

DETERMINATION

Case reference: ADA2636

Referrer: Nottingham City Council

Admission Authority: St Barnabas Catholic Academy Trust

Date of decision: 30 June 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the academy trust of The Trinity Catholic School, Nottingham.

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 Nottingham City Council, the local authority (the LA) for the area, in an email dated 15 May 2014 concerning the admission arrangements for September 2015 (the arrangements) for The Trinity Catholic School, an academy (the school).
2. The objection is to the requirement for parents applying for places to include information about siblings on the supplementary information form (SIF).

Jurisdiction

3. The terms of the academy agreement between the academy trust and the Secretary of State require that the admission policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. The arrangements were determined by the academy trust, which is the admission authority for the school on that basis.

4. The objector submitted the objection to these determined arrangements on 15 May 2014. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

5. In considering this matter 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 dated 15 May 2014;
 - b. the Nottingham Roman Catholic Diocesan Education Service's (the diocese) proposed admission policy and SIF for Catholic primary voluntary academies in Nottingham City, dated August 2013;
 - c. the school's admission policy, determined at a meeting of the governing body in June 2014;
 - d. letters and emails exchanged by the school admissions team of the LA and the diocese between January and May 2014;
 - e. the referrer's further comments dated 22, 28 and 29 May 2014;
 - f. the school's response to the objection, dated 4, 19 and 23 June 2014; and
 - g. the school's website.

The Objection

7. The LA contends that the school's SIF, used in applying the arrangements, in requesting details (that is, names and dates of birth) of siblings attending the school at the proposed time of admission goes beyond what is necessary and reasonable, given that such information is already known from the LA's common application form (CAF).

Other matters

8. In the course of considering the objection, it became apparent to me that the governing body of the school had not held a meeting to determine the arrangements for 2015/16 in the mistaken belief that, if the arrangements had not changed, there was no need to determine them again. As pointed out below, paragraph 1.46 of the Code makes clear that this procedure is necessary, and sets a deadline for its completion. Although, when made aware of this omission, the governing body met to determine arrangements for 2015/16, there are shortcomings in those arrangements, as determined below.

9. I reviewed the arrangements as a whole and noted that these appeared not to meet the requirements of the Code in respect of the length of time for which the arrangements remain valid.
10. I also found that the information regarding waiting lists is less clear and helpful to applicants than it might be.
11. In addition, the school's website does not meet the requirements of the Code in respect of the information published regarding admission arrangements.
12. Furthermore, information on the school's website regarding admissions to the sixth form does not meet the requirements of the Code, nor does it conform with the arrangements determined in June 2014.

Background

13. The school, an academy for 11 – 18 year old pupils, belongs to the Nottingham Diocesan family of schools and is under the Trusteeship of the diocese. The governing body is the admission authority under the articles of the St Barnabas Catholic academy trust.
14. The arrangements for 2015-16 were determined by the governing body of the school on 17 June 2014 using a common or 'model' policy provided by the diocese to all Catholic voluntary aided secondary schools and Catholic voluntary secondary academies in Nottingham City and Nottinghamshire.

Consideration of Factors

15. The LA responded in January 2014 to the proposed admission arrangements for 2015/2016 circulated for consultation by the diocese. Comments were made, among others not relevant to this objection, on the SIF.
16. With reference to the SIF, the LA commented that it "*would recommend that you remove the section ... which requests details of any siblings attending the preferred academy at the proposed time of admission.*"
17. It is the LA's contention that by requiring parents to give the names and dates of birth of siblings on the SIF, the school is contravening paragraph 2.4 of the Code which states that admissions authorities "*must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria ...*". This information is already collected on the LA's CAF, which all parents seeking places for a child at the school must complete. The LA says that, especially where parents may be completing more than one SIF, this repeated provision of information is an unnecessary burden and one prohibited by the Code.

18. The view of the diocese is that, given the significance of siblings in the application of oversubscription criteria in the arrangements, this information has a *“direct bearing”* on decisions made about the allocation of places; that it ensures procedures are *“more robust and fairer for parents”*; and that *“the SIF specifically asks for verification that the child will have a brother or sister at the specific school at the proposed time of admission.”* The diocese further argues that information gathered by the CAF is sometimes inaccurate or unclear and that the SIF is thus *“a very effective cross check for admission committees and ensures that applications will be ranked correctly.”* The school’s response emphatically endorses the diocese’s views on this issue.
19. In reply, the LA accepts the importance of obtaining information about siblings in applying oversubscription criteria for the school. It further accepts that parents may make errors or omissions in completing the CAF, but suggests that the requirement to re-enter sibling information on the SIF does not preclude repetition of, or further, error. The LA provides weekly reports to own admission authority schools to enable them to cross reference information with completed SIFs; these reports include details of siblings. Although the letter from the diocese quoted above suggests otherwise, the CAF asks clearly for parents to indicate if there are siblings on the roll of a specific school to which a parent is applying for a place.
20. In many respects the diocese, with the strong support of the school, makes a reasonable case for requiring information about siblings to be entered on the school’s SIF as well as on the LA’s CAF. The SIF does provide a checking mechanism and it may be that, especially in cases where parents have, for whatever reason, misunderstood the CAF or have failed to complete it fully or accurately, this second opportunity to enter details of siblings might eliminate some errors and oversights. However, I believe the CAF to be clearly worded and presented and that the likelihood of a parent not providing this information on the CAF but then doing so on the school’s SIF is minimal. The LA’s weekly reports to the school, although not complete copies of the CAF, contain sufficient detail to allow for the identification of possible anomalies.
21. The crux of this issue appears to be differing interpretations of paragraph 2.4 in the Code. The school believes it is not requesting additional information, rather a confirmation of information already given on the CAF, and moreover that, as information about siblings does have *“a direct bearing on decisions about oversubscription”*, then to ask for it is reasonable and allowable under the Code. For its part, the LA sees the school’s request as unnecessary and potentially burdensome for parents. There has been considerable discussion between the LA and the diocese on this matter over a period of time, and the school supports the diocesan view. There is no suggestion in the school’s arrangements that the SIF is used to seek any

additional information specifically prohibited by paragraph 1.9 of the Code.

22. I have considered these points of view carefully against my reading of paragraph 2.4 of the Code. The paragraph states clearly that any supplementary information may be sought by an admissions authority only if *“it has a direct bearing on decisions about oversubscription”*. In this case, the information requested by the school certainly has that direct bearing, and it might be argued that it is not ‘additional’ information, since it has already been provided. Therefore, in that sense, there is implicit agreement between the parties that the school does not need any additional information through the mechanism of the SIF in order to apply its oversubscription criteria.
23. My understanding of paragraph 2.4 of the Code is that it applies to situations where additional information is necessary to allow the proper application of oversubscription criteria, and that this is not the case for this school. Although paragraph 2.4 of the Code does not explicitly prohibit requests for information on the SIF that is already collected on the CAF, I believe that to be the spirit of the paragraph.
24. I determine, therefore, that the request for information about siblings does not comply with the requirements of the Code and that the arrangements need to be amended to remove this request from the school’s SIF in order to conform with paragraph 2.4 of the Code.
25. I turn now to the other matters mentioned above. In the introductory remarks to the school’s arrangements it is stated that the admissions policy will *“apply to all applications for the school year 2015-2016 and for subsequent years until further notice.”* This is in implicit contravention of paragraph 1.46 of the Code which states 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.”* The governing body was under the misapprehension that there was no need to determine anew arrangements that had not changed. Furthermore, with regard to consultation, in implying an indefinite period of validity for the arrangements, the admission authority appears also to have overlooked the requirement of paragraph 1.42 of the Code which states that, even when there have been no changes, *“admission authorities **must** consult on their admission arrangements at least once every 7 years.”*
26. I determine, therefore, that the statement concerning the validity of the arrangements does not comply with the requirements of the Code and that the arrangements need to be amended to conform with paragraphs 1.42 and 1.46 of the Code. The governing body needs to observe the requirement in paragraph 1.46 of the Code to determine arrangements annually, by the given deadline, and to consult on them as required.

27. In respect of waiting lists, the school's arrangements state that *"Waiting lists for admission will remain open until the end of the Autumn Term in the admission year. If there is oversubscription, schools will continue to maintain waiting lists."* Paragraph 2.14 in the Code makes explicit the requirement to maintain a waiting list for one term, but leaves open the possibility that admission authorities might wish to designate a longer period of time. The Code does not address the issue of waiting lists for year groups other than for the normal intake year. The school's arrangements thus meet the basic requirements of paragraph 2.14 of the Code.
28. However, *"waiting lists"* in the plural might be taken to imply that there is more than one list maintained by the school, and the presumption might be that there are different waiting lists for different year groups, but this is not explained. The second sentence quoted above is puzzling, since if there were not oversubscription, there would presumably be no need for a waiting list in the first place. In my view, this lack of clarity does not conform with paragraph 14 of the Introduction to the Code, which states that *"Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated."*
29. I am of the view, therefore, that in order to provide clear and accessible information to parents, it would be helpful if the school were to state in its arrangements whether it intends to maintain waiting lists for longer than the minimum required period, and if so for how long, and for which year groups waiting lists will be maintained.
30. I determine, therefore, that the school's statement concerning waiting lists does not comply fully with the requirements of paragraph 2.14 of the Code and that it should be amended as soon as possible in order to do so.
31. On the issue concerning the school's website, paragraph 15(a) of the Code states that *"All schools **must** have admission arrangements that clearly set out how children will be admitted, including the criteria that will be applied if there are more applications than places at the school."* Paragraph 15(b) goes on to state that *"Admission authorities **must** set ('determine') admission arrangements annually."* Paragraph 1.46 of the Code states that *"All admission authorities **must** determine admission arrangements by **15 April** every year ..."* and paragraph 1.47 states, *"Once admission authorities have determined their admission arrangements, they **must** ... publish a copy of the determined arrangements on their website ..."*
32. The arrangements currently published on the school's website are for 2014/15 and there is no information concerning determined arrangements for 2015/2016. Parents and other interested parties are thus deprived of an opportunity to consult the determined arrangements in order to make an application or to make an objection should they so wish without having to make unreasonable

efforts to obtain the necessary information. As noted above, the governing body failed to meet the deadline of 15 April in respect of determining the arrangements, under the misapprehension that, because the arrangements had not changed from the previous year, there was no need to determine them again.

33. This shortcoming is compounded in respect of admissions to the sixth form. While the determined arrangements for sixth form entry in 2015/16 forwarded to the adjudicator following a meeting of the governing body on 17 June meet the requirements of the Code, the version on the website fails to mention giving preference to applicants who are previously looked after children. It also refers sixth form applicants to the 'full admissions policy' which, as noted above, is not up to date and does not conform fully with the requirements of the Code.
34. I determine, therefore, that the school's website does not comply with the requirements of the Code and that it needs to be updated in order to show that the determination and publication of admission arrangements meet fully the requirements of paragraphs 1.46 and 1.47 of the Code.

Conclusion

35. The objection draws attention to the school's request for information about siblings on its SIF, duplicating information already gathered by the LA's CAF. I considered this issue against paragraph 2.4 of the Code and, for the reasons explained above, decided that this request by the school, while not prohibited, is contrary to the spirit of paragraph 2.4 of the Code and potentially unreasonable in the demands made on parents.
36. I therefore uphold the objection, as the school's arrangements do not conform with paragraph 2.4 of the Code.
37. In considering the arrangements as a whole, I also found that they include a statement that implies they have unlimited validity, which contravenes paragraphs 1.42 and 1.46 of the Code. In connection with this issue, the governing body had been unaware of the requirement in the Code to determine arrangements annually, by a given date, even if there had been no change proposed.
38. I also found that the section of the Code concerning waiting lists lacks both clarity and specificity when measured against the requirements of paragraph 2.14 of the Code, and the overarching concern of the Introduction to the Code that arrangements should be easy for parents to understand.
39. Furthermore, the school's website does not publish the arrangements for 2015/2016. This is unhelpful to prospective applicants for places

and other interested parties, and contravenes paragraphs 1.46 and 1.47 of the Code.

40. With regard specifically to arrangements for admission to the sixth form, information on the website fails to meet the requirements of the Code regarding previously looked after children and refers applicants to the full admissions policy, which is not the most recent determined version.
41. It is for these reasons that I conclude that the arrangements are not compliant with the Code and must be revised as soon as possible.

Determination

42. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the academy trust of The Trinity Catholic School, Nottingham.
43. 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.
44. 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 June 2014

Signed:

Schools Adjudicator: Andrew Bennett