



DETERMINATION

Case reference:	ADA2808
Referrer:	The Fair Admissions Campaign
Admission Authority:	The Governing Body of the Academy Trust of Feversham College, Bradford
Date of decision:	30 January 2015

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the arrangements of Feversham College for admissions in September 2015. I determine that some aspects do not conform with the requirements relating to admission arrangements.

By virtue of section 88K(2) of the Act, 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 88I(5) of the School Standards and Framework Act 1998 (the Act), concerns have been referred to the Adjudicator by the Fair Admissions Campaign (the referrer) about the 2015 admission arrangements (the arrangements) for Feversham College (the school), an academy school for girls aged 11 to 19 years in Bradford. The concerns raised by the referrer include that neither the 2015 arrangements nor the supplementary information form (SIF) were on the school's website, the independent verification of the random allocation process is not specified, and the limit of 10 per cent placed on the admission of non-Muslim students if the school is undersubscribed

Jurisdiction

2. The terms of the funding agreement between the academy trust of Feversham College (the 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.

3. Although the referrer made the concerns known to the Office of the Schools Adjudicator (OSA) on 30 June 2015, within the deadline stipulated in the School Admissions Code (the Code) at paragraph 1.50, it came to light that the 2015 arrangements had not been determined by that time. The arrangements could not therefore be considered as an objection. It was only when the 2015 arrangements had been determined on 15 September 2015 that I became satisfied that it is within my jurisdiction to consider the 2015 arrangements.

4. Under section 88I(5) of the Act an adjudicator has the power to consider admission arrangements that come to his/her attention by any means and that do not, or may not, conform with the requirements relating to admission arrangements. I am satisfied that under section 88I(5) of the Act I have the power to consider the matters referred to me and other matters about the 2015 arrangements.

Procedure

5. In considering the referral I have had regard to all relevant legislation and the School Admissions Code (the Code).

6. The documents I have considered in reaching my decision include:

- a. the referral on the objection form dated 30 June 2014;
- b. a copy of the 2014 arrangements downloaded from the school's website on 4 August 2014 (the 2015 arrangements were not on the website);
- c. the submission of 15 August 2014 from the City of Bradford Metropolitan District Council (the local authority), together with supporting documentation including a map of secondary schools in the area, and a copy of the 2015 composite prospectus for secondary school admissions;
- d. the school's response to the matters raised in the referral of 4 September 2014, together with supporting documentation including the funding agreement and a copy of the 2014 arrangements;
- e. a copy of the minutes of a meeting of the directors (the governing body) on 15 September 2014 at which the 2015 arrangements were determined;
- f. submissions from the school on 5 and 14 November 2014 in response to my requests for further information about postcode priority areas;
- g. a copy of the post-16 admissions policy and application form, and a copy of the local authority's common application form (CAF) sent on 20 January 2015 by the school in response to a request made at the meeting held on 13 January 2015;
- h. email confirmation from the school on 20 January 2015 that the governing body of the school is known as the directors; and
- i. admissions data from the local authority in an email dated 22 January 2015;

7. I arranged a meeting on 13 January 2015 (the meeting) at the school with representatives of the school, the faith body which is the Muslim Association of Bradford, and the local authority. Correspondence was also submitted after the meeting and this has been copied to the school, the local authority, the faith body and the referrer 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 Referral

8. The matters brought to my attention are summarised below:

- the 2015 arrangements were not available on the school's website at the time of the referral, in breach of the Code at paragraph 1.47;
- the SIF was not on the school's website, also contrary to paragraph 1.47;
- a limit of 10 per cent imposed on the admission of non-Muslim students if the school is undersubscribed, contravening the Code at paragraphs 1.6, 1.36 and 2.8; and
- the independent verification of the random allocation process is not specified, contrary to paragraph 1.35 of the Code.

Background

9. The school opened as a state-funded, independent academy school for girls aged 11 to 19 years on 1 August 2011, replacing Feversham Voluntary Aided Muslim Girls' College which ceased to be a maintained school on that date.

10. The funding agreement confirms that the school is a Muslim academy school with a planned capacity of 707 girls including a sixth form of 180 places. The arrangements indicate that there are 120 places in Year 7.

11. The school describes itself on its website as *“an academy specialising in science for Muslim girls ...which provides an outstanding quality of education in a positive learning environment... to ensure students reach their potential and achieve their goals, both academically and spiritually.”* The 2015 admissions policy states that the school *“caters for children of parents who are practising members of the Islamic Faith (Sunni Muslims) within the Postal Code Priority Admission Areas as defined by the Priority Area Map”* which is available on the local authority's website

12. The school is designated by the Secretary of State under section 69(3) of the Act as having a Muslim religious character, and as such, is exempted by Schedule 11 to the Equality Act 2010 (the Equality Act) from the requirement in section 85 of the Equality Act not to discriminate on the grounds of religion in terms of the admission of pupils to the school. The school is therefore permitted by Schedule 11 of the Equality Act to prioritise applicants for a place on the basis of faith.

13. The arrangements available on the school's website when the referrer raised concerns were the 2014 arrangements. However, the minutes of the meeting of the governing body on 15 September 2015 confirm that the 2014 arrangements were determined unchanged as the 2015 arrangements. If there are more applications than the 120 places available in Year 7, then after any girls with a statement of special educational needs (or equivalent) which names the school have been admitted, places will be allocated according to the published oversubscription criteria which I have summarised below:

1. Girls who are looked after or who were looked after. Priority being given to those pupils who fall within the definition of a Muslim;

In the context of admissions to the school, the definition of a Muslim given in the arrangements is *“a girl who honours in her words and actions the Shahada and remembers always that there is nothing or no one worthy of worshipping other than Allah (SWT), and that Muhammad (PBUH) is the final prophet of Allah.”*

2. Muslim girls who live in the postal code priority admission area with an older sister currently attending the college in Years 7 to 10 who will still be attending at the time of admission (in area siblings);
3. Muslim girls who reside in the postal code priority admission area;
4. Muslim girls who have a sister currently attending the in Years 7 to 10 who will still be attending at the time of admission (out of area siblings);
5. Muslim girls who live outside the college's postal code priority areas;
6. Other applicants

Where demand exceeds places in any one of the above criteria, those living nearest will be given the available places, where distance is measured by a straight line from the main entrance of the student's home to the main entrance of the school.

If there are still some places unfilled the college may take up to a maximum of 10 per cent non-Muslim girls, with priority being given to those girls living closest to the college as measured by the nearest available walking route.

If there are two or more children eligible for one remaining place who live equal distant from home to college then random selection would be applied.

14. To apply for a Year 7 place for admission in September 2015, parents are required to complete and return the common application form (CAF) to their local authority by 31 October 2014, the national closing date for secondary school applications.

15. The 120 places available in Year 7 are allocated to postcode priority areas as shown in the table below:

Postcode Area	BD1	BD2	BD3a	BD3b	BD5	BD7	BD8	BD9
Places	5	6	15	15	30	30	13	6

Consideration of Factors

16. The first concern was that the 2015 arrangements were not available on the school's website at the time of the referral. Furthermore, the referrer questioned whether the 2015 arrangements had been determined at all. The minutes of the meeting of the governing body on 15 September 2014 confirm that the 2014 arrangements were adopted unchanged as the 2015 arrangements, and determined as such at that meeting. In the submission of 15 August 2014, the local authority suggests that the school's website did have *"a copy of the current admission arrangements [as the school] has not changed its admission arrangements since 2013."* However, the Code is clear at paragraph 1.46 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."* I consider that the late determination of the 2015 arrangements is a breach of the Code at paragraph 1.46. Furthermore, as the 2015 arrangements were not determined, a copy could not have been sent to the local authority by 1 May, which is a further breach of the Code at paragraph 1.47. The minutes of the governors' meeting of 15 September 2014 confirm that the governors recognised that the late determination was *"an oversight on their part and would ensure that [the*

determination of] *arrangements for following years [would be] duly recorded.*" In addition, the governing body may wish to review its meetings schedule to ensure that the determination of admissions arrangements complies with the deadline specified in the Code.

17. The second concern was that the SIF was not on the school's website, also contrary to paragraph 1.47 of the Code. In the submission of 15 August 2014, the local authority stated that *"there is no supplementary information form on the website as the [school] does not use one to determine which girls are offered places [as it is] oversubscribed with Muslim applicants every year. In the allocation letter sent to successful applicants on 1 March [a] declaration of faith form is enclosed which requires parents to accept the place offered and to confirm that they are practicing Sunni Muslims."*

18. In the meeting I noted that five of the six oversubscription criteria prioritise applicants on the basis of faith. I asked how the school can prioritise places using the first five faith-based criteria if there is no SIF as there does not appear to be any means of determining which applicants are Muslim before places are allocated. Equally, the school does not appear to have any way of determining which applicants are non-Muslim. The local authority confirmed that there is no faith-related question on the CAF. Furthermore, in its submission of 14 November 2014, the school states that it *"does not require or request from prospective parents a supplementary information form."*

19. I explained that although a declaration of faith form is sent to parents, this is after decisions about the allocation of places have been made. Likewise, the school said the imam asks girls to make a declaration of faith, but that requirement is also after allocations have been made. I questioned how those allocation decisions had been made. Paragraph 1.37 of the Code makes clear that admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied. To resolve this matter, the school agreed to work with the authority to include a faith-based question in the CAF, rather than a SIF, so that Muslim applicants would be identifiable before decisions are made about the allocation of places, and the school is to be commended for this relatively simple solution. The school has elected not to use a SIF, and therefore I consider that there has been no breach of paragraph 1.47 of the Code regarding this matter.

20. However, a further concern was the limit of 10 per cent imposed on the admission of non-Muslim students if the school is undersubscribed which the referrer suggested is a breach of the Code at paragraphs 1.6, 1.36 and 2.8. During the meeting there was a full discussion about the requirements of the Code when a school designated by the Secretary of State as having a religious character is undersubscribed. Paragraph 1.6 states that *"if the school is not oversubscribed, all applicants **must** be offered a place"* and paragraph 1.36 says that the school is *"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."* Although paragraph 2.8 of the Code refers to maintained schools, this paragraph also applies to academies because the funding agreement and the Code stipulate that academies have to comply with admissions law and the Code. Paragraph 2.8 makes clear that schools with *"enough places available **must** offer a place to every child who has applied for*

one, without condition or the use of any oversubscription criteria.”

21. At the meeting the school said it believed that the 10 per cent limit had been a requirement some years ago, possibly when the school first changed status from fee-paying independent to voluntary aided. The governors had assumed it was still a requirement as no-one had questioned it. The school accepted that if it were to be undersubscribed, then all applicants would have to be admitted, whether of the faith, another faith or no faith. However, the school has been oversubscribed for a number of years, and so the 10 per cent limit has not been used. The school accepted that the 10 per cent limit was contrary to the Code at paragraphs 1.6, 1.36 and 2.8 and had no hesitation in agreeing to remove the limit from the arrangements.

22. The final matter raised by the referrer was that the independent verification of the random allocation process is not specified in the arrangements, contrary to paragraph 1.35 of the Code. In its submission of 15 August 2014, the local authority contests that the school *“does not use random allocation as an oversubscription criterion. The only reference to this is if the last place to be allocated was to applicants living equal distance, in which case random selection would be used. This is normal wording for all schools and [the local authority is] not aware of other admission authorities specifying that this would be independently scrutinised.”* At the meeting on 13 January 2015 I explained that the Code at paragraph 1.35 states that *“the random allocation process **must** be supervised by someone independent of the school.”* The school contested that as the local authority, and not the school, would operate the random allocation process as a final tie-breaker to decide between two applications that cannot otherwise be separated, then it is already independently verified, but accepted that the arrangements do not specify this detail. For the avoidance of doubt, the school agreed to say that the random allocation process would be independently verified.

Other matters

23. In reviewing the 2015 admission arrangements I noticed that there were other aspects of the admission arrangements in addition to those brought to my attention that appeared not to comply with the requirements relating to admission arrangements. 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 permitted variation under paragraph 3.6 of the Code. I raised the following points:

- a. The arrangements state that the school caters for children of *“parents who are practising members of the Islamic Faith (Sunni Muslims)”*. However, the use of the plural word *“parents”* might give the impression that both parents would have to be practising members, and therefore, children of single parent families may not be considered for a place, which would be a breach paragraph 1.8 of the Code. Accordingly, for greater clarity, the school readily agreed to change the wording from *“parents”* to *“parent(s)/carer(s)”*;
- b. The first oversubscription criterion refers to girls who are looked after or who were previously looked after with *“priority being given to those pupils who fall within the definition of a Muslim...”* For greater clarity, the school agreed to modify the wording so that the first priority is given any girl who is looked after or who was previously looked. The school is to be commended for agreeing to

simplify the first criterion so that it would apply to any girl, whether of the Muslim faith, another faith or no faith;

- c. Towards the end of the Notes section, there is a statement that *“the admission of pupils with a statement of special educational needs is dealt with by a separate procedure and such pupils will be admitted to Feversham College if the school is named on the statement without reference to the above criteria.”* For greater clarity, the school agreed to include a sentence in the introductory paragraphs, before the oversubscription criteria are listed, which specifies that girls with a statement of special educational needs (or equivalent) that names the school will be admitted;
- d. The arrangements include two different measurements of distance, which is confusing. At one point in the arrangements distance is described as the straight line measurement from the students’ home to the main entrance of the college, but later, distance is measured as the nearest available walking route. For greater clarity, the school agreed that all distance measurements would be the straight line, using the local authority’s definition and system;
- e. The PAN was not clearly stated in the arrangements for Year 7 admission. The school has now modified the arrangements to state clearly that the PAN is 120; and
- f. The sixth form arrangements and application form were not available on the school’s website when the referral was made, and were still not on the website when the meeting was held. After the meeting, the school provided a copy of the application form and arrangements for admissions to the sixth form, which includes a clear statement that the Year 12 PAN is 15.

24. In the submission of 5 November 2014, the school explained the development of its somewhat complex catchment area. *“Historically, the school was a fee-paying independent school with pupils on roll travelling from various postcodes located across Bradford. When the school ... became voluntary aided, the governors wished to continue to offer places for future pupils from the established postcode areas”* which created additional school places in the Bradford area but *“remained transparent, fair and reflected the postcode areas of greatest need.”* In the further submission of 14 November 2014 the school added that it *“was agreed by the governors and the local authority [that maintaining the established postcode areas] would be an appropriate indicator as to where future need for school places would come from.”* The school also explained that *“in the case where any one of the postcode areas is undersubscribed, the remaining places in the postcode area will be filled, in equal measure, from the other postcode areas.”* The local authority and governors confirmed at the meeting, that the catchment area includes those postcode areas where families are most likely to need faith-based places. Although the catchment area is complicated, I am persuaded that it is clearly defined and reflects the particular circumstances of the city of Bradford.

Conclusion

25. I conclude that at the time the referral 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. I acknowledge that the

school revised some aspects of its arrangements soon after the meeting at the school.

26. 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 taken steps to remedy some of these other matters

Determination

27. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the arrangements of Feversham College for admissions in September 2015. I determine that some aspects do not conform with the requirements relating to admission arrangements.

28. By virtue of section 88K(2) of the Act, the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise the remaining matter in its admission arrangements as quickly as possible.

Dated: 30 January 2015

Signed:

Schools Adjudicator: Ms Cecilia Galloway