in specific endowments and foundations and that the prime responsibility of the foundation governors is to promote and preserve the Christian foundation of the school.

27. The LA has worked with the school to establish the oversubscription criteria and acknowledges that the school is designated as having a religious character and is therefore entitled to allocate places by reference to faith when it is oversubscribed. The LA’s representatives at the meeting on 8 July used the previously circulated map to show that 85 per cent of all schools in Oldham are situated within two miles of the school and this includes all eight secondary schools. The LA’s representative suggested that this provision offered significant choice to parents and that the school has a unique offer because of its faith designation. He reminded the meeting that the increase in numbers following the recent building programme has led to a ‘ring-fence’ arrangement for the additional 22 places being allocated to children of faiths other than Christian. He demonstrated that over the next five years this would have the likely result of increasing the proportion of Muslim students in the school. He suggested that, although priority was not on the grounds of race but on practicing of a faith, these students were likely to be drawn from the South Asian community. This would have the impact of increasing the proportion of students from South Asian families attending the school.

28. The letter from the objector dated 16 May 2014 states that *“we do not argue that the ethnic profile of the school must be exactly the same as that of children living in its local area but that the extent of this*

mismatch highlights a particular disadvantage arising to the local South Asian population.” In light of the 22 places allocated for non-Christian students the objector states that “... *given the very large number of local children of South Asian heritage whose family are not Christian, the number of places does not go nearly far enough in reducing the barrier they face in gaining admittance to the school.*” During the meeting on the 8 July 2014 I requested further clarification on this point and in the reply dated 11 July 2014 the objector states “*If Blue Coat were to seek to avoid indirect racial discrimination by increasing the percentage of children from non-Christian faiths equivalent to the percentage of South Asian children of roughly secondary school age in Oldham’s population (26%) then while the FAC would not support the admission policy as it goes completely against the aims of its campaign, the school could argue that its admissions policy was not discriminating indirectly on the grounds of race – those of South Asian origin would not be at a disadvantage and the policy would thus be lawful*”. The school is keen to stress that theirs is the only Church of England secondary school in the area and if 26 per cent of places were to be offered only to those of a faith other than Christian then a significant number of children from Christian worshipping families would not gain a place at the school.

29. In my consideration I have taken into account the wide geographical area from which the school draws its pupils and its statement that it does not have a catchment area but provides the choice of a Church of England school to families across the diocese.
30. In the oversubscription criteria families attending Christian worship are given higher priority for the majority of the places than those who do not. This is in line with the Code and the exemption under the Equality Act 2010. This means that children who are not practising Christians and who wish to apply to the school will have a lower priority for admission. The objector suggests that this discriminates on racial grounds because children of South Asian heritage are more likely to practice a faith other than Christian. I am of the view that the oversubscription criteria prioritise on faith and not racial grounds.
31. Within the Code a faith-based oversubscription criterion can be permitted, but it may also disadvantage a particular group because they are less likely to be able to comply with the criterion. This may be true of the school’s arrangements. The objector suggests that this would not be permitted under the Code but this would only be the case if the arrangements disadvantage a group “*unfairly*”. The Equality Act 2010 characterises this as discrimination only if the criterion in question is not a proportionate means of meeting a legitimate aim.
32. The objector acknowledges that paragraph 1.36 of the Code permits faith schools to have faith-based oversubscription criteria and this is enabled by schedule 11 paragraph 5 of the Equality Act 2010 which disapplies the general prohibition on discrimination by religion or belief in Section 85 of the same act. However, the objector maintains that this is not a blanket freedom as limitations are placed on this by the

rest of the act and the Code. The objector cites section 19 of the Equality Act which *“outlaws indirect discrimination on the basis of race if it cannot be shown ‘to be a proportionate means of achieving a legitimate aim.’*” The objector suggests in his letter of the 16 May that the school’s policy *“falls short”* in terms of the arrangements being justified as a proportionate means of achieving a legitimate aim. The objector quotes the opening statement in the arrangements which say *“The Blue Coat School Oldham is a Church of England Academy committed to Christian ecumenism and interfaith dialogue, and which serves Anglican families and a wide community of faith across the region”*. The objector suggests that this makes it clear that the school *“does not see its mission as being to solely to serve Anglican families but instead sees it as to also serve those of other faiths.”* The objector contends that many other Church of England schools do not have admission arrangements which, in his words, select practicing Christians and yet maintain the aims and ethos of the school as Christian. The objector goes on to conclude that if a school does have such *“selection”* criteria then this does not constitute a proportionate means of achieving a legitimate aim and it is therefore unlawful under section 19 of the Equality Act 2010.

33. In the further submission of the 11 July 2014 the objector repeats that the school does not need to have religious oversubscription criteria in order to maintain a Christian ethos and goes on to suggest that the school’s stated aim of educating Anglicans is not a legitimate aim. The objector maintains that as he can demonstrate how this aim is linked to ethnicity it cannot be justified as an aim as it disadvantages particular ethnic groups.
34. In its response, the school’s solicitor states that *“the legitimate aim is our client’s obligation to comply with the terms of the Object in its Articles of Association and its designation by the Secretary of State as a Church of England School.”* The solicitor quotes from the school’s Articles of Association which state that the school’s aim is to *“advance for the public benefit education in the Diocese”* and the ‘diocese’ is defined as the Church of England diocese. He suggests that the school is bound by its aim to serve a broad area which encompasses a number of different LAs, some of which do not have an Anglican secondary school. The solicitor goes on to say that as a matter of public policy, there is an expectation that parents should have a choice of schools, which is why there are various categories and designations of schools available for parents to choose from. He maintains that it is proportionate for the school to provide a choice for Church of England families who wish to send their children to a Church of England School.
35. I am of the view that as a designated Church of England academy school the stated aims of the school are legitimate. The school is permitted to implement faith-based oversubscription criteria when it is oversubscribed and this has been the case in the last five years. The school serves a very wide geographical area as evidenced on the distribution map and the demand for Christian places is indicative of the need across the diocese. In the absence of these criteria a proportion

of practicing Christians would be disadvantaged by not being admitted to this faith school. I am of the view that the arrangements are a proportionate means of achieving the legitimate

36. The objector refers to PSED; Section 149 of the Act which *“requires public authorities and those exercising public functions to consider and identify the equality implications of their policies and actions as well as to proactively consider how to address equality issues arising. The duty includes having due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who do and do not share a relevant projected characteristic which include race and religion or belief.”* The objector suggests that the school has not considered this appropriately.
37. The objector provides references to a number of academic works which conclude that ethnic diversity in schools can lead to positive outcomes for the individuals and the communities at large. He goes on to quote from the reports and reviews which were commissioned after the race riots in Oldham and which suggest that *“ethnic segregation in the school system undermine community cohesion.”* He continues with a quote from a more recent report *“Oldham lives: still parallel or converging?”* (2011) which suggests that there was *“little evidence of change”* in terms of the *“very high”* levels of ethnic segregation in the town’s schools.
38. The school states that it takes its responsibilities in relation to community cohesion very seriously and considers that it has a responsibility to promote positive community relations given its location and the distribution of population in the ward in which it is situated. It understands its statutory duty to have regard to the PSED when it is performing its functions and considers that the decision to reserve 22 places specifically for active members of a faith other than Christian demonstrates that the school has taken pro-active steps to comply with its obligations in this respect.
39. The school refers to the Department for Education’s guidance to schools dated February 2013. The advice states that *“schools with a religious character may give priority to members of their own religion ... when a school is oversubscribed”* and *“The exemption is not in fact confined to preferring children of the school’s own faith. It would, for example, allow a Church of England school to allocate some places to children from Hindu or Muslim families if it wanted to ensure a mixed intake reflecting the diversity of the local population”*. The school notes that this is a suggestion and is not a mandatory requirement for faith schools and suggests that as places have been specifically ring-fenced this shows a genuine desire by the school to satisfy its obligations under the PSED by balancing its own Christian ethos with the needs of the wider faith community which the school serves.
40. The school goes on to say that it is committed fully to the development of community cohesion and inter-community dialogue in the town where many schools are predominantly mono-cultural, reflecting (in the

case of community schools) how communities can be segregated by housing. From the census data the proportion of pupils in the school from ethnic minority groups has risen from 7.9 per cent in 2011 to 10.8 per cent in 2013 and from September 2014 this figure is set to rise as the 'ring-fenced' places are introduced. It reports that its commitment to community cohesion was recognised in the school's most recent Ofsted report (December 2011) where effectiveness with which the school promotes community cohesion was judged to be outstanding.

41. The LA reports that it has worked closely with the school in developing the additional provision which supports the council's priority to address community cohesion. It provides details of admissions for September 2014 which is the first year of the increased provision. All 22 additional places were allocated to children of other faiths; of these, two applications placed the school as second preference and one as third. All 19 first preference applications were successful. The LA suggests that this demonstrates that the school does not "*create a barrier*" (a quote from the objection) for children of South Asian families.
42. In considering this element of the objection I have taken into account paragraph 1.36 of the Code, schedule 11 of the Equality Act 2010 and the PSED requirements. I am of the view that the faith-based oversubscription criteria do not unfairly disadvantage any particular group. I conclude that the school has acted appropriately in considering the equality implications and has had regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. Its main aim is to provide education for Christian children of the diocese but it has also taken steps, as it has increased in size, to admit children of other faiths.
43. The objector provides examples of faith secondary schools in the area and nationally who maintain the faith ethos of the school without having published admission arrangements which exclude local families. The objector maintains that "*selection*" due to church attendance and membership in the school's oversubscription criteria serve to control admissions on racial lines, namely that the policy disadvantages children from South Asian families who in the main part are non-Christian.
44. The objector draws comparisons with other schools, guidance from other diocese and published reports and concludes that the Christian ethos can be maintained in a school which does not have faith based oversubscription criteria.
45. The FAC's stated aim is to remove faith-based oversubscription criteria from all schools. This is not within the jurisdiction of the adjudicator and the comparisons with other schools and dioceses are not relevant to this particular objection. I conclude that it is a matter for the school to determine how the Christian ethos should be reflected across the school in its management, organisation, curriculum and structure. It is for the school to determine the admission arrangements and the governors have made the decision to use faith-based oversubscription

criteria as permitted by paragraph 1.36 of the Code.

46. The objection included other references to the admission arrangements which I have considered;

- The objector was concerned that pupils with statements of special educational need which name the school are allocated to the 22 places reserved for pupils of other faiths. The school reported at the meeting on 8 July that these pupils are admitted to the main body of places and not the 22 places all of which are for children of other faiths. I have reviewed the breakdown of admissions for September 2014 and I can confirm that this is the case. I do not uphold this element of the objection.
- The school acknowledges that at the time of the objection the arrangements and the SIF were not published on the website. I conclude that this did not comply with paragraph 1.47 of the Code at the time of the objection and I uphold this element. I can confirm that these have now been put into place in line with paragraph 1.47 of the Code.
- Reference in the arrangements to the admission of Manchester Cathedral choristers is reported by the school to be at the request of the diocese a number of years ago and no pupil has been admitted under this priority. I conclude that this section is in breach of paragraph 1.9 a, e and i of the Code. (*“ Admission authorities **must not** a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements; e) give priority to children on the basis of any practical or financial support parents may give to the school or any associated organisation including any religious authority; and i) prioritise children on the basis of their own or their parents’ past or current hobbies or activities”*) I therefore uphold this element of the objection. The school reported that this would be removed from the admission policy and I can confirm that this action has now been taken.

Other Matters

47. At the meeting on the 8 July I drew the attention of the school to the following additional issues which did not conform with the Code;

- Paragraph 1.8 of the Code states that *“oversubscription criteria **must be clear**”*. The first and eighth oversubscription criteria refer to looked after and previously looked after children and the definition of these was not clear in the arrangements. I conclude that at the time of the objection these criteria did not comply with the Code.
- I drew the attention of the school to oversubscription criterion 2 *“children of staff”*. The Code allows the admission of children of staff under certain conditions as outlined in paragraph 1.39 of the Code; *“a. where the member of staff has been employed at the school for two or more years at the time at which the applications for admission to the*

school is made and/or b. the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.” The inclusion of these definitions in the arrangements would add clarity. In addition criterion 2 can only apply to children who are practicing members of the Church of England as those who are not cannot be given priority over looked after and previously looked after children not of the faith. In the meeting on the 8 July 2014 the school reported that all children admitted under this criterion were of the faith. Again it would add clarity to the arrangements if this was made clear.

- the numbering and definition of the tie breakers were also not clear and were therefore not compliant with paragraph 1.8 of the Code.
 - the methodology for completion of the clergy form was not clear and did not comply with paragraph 1.8 of the Code. The SIF also required the name of the primary school. This did not comply with paragraph 1.9b of the Code which states that *“arrangements **must not take into account any previous school attended, unless it is a named feeder school”***. The school must ensure that no information is requested on the SIF unless it is essential to apply an oversubscription criterion and is not available from the LA’s common application form.
 - the school’s sixth form admission arrangements are not compliant with the Code. Paragraph 5 of the Code provides a definition of when admission arrangements must be determined and applies to admission arrangements for year 7 and the sixth form. Sixth form arrangements have not been drawn up, consulted on or determined by the governors to date. The description of how students are selected for the sixth form is non-compliant with the Code in the following ways;
 - a) there is no PAN (paragraph 1.2 of the Code); *“all admission authorities **must set an admission number for each relevant age group”***;
 - b) there is no formal policy which includes oversubscription criteria; there has been no consultation, determination or publication of the policy in line with paragraph 15 of the Code (*“all schools must have admission arrangements... ”*); and
 - c) current admission practices are not compliant with the Code at paragraph 1.9 a, g, i, m, o. (*admission arrangements **must not**; a) place any condition on the consideration of any application other than those in the oversubscription criteria; g) take account of reports from previous schools; i) prioritise children on the basis of their own or their parents’ past or current hobbies or activities; m) interview children or parents and o) request photographs of a child for any part of the admissions process*).
48. The school is keen to comply with the Code and in a letter dated 16 July 2014 the headteacher reported that she has worked with the diocese to establish a compliant policy and that the sixth form admission arrangements will be in place for the admission of students in September 2015.

Conclusion

49. I do not uphold the objection that the admission arrangements indirectly discriminate against the South Asian families who live in the local area. I conclude that the oversubscription criteria are in line with the Code.
50. I do not uphold the objection that the school contravenes the Equality Act because I am of the view that the admission arrangements are a proportionate means of achieving a legitimate aim. I conclude that as a Church of England academy school it is justified in its aims to provide a Christian education for children of the Diocese of Manchester.
51. I do not uphold the objection that the school has not paid due regard to the PCED. I acknowledge the school's intention to include children of other faiths by ring-fencing the newly created school places.
52. I do not uphold the objection that the school should change its faith based oversubscription criteria to fall in line with other faith schools who do not use faith-based criteria. The degree to which admission authorities prioritise pupils by the use of oversubscription criteria is a decision for them. I conclude that the admission authority which has chosen to use these oversubscription criteria is in line with the Code and the law.
53. In summary, the objector suggests that the arrangements do not conform with the Code at paragraph 1.8; *"admission authorities must ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group"*. I have taken into account the fact that children of the Christian faith who apply to the school will be given priority for admission to the majority of places and that families of a different faith have a smaller proportion of places allocated to them. Applications are accepted from all and there is no 'exclusion of applications' as suggested by the objector. However, if the arrangements do disadvantage children of South Asian families they are both fair and proportionate having regard to the school's legitimate aims. I have also taken into account the Equality Act 2010 and its exemption for faith schools and the school's adherence to the PSED as explained above and I am of the view that the arrangements do not unfairly discriminate either directly or indirectly a child from a particular social or racial group. I have demonstrated that the school has legitimate aims and that the admission arrangements are a proportionate and legitimate means of achieving those aims. I therefore do not uphold the main objection.
54. I can confirm that at the time of the objection there were a number of elements of the school's arrangements which did not comply with the Code and I uphold those elements of the objection which were drawn to my attention by the objector. I can confirm that each of these has now been satisfactorily amended. The school was able to take this action in line with paragraph 3.6 of the Code which states that *"Once admission arrangements have been determined for a particular academic year, they cannot be revised by the admission authority"*

unless a revision is necessary to give effect to a mandatory requirements of this Code, admissions law, a determination of the adjudicator or any misprint in the admission arrangements.”

55. Other elements of the arrangements as described above, which I brought to the school's attention at the meeting on the 8 July 2014, most notably the arrangements for admission to the sixth form, do not conform with the Code. I acknowledge that the school has stated that it will put in place actions which will resolve this situation before the implementation of the 2015 arrangements.

Determination

56. 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 Blue Coat School, Oldham for admissions in September 2015.

57. 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.

58. 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: 30 September 2014

Signed:

Schools Adjudicator: Mrs Ann Talboys