



DETERMINATION

Case reference: ADA2792

Objector: The Fair Admissions Campaign

Admission Authority: The St Francis of Assisi Academies Trust for St Gregory's Catholic Middle School, Bedford

Date of decision: 15 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 St Francis of Assisi Academies Trust for admissions in September 2015 for St Gregory's Catholic Middle School.

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 Schools 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 St Gregory's Catholic Middle School, (the school), Bedford, an academy school for pupils aged 9-13 years for September 2015. The objection is that: the arrangements were not published, and may not yet be determined; and, based on the 2014 arrangements; there is no supplementary information form (SIF) on the website which may contain additional breaches; that the reference to children with special educational needs (SEN) is unclear; that 'practising' and 'practising families' is not clearly defined; that there are no objective criteria for gaining ministerial support and there is no effective tie breaker to separate two applicants living equidistant from the school.

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. I have been informed that these arrangements were determined by the Catholic Life committee on behalf of the directors of the St Francis of Assisi Academy Trust (SFAAT), which is the admission authority for the school, on that basis. The objector submitted the objection to these arrangements on 30 June 2014. As the objector had not seen the arrangements for 2015 the objections made were based on the arrangements for 2014 (with the exception of the aspect relating to determination and publication of the arrangements for 2015). The arrangements had, in fact, been determined. The aspects of the arrangements to which the objection was made are the same for 2015 as for 2014 with the exception of the wording of the arrangements relating to children with SEN and the addition of a feeder school. I have accordingly considered the objection to be made to the arrangements for 2015. 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. I am also using my power under section 88I to consider the arrangements as a whole.

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;
- b. the school's response to the objection and supporting documents;
- c. the response of the Diocese of Northampton, (the diocese), which is the faith body for the school, to the objection and supporting documents;
- d. Bedford Borough Council's, which is the local authority (the LA) for the area, composite prospectus for parents seeking admission to schools in the area in September 2015;
- e. the LA's response to the objection and supporting documents; and
- f. a copy of the arrangements published on the school's website.

The Objection

6. The objection is that in relation to the stated paragraphs of the Code:

"either 1.46 (admissions policy for 2015 not yet decided) or 1.47 (admissions policy for 2015 not published yet) being broken. The rest of the complaint is therefore about the 2014 policy

1.47 (SIF not on website. May contain additional Code breaches);

1.8/14 (unclear what is meant by 'Save when the naming of a mainstream school is unreasonable' on the SEN part)

1.8/14/1.37 (criteria 3/4 - practising not defined)

1.8/14 (criteria 3/4 - 'practising families' implies both parents/carers practising which is unfair on those who have only one religious parent / carer)

1.8/14/1.37 (criteria 2/9/10 – no objective criteria for gaining ministerial support)

1.8 (there is no effective tie breaker to separate two applicants living equidistant from the school)".

Other Matters

7. When considering the documentation provided by the school I was concerned that the consultation undertaken to change the arrangements for September 2015 did not meet the requirements of paragraphs 1.44 and 1.45 of the Code.

Background

8. The school is part of the St Francis of Assisi Academy Trust which was previously the Federation of Bedford Catholic Schools. The school became an academy 1 April 2013. The school is 'middle deemed secondary'; therefore the deadline for applications for a place at the school is 31 October 2014. Following consultation, attendance at a feeder school, St James Lower School Biddenham was added as criterion 10 for admissions in September 2015.

9. The arrangements shown on the school's website for 2015 are:

"ADMISSIONS CRITERIA for ST GREGORY'S CATHOLIC MIDDLE SCHOOL

In case of over subscription the Directors will give priority to children in the following order:

1. Children 'Looked After' and children previously 'Looked After' (see definitions)

2. Catholic siblings of children attending the school whose application is supported by their Parish Priest or a priest known to them

3. Catholic children from practising families from the parishes of Bedfordshire whose application is supported by their Parish Priest or a priest known to them

4. Catholic children from practising families from other parishes

whose application is supported by a priest

5. *Other Catholic children with proof of catholicity e.g. a baptismal certificate or evidence of enrolment on a catechumenate programme*

6. *Siblings other than Catholic attending the school*

7. *Other children attending St Joseph's and St John Rigby Catholic Schools*

8. *Children of staff who have been employed at St Gregory's for two or more years at the time the application for admission to that school is made*

9. *Children from other Christian denominations whose parents wish them to receive a Christian education whose application is supported by a Christian minister*

10. *Children attending St James' Lower School, Biddenham*

11. *Children from other faith backgrounds whose application is supported by their faith minister or leader*

12. *Any other children"*

Consideration of Factors

10. I have considered the matters raised by the objector in turn with responses from the school, LA and diocese where available.

11. The objector argues that the arrangements for 2015 were not published on the school's website contrary to paragraph 1.47 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 displaying them for the whole offer year*" and further as they were not published, it may be that they were not determined which would be contrary to paragraph 1.46 which requires that, "*All admission authorities **must** determine admission arrangements by 15 April every year, even if they have not changed from previous years and a consultation has not been required*".

12. When I was asked to consider the objection, and before the school had been notified there was an objection, I looked at the school's website on 30 July 2014 and found the admission arrangements for 2014 but not for 2015. I find that the arrangements were not published as required.

13. Paragraph 1.46 says that admission authorities **must** publish the arrangements once determined. The objector asks whether the arrangements were determined as required. The school says that it had determined the arrangements and submitted a minute of a meeting of the 'Catholic Life

Committee' of 12 March 2014 with a document demonstrating that the authority to determine admission arrangements had been delegated by the trust to that committee. I therefore accept that the arrangements were determined as required and I do not uphold this part of the objection.

14. As I consider the arrangements to have been determined at the meeting of 12 March 2014, the arrangements should have been published on the school's website thereafter as required paragraph 1.47 of the Code; they were not. I therefore uphold this part of the objection.

15. The objector argues that the reference to children with special education needs (SEN) is unclear contrary to paragraph 1.8 and 14 of the Code. The policy makes two statements about pupils who have SEN, the first at the start of the policy says "*Children with a Statement of Educational Needs naming the school will be admitted in accordance with Bedford Borough policy and regulations.*" The second, at the end of the policy says "*Pupils who have a Statement of Special Educational Needs are required to be admitted to the school which is named on the statement, even if the school is full. (Save when the naming of a mainstream school is unreasonable).*" This may be an oversight from the correction of last year's policy which had this statement, but it is unclear; children with statements that name the school must be admitted as a matter of law, unless approved otherwise by the Secretary of State, not because of the LA's policy and regulations and the comment, (*Save when the naming of a mainstream school is unreasonable*) is not permitted. I find this in breach of the clarity required by the Code. I uphold this part of the objection.

16. The objector argues that the SIF is not published on the school's website contrary to paragraph 1.47 of the Code which requires the publication of arrangements. There is no SIF apparent on the school's website; however I found a form on the LA's website "APPLICATION FOR CATHOLIC SCHOOLS ONLY CONFIRMATION OF RELIGIOUS AFFILIATION" which listed three schools to which it applied, this school being one. This form asks for information permitted under the Code and has a space for a declaration by priest, minister or faith leader.

17. Local authorities must provide a common application form (CAF) for parents to use, as required by paragraph 2.1 of the Code "*For applications in the normal admissions round, local authorities **must** provide a common application form (CAF) that enables parents to express their preference for a place at any state funded school,*" Paragraph 2.4 then permits the use of a SIF "*In some cases, admission authorities will need to ask for supplementary information forms in order to process applications*". The Code does not prohibit the use of a common SIF in this manner. However, the use of the SIF is part of the school's admission arrangements and this means that it must be published on the school's website. Footnote 4 to the Code is clear that admission arrangements includes "*...any device or means used to determine whether a school place is to be offered.*" It is helpful for parents to have the SIF published on the LA's website as it should be as part of the arrangements, but that does not remove the requirement for its publication on the school's own website. This is supported by guidance from the diocese which says "*The SIF is an integral part of the admissions arrangements*". The school does not comply with the requirement to publish its arrangements on its

website as required by the Code at paragraph 1.47. I uphold this part of the objection.

18. The objector further argues that that the requirement to be 'practising' is not defined in the oversubscription criteria, contrary to paragraphs 1.8 and 14; that 'practising families' in the oversubscription criteria implies both parents should be practising which is unfair on those who have only one religious parent / carer contrary to paragraphs 1.8 and 14 of the Code; that with reference to the same paragraphs and paragraph 1.37 there are no objective criteria for gaining ministerial support.

19. The school does not define 'Practice' in its published admission arrangements, I note that the guidance from the diocese defines 'Practice' as weekly attendance at Sunday Mass however this is not shown on the school's website. Paragraph 14 of the Code requires that "*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*", paragraph 1.8 requires that "*Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair,*" and paragraph 1.37 says "*Admission authorities **must** ensure parents can easily understand how any faith-based criterion will be reasonably satisfied.*" My view is that it must be clear to parents on looking at the school's arrangements on its website what they should do to meet the criterion; it is not clear. I therefore find the school in breach of the Code at paragraphs 14 and 1.8. and 1.37. I uphold this part of the objection.

20. The objector argues that there are no criteria for obtaining ministerial support as referenced in criteria 2, 9 and 10 (criterion 11 in the 2015 arrangements). As the SIF is not available on the school's website, the criteria for obtaining support from the priest, minister or faith leader, which are on the SIF provided by the LA, are not available for parents, so for the same reasons as in paragraph 23 above I find the school in breach of the Code at paragraphs 14 and 1.8. I uphold this part of the objection.

21. With regard to the term 'practising families' I do not see that this implies requires both parents/carers must practise. The wording in the arrangements is "families" and the SIF says "*The family of this child is a practising Catholic family*". A child's family is whatever it is with respect to its practice. I do not uphold this aspect of the objection.

22. The objector says that there is no effective tie breaker to separate two applicants living equidistant from the school which is contrary to paragraph 1.8 of the Code, "*.... Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated*". The arrangements state that "*the tie break will be the distance that the pupil lives from the school*", which I find does not comply with the Code as it does not deal with the, albeit unlikely, circumstance where two or more pupils who tie for the final place live exactly the same distance from the school. I uphold this part of the objection.

Other Matters

23. The consultation on these arrangements ran from 6 December 2013 to

31 January 2014, the evidence provide by the school shows the arrangements were sent for consultation to the LA and faith bodies. The school's response to matters of consultation is "*I think then the local authority confirmation would be acceptable, as all admission arrangements are coordinated by them. They circulate all arrangements to all schools and place them in the public domain for comment. As they have confirmed in their letter of the 22nd the school has complied.*"

24. The LA however, writes in response "*For clarification purposes this refers to the Local Authority meeting its obligation under paragraph 1.49 of the School Admission Code to publicise determined admissions arrangements and paragraph 1.51 publish a composite prospects*".

25. The Code specifies how consultation must be undertaken as follows:

"1.44 Admission authorities **must** consult with:

- a) *parents of children between the ages of two and eighteen;*
- b) *other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
- c) *all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
- d) *whichever of the governing body and the local authority who are not the admission authority;*
- e) *any adjoining neighbouring local authorities where the admission authority is the local authority; and*
- f) *in the case of faith schools, the body or person representing the religion or religious denomination.*

1.45 *For the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website together with details of the person within the admission authority to whom comments may be sent and the areas on which comments are not sought.*"

26. The evidence provided by the school shows that that the consultation was not as wide as it should be, nor was it in the required form, for example published on the school's website. I find the school did not comply with the requirements of paragraphs 1.43 and 1.45 relating to admissions in this matter.

Conclusion

27. I have partially upheld the objection. I have found that the admission authority did determine the arrangements as required by the Code. However it did not comply with the Code in the matter of publication and clarity of these arrangements and the use of a final tie breaker as described in the determination above. In addition I have found that there are matters relating to consultation that do not comply with the Code for the reasons stated in the determination above.

Determination

28. 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 St Francis of Assisi Academies Trust for admissions in September 2015 for St Gregory's Catholic Middle School.

29. 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.

30. 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: 15 December 2014

Signed:

Schools Adjudicator: Jill Pullen