



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2785

Objector: Fair Admissions Campaign

Admission Authority: The governing body of Bolton Muslim Girls' School, Bolton

Date of decision: 8 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 Bolton Muslim Girls' School.

I have also considered the arrangements in accordance with section 88I(5) of the Act and have found there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this adjudication.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

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 2015 determined admission arrangements (the arrangements) for Bolton Muslim Girls' School (the school). The objection raised ten issues which, in summary, relate to the priority in the oversubscription criteria afforded to membership or benefits associated with mosques attached to the Deobandi Hanafi school of thought; that the oversubscription criteria lack clarity and do not allow children of no faith to gain admittance; the request to respect the ethos of the school; that attendance at madrassahs is taken into account; the lack of a final tie breaker; concerns related to the supplementary information form (SIF); and that the 2014 arrangements were not available on the school's website

Jurisdiction

2. The 2015 arrangements were determined by the governing body of Bolton Muslim Girls' School which is the admission authority for this voluntary aided school. The objector submitted the objection to these arrangements to the Office of the

Schools Adjudicator (the OSA) on 30 June 2014. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider this objection. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

3. In considering the objection I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:

- a. the objection dated 30 June 2014 and subsequent correspondence;
- b. a copy of the advice letter dated September 2013 and the reminder dated 4 March 2014 issued by Bolton Council (the local authority) to voluntary aided schools, academies and free schools within the Bolton area about determining the 2015 admission arrangements;
- c. information about the school downloaded from its website on 4 August 2014;
- d. the school's response to the objection of 24 September 2014 with an extract from the minutes of the governing body's meeting of 9 December 2013, a copy of the 2015 determined arrangements, and other supporting documentation;
- e. a copy of the Instrument of Government supplied by the local authority on 1 October 2014;
- f. further correspondence from the school on 9 October 2014 with supporting documentation including a copy of the trust deed relating to the school;
- g. historical admissions data provided by the local authority in the email of 1 December 2014;
- h. a copy of the composite prospectus "Admission to Secondary School" for 2014 and for 2015, both downloaded from the local authority's website; and
- i. a final email response from the school on 15 December 2014 confirming it does not have a sixth form.

4. I arranged a meeting on 18 November 2014 (the meeting) with representatives of the school, and of the local authority. The objector was invited to the meeting but was unable to attend. Correspondence was also submitted after the meeting and this has been copied to the school, the local authority and the objector as appropriate. I have considered the representations made to me at the meeting and the documentation and correspondence submitted before and after the meeting.

The Objection

5. The objection raised a number of concerns which I address in the following order:

- the priority related to mosques attached to one particular school of thought (in this case, Deobandi Hanafi), given that the school is designated with a religious character of Islam;
- whether membership of any of the mosques requires a financial contribution;

- that the statement that ‘*We ask all parents applying for a place here to respect this ethos and its importance to the school community*’ is contrary to paragraph 1.9(a) of the Code;
- the oversubscription criteria are not clearly delineated, numbered or ordered and are unclear, contrary to the Code at paragraphs 1.8, 14 and 1.37;
- that attendance at madrassahs is taken into account, contrary to paragraph 1.9(i);
- that the school, does not allow children of no faith to gain admittance even if undersubscribed, contrary to paragraphs 1.6, 1.36, and 2.8;
- that there is no effective tie-breaker to separate two applicants living equidistant from the school, contrary to paragraph 1.8;
- the deadline for completion of the SIF is unclear;
- the SIF asks whether the applicant has a statement of special educational needs, a question prohibited by paragraph 2.4; and
- the 2014 arrangements were not available on the school’s website, contrary to paragraphs 1.47 and 2.14.

Background

6. The school is voluntary aided secondary school for girls aged 11 to 16 years in Bolton with a published admission number (PAN) of 120. Consultation on the admission arrangements last took place between 12 December 2011 and 10 February 2012 after which an increase in the PAN from 110 to 120 was included in the 2013 arrangements.

7. The school was founded in 1987 as an independent fee-paying Islamic girls’ school by the Bolton Muslim Welfare Trust and gained voluntary aided status in 2007. The school is designated as having a Muslim religious character, and as such, is permitted by Schedule 11 of the Equality Act to prioritise applicants for a place at the school on the basis of faith. On its website the school explains it is vital to educate, nurture and support each individual learner: academically, spiritually, emotionally and socially during their time at the school as they are “*the future ambassadors of Islam and mothers of the next generation.*”

8. The 2015 admission arrangements were determined on 9 December 2013 as confirmed by an extract from the minutes of the governing body meeting of that date. The arrangements state “*the ethos of this school is Deobandi Hanafi.*” If there are more applications than the 120 places available, the arrangements available on the school’s website around the time of the objection state that “*priority will be given to children with a statement of special educational needs naming Bolton Muslim Girls’ School*” then points (up to a maximum of 35) will be allocated, following completion of the school’s supplementary application form, as follows:

- Attendance at local madrassah (Deobandi Hanafi school of thought) 10;
- Attendance at local madrassah (other schools of thought) 5;
- Commitment to the Deobandi Hanafi school of thought 10;
- Commitment to any other schools of thought 5;
- Sister link to the school at the time of admission 15

The arrangements then state that

- Muslim girls in care or previously looked after girls will be admitted ahead of all others; and
- Other looked after girls in public care or previously looked after girls care will be admitted once the oversubscription criteria have been exhausted.

9. After the meeting, the school working with the local authority provided the following data about how places have been allocated over the last three years:

Year	Total Number of Applications	Number of First Preferences	PAN	SEN statement	Oversubscription Criteria								
					Previously/Looked after	35 points	30 points	25 points	20 points	15 points	10 points	5 points	0 points
2012	180	136	110	1	0	11	5	5	0	2	29	2	12
2013	219	171	120	0	0	12	0	7	47	5	38	8	3
2014	275	193	120	1	0	24	1	6	58	12	18	0	0

10. At the time of this determination, the school has now revised significantly the published oversubscription criteria which are as follows:

1. Looked after girls or previously looked after girls who immediately after being looked after became subject to an adoption, residence/child arrangement order, or special guardianship order (“looked after” is defined at Note 1);
2. Muslim girls whose parent demonstrates a commitment to the Deobandi Hanafi school of thought of the religion of Islam and who has a sister linked (living at the same address) to the school at the time of admission (“commitment to a school of thought” is defined at Note 2) (“sister” is defined at Note 4);
3. Muslim girls whose parent demonstrates a commitment to any other school of thought of the religion of Islam and who has a sister link to the school at the time of admission;
4. Any other Muslim girls whose parent demonstrates a commitment to the Deobandi Hanafi school of thought of the religion of Islam;
5. Any other Muslim girls whose parent demonstrates a commitment to any other school of thought of the religion of Islam;
6. Other girls.

Consideration of Factors

11. I take the first matter of concern to be the priority related “to mosques attached to one particular school of thought (in this case, Deobandi Hanafi)” given that “the school is simply legally designated with a religious character of Islam.” In the response of 24 September 2014, the school commented that as “there is no reference in the admissions arrangements ... to mosques, only to madrassahs, it may be that the matter of complaint is misplaced.” I accept that points are available

for attendance at madrassah. However, “*commitment to a school of thought*” is defined in the Notes section of the arrangements as parental membership of a local masjid (or mosque) adhering to a particular school of thought or alternatively a letter from the Imaam of the masjid confirming attendance at prayer in the preceding two years of the application. As points are allocated for commitment to a school of thought, which is itself defined in terms of membership or attendance at mosques adhering to a particular school of thought, I am not persuaded that “*the matter of complaint is misplaced.*”

12. With the response of 24 September 2014, the school provided a copy of the Institute of Community Cohesion report of 2008 on "Understanding and Appreciating Muslim Diversity" which explains, in effect, that Deobandi Hanafi is a denomination of the Islamic faith. In the meeting the school clarified that Islam is the name of the religion and the term Muslim refers to a person following the religion. The school also confirmed that Islam broadly has two branches: Shia and Sunni. Sunni is then sub-divided into four schools of thought, one of which is Hanafi, on which the ethos of the school is based.

13. The local authority supplied a copy of the Instrument of Government which came into effect on 1 September 2007 when the school converted to voluntary aided status and I note from this document that “the school is to be conducted as an Islamic school in accordance with the teachings of the Deobandi Hanafi school of thought and in accordance with the Trust Deed of the School.” Following the change of status a new trust deed was drawn up on 7 September 2009 which also confirms that “*the school shall be conducted as an Islamic school in accordance with the teachings of the Deobandi Hanafi school of thought.*”

14. I note that in December 2003 the religion of the school (then independent) was designated as Islam, and after the change to voluntary aided status, the designation order made in July 2007 states that the religion is Muslim. However, the school explains that at the time the new trust deed was put in place it was thought that the school may have omitted to apply for the religious designation of “*Islam – Deobandi Hanafi*” and so a new application was submitted in 2009. The school states that the later application “*was rejected on the basis that the Regulations prevented the registration of a religious denomination in all religions except the Christian religion ...*” but that the issue was under review. At the meeting on 18 November 2014 the school provided evidence that since 2013 a number of schools have been designated for denominations other than for the Christian religion.

15. From the evidence available to me, I am persuaded that the school had applied for its designation to be “*Islam - Deobandi Hanafi*” but at the time when the designation was issued, the only schools designated by denomination were Christian faith schools. As the instrument of government and the trust deed are consistent with the ethos of the school being Deobandi Hanafi, I am persuaded that the school is permitted in the oversubscription criteria to prioritise applicants on the basis of commitment to the Deobandi Hanafi school of thought and therefore I do not uphold this part of the objection.

16. A second matter of concern is whether membership of any of the mosques requires a financial contribution. The school states in its response of 9 October 2014

that it “does not ‘vet’ the membership or other arrangements of any of the mosques so cannot answer the question being posed nor, in its submission, should be required to do so.” However, I consider that the question of whether membership of any of the mosques involves a financial contribution is appropriate as the school prioritises applicants on the basis of commitment to the Deobandi Hanafi or other school of thought, and in the Notes section of the arrangements, commitment to a school of thought is defined in terms of “parental membership of a local Masjid [or mosque] adhering to a particular school of thought or alternatively a letter from the Imaam of the Masjid confirming attendance at prayer in the preceding two years of the application.” If “parental membership of a local Masjid” does require a financial contribution, this would breach the Code at paragraph 1.9(e) which requires that “admission authorities **must not** 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.” I have not been provided with any membership documentation but at the meeting the school was quite clear that there is no requirement for a financial contribution at any of the mosques. I accept the school’s assurance and therefore do not uphold this part of the objection.

17. Before the meeting the school had suggested revisions to the determined arrangements and these were fully discussed during the meeting. During the meeting I brought to the school’s attention the discrepancy in the arrangements related to the membership requirements of the mosque. The 2015 arrangements at one location specify that parents must have been members of a local Masjid or attended prayer “in the two years preceding an application.” Yet a later paragraph states that parents must have been members “from April 2009”, some four or more years before an application for a place in September 2015. The school confirmed that the required duration was two years preceding an application, and that any reference to membership from April 2009 was an anomaly.

18. It was evident in the meeting that the school was fully committed to ensuring that the arrangements would be clear and compliant with the Code. Since the meeting, for greater clarity, the school has amended the arrangements to redefine commitment to a school of thought. The Notes now state “in the case of a father, commitment to a school of thought is defined as attendance by the father at a local Masjid adhering to a particular school of thought supported by a letter from the appointed Imaam of the Masjid confirming attendance at prayer at least once each month in the two years preceding the application... In the case of a mother, commitment to a school of thought is defined as attendance by the mother at a halaqa (study circle) or other Islamic study supported by a letter from the Aalima (Islamic theologian) at the Masjid/Islamic Centre confirming the attendance at least once each month in the two years preceding the application.”

19. The objector suggests that the ethos statement in the introductory section of the admissions criteria is contrary to paragraph 1.9(a) of the Code which requires that “admission authorities **must not** place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements.” The statement which has caused concern is: “The ethos of this school is Deobandi Hanafi. We ask all parents applying for a place here to respect this ethos and its importance to the school community. This does not affect the right of parents who are not of the faith of this school to apply for and be

considered for a place here.” The school regards this statement as an “*invitation to parents to respect the Deobandi Hanafi ethos of the school*” rather than placing “a condition relating to the consideration of applications for places at the school.” However, the school suggested that for the avoidance of doubt, the statement should be repositioned to above the admissions criteria section.

20. The wording and position of the ethos statement was discussed fully in the meeting. There is no requirement for parents to positively support the ethos of the school or to sign a declaration to do so. I have considered the wording of the ethos statement and am of the opinion that it is a request rather than a condition, and therefore I do not uphold this part of the objection. I note that since the meeting the school has moved the ethos statement above the section relating to admissions criteria and has adjusted the wording to show more clearly that the statement is not a condition. The ethos statement in the amended arrangements now says that the school’s “*ethos is in keeping with the Deobandi Hanafi school of thought of the religion of Islam and we invite all parents applying for a place at and all pupils awarded a place to attend the school to respect this ethos. (This does not affect the right of parents who are of other faiths or of no faith to apply for and be considered for a place at Bolton Muslim Girls’ School in accordance with the Admissions Criteria).*” It seems to me that this statement acknowledges that it is perfectly possible to respect the school’s ethos whilst being of another faith or no faith, and therefore the revision of the ethos statement clarifies beyond doubt that it is not a condition.

21. The objector expressed concern that the oversubscription criteria are not delineated, numbered or ordered and are therefore unclear, which is contrary to the Code at paragraphs 1.8, 14 and 1.37. In the response of 9 October 2014 the school contests that the oversubscription criteria are unclear and puts forward as evidence that the school “*has not received any complaint from any applicant for a place, nor is it aware of any such complaint, on the basis alleged, to the local authority or elsewhere.*” However, I find that the oversubscription criteria in the 2015 arrangements are listed but the order is unclear, for example, the wording of the priority relating to “*Muslim girls in care or previously looked after girls will be admitted ahead of all others*” implies that this is the first oversubscription criterion, and yet it is near the end of the list of criteria. Another issue pointed out by the objector in the submission of 30 September 2014 is that “*the definitions of the various activities do not always spell out precisely what must be done to gain the points.* For example, “*how frequently does a girl need to attend a madrassah, and for how many years?*” The objector also notes there is no clear definition of the term “*previously looked after*” and that the term “*children in care*” needs to be updated. These terms must be defined to comply with the Code at paragraph 1.7 and footnote 17. Accordingly I uphold this part of the objection.

22. The objector is also concerned that “*the school operates a points-based system, with pupils accruing more points gaining priority over those with fewer points... However, nowhere in the arrangements does it actually say that this is what the school is doing ... [or] what is done with these points.*” The criteria appear to have been built into the points system, and it seems to me that some parents may find it difficult to look at how points are allocated, work out the total sum of points and from the total points then assess the chances of their daughter being allocated a

place. Accordingly, I am of the opinion that the oversubscription criteria lack clarity and therefore the arrangements do not comply with paragraph 1.8 of the Code which requires that “oversubscription criteria **must** be... clear...”

23. The objector also stated that the lack of clarity in the oversubscription criteria was a breach of paragraph 14 but the school responded that “*there is no paragraph 14 in the Code.*” I acknowledge that paragraph 14 does not feature in the body of the Code, but it does appear in the “*Introduction*” under the title “*Overall principles behind setting arrangements.*” While I recognise the school may have been confused by the layout of the Code, I consider that the lack of clarity in the oversubscription does contravene paragraph 14 which states that “*in drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are ...clear ...*” Accordingly I uphold this part of the objection.

24. There was a full discussion in the meeting about the wording of the priority for looked after and previously looked after girls of the faith, and the school agreed to revise the wording to comply with the Code at paragraph 1.7 and footnote 17. I also brought to the school’s attention that the priority for the “*sister link*”, as written, appears to include all sisters irrespective of whether they are Muslim or not, which means that sisters not of the faith would be prioritised ahead of “*other looked after girls in public care or previously looked after girls.*” Consequently, this order of priority does not comply with paragraph 1.37 of the Code which states “*where any element of priority is given in relation to children not of the faith they **must** give priority to looked after children and previously looked after children not of the faith above other children not of the faith.*” I consider it is commendable that in reviewing the arrangements, the school now prioritises in the first oversubscription criterion all looked after and previously looked after girls, not just those of the faith.

25. The objector was concerned that attendance at madrassahs is taken into account, contrary to paragraph 1.9. I note that paragraph 1.9(i) requires that admission authorities “**must not** prioritise children on the basis of their own or their parents’ past or current hobbies or activities (schools which have been designated as having a religious character may take account of religious activities, as laid out by the body or person representing the religion or religious denomination).” In the submission of 30 September 2014, the objector commented further that “*previous adjudications have consistently interpreted ‘laid out’ as meaning as explained in the relevant religious authority’s guidance on admissions*” but guidance from the Association of Muslim Schools has not been seen. From this lack of guidance, the objector then questioned whether there was also a breach of the Code at paragraph 1.38, which says that schools “**must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based oversubscription criteria, to the extent that the guidance complies with the mandatory provisions and guidelines of this Code. They **must** also consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated.”

26. In the response of 9 October 2014 the school says that the “*activity being prioritised, namely attendance by the child or pupil at a madrassah, is a religious activity.*” The school explains further that “*in order for a Muslim adherent to the*

Islamic faith to understand that faith, he/she must understand the Qu’ran and the Life of the Prophet. All the primary sources of the religion of Islam are to be found in the Arabic language but commonly taught in the Urdu language or, now, in the English language. So the teaching of the Islamic faith/religion in the madrassah and the teaching of the Arabic and Urdu languages are part of a religious activity in the religion of Islam. Indeed, the reading of the text of the Qu’ran in Arabic is part of Islamic religious worship.” In the meeting the school said that at madrassah the pupils also learn about worship and ritual.

27. The school confirmed in the response of 24 September 2014 that the relevant religious authority for Muslim schools is the Association of Muslim Schools UK (AMS UK). However, the school admits it has not consulted AMS UK *“in relation to this issue or to its admissions arrangements generally because AMS UK is a charitable body which exists to represent the interests of all of its Muslim school members of whatever sect or school of thought whose aims do not include consultation with its constituent member schools in relation to admissions arrangements and related admissions issues.”* The school believes it would be difficult for a membership body of this kind to provide religious authority for all the different sects and schools of thought within the religion of Islam. The school said in the meeting that it regarded AMS UK as *“a consultative body with whom the school co-operated but it is not the religious authority.”* For guidance on religious matters the school would turn to the Deobandi Hanafi scholars in the local community.

28. I accept that attendance at madrassah is for the purposes of religious activity but it is arguable whether or not this religious activity complies with paragraph 1.9(i) of the Code. However, during the discussion in the meeting about madrassah attendance, it came to light that families are charged a small fee to cover costs. I explained that such a financial contribution, no matter how small, could be viewed as financial support for an associated organisation, and therefore may be argued to contravene paragraph 1.9(e) of the Code which states that admission authorities *“must not 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.”* Although I did not come to a view on whether the priority for attendance at madrassah is contrary to the Code at paragraph 1.9(i), I consider that the requirement of a financial contribution from families, albeit a small fee, does contravene paragraph 1.9(e) and therefore I uphold this part of the objection. I acknowledge the school has since decided that, on further reflection, *“the essential aspect of the ... arrangements ... is the commitment of the parents to the religion of Islam as demonstrated by commitment to the Deobandi Hanafi school of thought or to one of the other schools of thought.”* As a result, the school has amended the arrangements to remove from the oversubscription criteria any reliance on attendance at a madrassah.

29. The objector also said that the arrangements do not allow children of no faith to gain admittance even if undersubscribed, contrary to the Code at paragraphs 1.6, 1.36, and 2.8. Paragraph 1.6 requires that *“if the school is not oversubscribed, all applicants must be offered a place”* and paragraph 1.36 states that schools designated as having a religious character *“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.”* Paragraph 2.8 clarifies further that apart from grammar

schools, *“all maintained schools, including faith schools, that have enough places available **must** offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria.”* In the response of 9 October 2014 the school is aware of its obligation to admit all applicants, including applicants of no faith, in the event that the school is undersubscribed. As discussed above, the arrangements include an ethos statement which ends with *“This does not affect the right of parents who are not of the faith of this school to apply for and be considered for a place here.”* In the further submission of 30 September 2014, the objector clarified that the school *“does not say plainly that if it has fewer applicants than places, it will take all applicants.”* The school acknowledges that the arrangements do not say this explicitly but contends that *“the Code does not specify that a statement to this effect should be made.”* The school adds that it *“has never been undersubscribed in its time as a voluntary-aided school.”*

30. In the submission of 30 September 2014, the objector also noted *“it seems likely that children of other/no faith are effectively awarded zero points and so considered last. However, this is not explicitly stated anywhere.”* The objector notes that paragraph 1.6 of the Code says *“the admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied.”* As the requirements do not explicitly state how children of other faiths/no faith are dealt with, the arrangements contravene paragraph 1.6.

31. In the meeting the school said that, in practice, there was no breach of the Code because children not of the faith had been admitted, and the local authority confirmed that this is evidenced by admissions data for recent years (summarised above in paragraph nine) which shows the number of applicants scoring zero points. However, the school accepted that for greater clarity so that parents are able to look at the arrangements and understand easily the chances of their child being admitted, a final priority for “other girls” would be included as the final oversubscription criterion. I therefore uphold this part of the objection but also acknowledge that the school has now revised the arrangements to comply with the Code regarding paragraphs 1.6, 1.36, and 2.8 by making explicit a final priority for “other girls” in the oversubscription criteria and has also added to the ethos statement that *“if the school receives fewer applications than the published admission number, then all girls will be offered admission.”* I consider it is now clear how children not of the faith may gain admittance to the school.

32. However, during the discussions about paragraph 1.6 in the meeting, I drew the school’s attention to the further requirement that *“all children whose statement of special educational needs names the school **must** be admitted.”* However, I consider that the wording of the paragraph in the 2015 arrangements that states *“In the event that there are more applicants than places available priority will be given to children with a statement of special educational needs naming [the school]”* creates the impression that *“children with a statement of special educational needs”* is one of the priorities in the oversubscription criteria. As the school **must** admit any child with a statement of special educational needs which names the school, the admission of girls with such a statement cannot be considered to be a priority within the oversubscription criteria, and so the wording of the arrangements on this matter may be confusing for parents. The school has now revised the arrangements so it is clear

that if the school is oversubscribed, the oversubscription criteria will operate *after* girls with such a statement which names the school have been admitted.

33. The objector expressed concern that there is no effective tie-breaker to separate two applicants living equidistant from the school, contrary to paragraph 1.8. In the response of 9 October 2014, the school acknowledged the *“omission of a tie-breaker within the admission criteria... is an oversight...but there is a provision within the overall document catering for this.”* The school suggested an amendment to the existing distance tie breaker modelled on the wording used by the local authority in the admission arrangements for its community schools. In the meeting, I noted the local authority’s arrangements for its community schools also lack a final tie-breaker but this matter is beyond the scope of this determination about the admission arrangements determined by the governing body of the school. I explained the objector’s concern that there has to be an explicit final tie-breaker to decide who has highest priority for admission if the distance between two children’s homes and the school is the same. Paragraph 1.8 makes clear that *“admission arrangements must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.”* I therefore uphold this part of the objection but also acknowledge that the school has now revised the arrangements to comply with paragraph 1.8 of the Code.

34. In the final submission of 1 December 2014, the objector also expressed concern that a draft revision of the arrangements did not *“specify the process by which [random allocation is to be carried out]”* as required by paragraph 1.35. However, this matter had already been considered at the meeting on 18 November 2014, and has been fully addressed in the revised arrangements now published. The revised arrangements at Note 5 state that *“random allocation will be used as a tie-break to decide who has the highest priority for admission if the difference between two girls’ homes and the school is the same using the Bolton Borough Council distance tie-break system. Where random allocation is used to determine an admission in these circumstances, the use of random allocation will be supervised by a person appointed by the school but who is independent of the school and its foundation trust.”*

35. The objector was also concerned that the deadline for completion of the SIF is unclear, in breach of paragraphs 1.8 and 14 of the Code. The objector clarified that one version of the SIF said that applications must be completed by 3.45 pm on 31 October, but a second version of the SIF from a different location on the school’s website did not specify the same time. In the response of 9 October 2014, the school said that *“the subject of this complaint has now been rectified, the previous position being due to an oversight.”* The school also acknowledged that some of the web links had not been functioning and confirmed that a new manager had been recruited within the last three months *“with a view, amongst other things, to reviewing and upgrading the content and operation of the school’s website.”* I accept the school’s assurance that it is endeavouring to improve the layout of the arrangements and the functioning of links to other related documents but the school may wish to review fully the quality assurance system related to information published by the school to ensure that parents are not confused or misinformed about admission arrangements.

36. In the meeting the school accepted that the difference in the published

deadline for receipt of the SIF may disadvantage some parents, depending on which deadline they had seen, which would contravene paragraph 1.8 of the Code which, in effect, requires that admission authorities **must** ensure that their arrangements will not cause disadvantage unfairly. Furthermore, as the deadline for receipt of the SIF was not consistent, this lack of clarity also contravenes paragraph 14 of the Code which requires that *“admission authorities **must** ensure that the practices ... used to decide the allocation of school places are fair [and] clear ...”* Therefore I uphold this part of the objection. In the meeting the school agreed to revise the deadline published on the SIF and to ensure that all versions published by the school are identical. The local authority explained that in its published deadline for receipt of applications it provides a date but does not specify a time and the school agreed to adopt this method. I note that the amended SIF now states the closing date of 31 October 2014.

37. Another matter of concern about the SIF raised by the objector was the first question asking whether the applicant has a statement of special educational needs, in contravention of paragraph 2.4. In the response of 9 October the school said this question had *“been included due to an oversight and ought not, in fact, to be there.”* Paragraph 2.4(c) makes clear that admission authorities **must not** use supplementary forms that ask for details about a child’s special educational needs. I therefore uphold this part of the objection but acknowledge that the school quickly amended the SIF to remove this question about special educational needs.

38. In reviewing the SIF, the school also realised that the second question asking about looked after status was in breach of paragraph 2.4(a) which prohibits questions related to the financial status of parents and families. The school has also removed this second question prohibited by the Code, even though the matter was not raised as part of the objection, which I consider exemplifies the school’s commitment to ensuring that the admission arrangements comply fully with the Code.

39. The final matter raised by the objector was that the 2014 arrangements were not available on the school’s website, contrary to paragraphs 1.47 and 2.14 of the Code. In the response of 9 October 2014 the school said that *“the omission of the publication of the admission arrangements ... was due to an oversight and has now been rectified. The Admissions Arrangements for ... the 2014/15 academic year now appear on the Admissions page of the website.”* Paragraph 1.47 requires that admission authorities *“**must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the academic year in which offers for places are made).”*

40. Paragraph 2.14 states that admission authorities *“**must** maintain a clear, fair and objective waiting list for at least the first term of the academic year of admission.”* In the response of 9 October 2014 the school said that *“the omission of a reference to the waiting list in the admissions arrangements was due to an oversight”* and proposed draft amendments to the arrangements which were discussed in the meeting. The glossary to the Code defines *“waiting list”* as *“a list of children held and maintained by the admission authority when the school has allocated all of its places, on which children are ranked in priority order against the school’s published oversubscription criteria.”* I explained in the meeting that the 2014 arrangements had to be available on the school’s website for the whole of the autumn term as the waiting list

must be based on the oversubscription criteria in these arrangements. I uphold this part of the objection.

Other matters

41. In reviewing the 2015 admission arrangements I noticed that there were other aspects of the admission arrangements that appeared not to comply with the requirements relating to admission arrangements, so I used my powers under s88I of the Act to review the arrangements as a whole for full compliance with the Code.

42. In the meeting on 18 November 2014 I raised with the school several points which appeared to me to contravene the Code and could be amended immediately by the school as a variation permitted by the Act and as detailed at paragraph 3.6 of the Code. I offered the school the opportunity to make the amendments to comply with the Code, and agreed to note their progress in my determination. I raised the following points:

- The arrangements refer at various times to pupils, children and girls. As the school is for girls, it may be helpful for parents if the school were to use the term “girls” consistently throughout the admission documentation. I note there is now greater consistency in the arrangements;
- The sentence “*all applications will be considered equally and without reference to parents’ preference ranking*” may be unclear and may have caused parents unnecessary anxiety as the allocations data shows that the school is oversubscribed with parents nominating the school as their first preference. The school has removed this sentence;
- The wording of the arrangements available at the time of the objection, and in several draft amendments was discussed at length. In particular, I brought to the school’s attention that the Notes section of the arrangements states that “*parent includes a father and a divorced or widowed mother or a single mother.*” I questioned whether, under this definition, the daughter of a devout Muslim mother married to a non-Muslim father would qualify to be prioritised for a faith-based place. Whereas, if the positions are reversed, the devout Muslim father married to a non-Muslim mother would have no problem seeking admission for his daughter. I explained how this discrepancy may be viewed as discriminatory and, as such, contravene the Equality Act 2010. The school confirmed that this was not its intention and agreed to review the wording to eliminate this potential disadvantage. I acknowledge that this discrepancy was also raised by the objector in the submission of 1 December 2014, but by this time the matter had already been addressed fully in the meeting and has been revised in the arrangements;
- As discussed in the paragraphs above, the school does use a supplementary information form for information relating to the faith-based criteria. However, the school’s SIF was incorrectly called a supplementary *application* form. The use of the incorrect title may cause confusion with the common application form which must be returned by the same completion date to the local authority. I note that the school now uses on the SIF the correct title of supplementary *information* form;
- The Code at paragraph 2.4 makes clear that “*admission authorities must only*

use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria.” However, the school expected parents to provide home and mobile telephone numbers on the SIF which are not necessary for the operation of the oversubscription criteria. Such information is not be required at the time of application, but may be requested after places have been offered. The SIF has now been amended to remove the request for telephone numbers; and

- The SIF stated that “parents will be informed of the decision of the Admissions Committee March 2015. However, the Code at paragraphs 15(e) and 2.23(b) makes clear that it is for the local authority to offer places to all parents of secondary age pupils in their area on the secondary National Offer Day of 1 March or the next working day in the year in which the child will be admitted, which in this case would be 1 March 2015. The SIF has now been amended and states that *“parents will be informed of the decision by the Local Authority on 1st March 2015.”*”

43. During the course of researching the admission arrangements I found information in the admissions section of school’s website referring to sixth form provision for 2012/13. During the process of preparing this determination I referred again to the information I had saved and asked the school for confirmation whether or not it had a sixth form. The school confirmed that it *“did have a sixth form provision which ended last year [but] we do not offer this anymore. Our website has been in the process of being upgraded and the information had not been removed.”* The school said it would *“ensure that this is addressed.”* The admissions section of the school’s website no longer displays this out-of-date information.

44. In the final submission of 1 December 2014, the objector raised other matters not in the original objection which I have decided to consider for completeness. The objector suggested that *“the use of the boundaries of Bolton Metropolitan Borough to define which masjids are local might fall foul of footnote 25”* to paragraph 1.14 of the Code that *“pupils should not be discriminated against in relation to admission to the school simply because they reside outside the local authority area in which the school is situated.”* Having considered this matter carefully, it seems to me that the use of *“local”* with reference to masjids was an attempt to identify those mosques within reasonable travelling distance of the school and that do not require fees for membership. The mosques were specified in relation to commitment to a school of thought, which involves membership and/or worship, but there is no residence requirement. As the definition places no restriction on where families may live, parents who are associated with the specified mosques but live outside *“the boundaries of Bolton Metropolitan Borough”* are not prevented from expressing a preference for the school. Accordingly, I am not persuaded that the definition falls foul of footnote 25 to paragraph 1.14 of the Code. However, the school is to be commended that, for the avoidance of doubt, the definition in the revised arrangements now states *“local masjids are those that are registered with the Charity Commission.”*

45. The objector also comments that as *“the points scheme has been abolished, the section ‘How places were allocated in March 2014 for admission in September 2014’ is unclear. Perhaps a link to the 2014 admissions policy or an explanation of what each level of points meant should be offered.”* The Code does not require the

admissions authority to provide information about how places were allocated in previous years, but a review of the format may be more helpful for parents in assessing the likelihood of their child being offered a place at the school.

Conclusion

46. I conclude that at the time the objection was made, the school's arrangements for admissions in September 2015 did not conform with the requirements relating to admissions for the reasons stated in the paragraphs above. Accordingly I uphold a number of concerns raised by the objection. As I uphold a number, but not all, of the concerns raised by the objector, I partially uphold the objection. However, I acknowledge that the school has already revised its arrangements in accordance with the provision of section 88E of the Act to make a number of changes to its arrangements.

47. In addition, while I was reviewing the arrangements I noticed that there were other aspects that appeared not to comply with the requirements relating to admission arrangements, so I used my powers under s88I of the Act to review the arrangements as a whole for full compliance with the Code. I also acknowledge that the school has also revised its arrangements to remedy these other matters.

Determination

48. 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 Bolton Muslim Girls' School.

49. I have also considered the arrangements in accordance with section 88I(5) of the Act and have found there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this adjudication.

50. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

Dated: 8 January 2015

Signed:

Schools Adjudicator: Ms Cecilia Galloway