



DETERMINATION

Case reference: ADA2607

Admission Authority: The Governing Body of St Angela's Ursuline School, Newham

Date of decision: 20 August 2014

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing body of St Angela's Ursuline School, Newham, for admissions in September 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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. The admission arrangements (the arrangements) of St Angela's Ursuline School (the school) a voluntary aided (VA) school with a Roman Catholic religious character for girls aged 11 – 18 in the London Borough of Newham came to the attention of the Office of the Schools Adjudicator (OSA) during the consideration of the arrangements of St Bonaventure's School which is another school in Newham and which is the subject of determination ADA2594.

Jurisdiction

2. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the school's governing body, which is the admission authority for the school. The arrangements came to my attention in May 2014. I am satisfied that it is within my jurisdiction under section 88I of the Act to consider them and I have used my powers under that section to consider the arrangements for admission to Years 7 (Y7) and 12 (Y12) to the school. Having looked at the arrangements, I considered that there may be matters which do not comply with the requirements relating to admissions.

Procedure

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the determined arrangements for 2015, including the supplementary information form (SIF) used by the school;
 - b. information provided by the school in its letters of 19 and 22 May 2014 and 28 July 2014;
 - c. comments from Newham Council which is the local authority (LA) for the area which were made in the context of determination ADA2594;
 - d. comments from the Diocese of Brentwood (the diocese) which is the faith body for the school which were made in the context of determination ADA2594;
 - e. material taken from the website of the diocese including the document "Guidance Notes for Parish Priests on Admission to Catholic Schools" and the associated Priests' Reference form;
 - f. confirmation of when consultation on the arrangements last took place;
 - g. copies of the minutes of the meeting of the governing body on 4 December 2013 at which the arrangements for 2015 were determined; and
 - h. a copy of the determined arrangements.
5. I have also taken account of information received during a meeting I convened with representatives of the school on 26 June 2014 at the school. The diocese and LA had been invited to be represented but chose not to attend.

Matters which may not conform with the requirements relating to admissions

6. When I reviewed the arrangements for 2015, I considered that they might not conform with the requirements relating to admissions in the following ways:
 - a. the absence of a final tie-breaker to distinguish between two applicants who cannot otherwise be separated meant the arrangements did not meet the requirements of paragraph 1.8 of the Code;
 - b. the lack of a clear statement that a child with a statement of special educational needs (SEN) which named the school would

be admitted which meant that the arrangements were not clear as required by paragraph 1.8 of the Code;

- c. the definition of previously looked after children was not accurate and the arrangements thus were not clear as required by paragraph 1.8 of the Code and there was a possibility that some previously looked after children might not receive the degree of priority they are entitled to by virtue of paragraph 1.7 of the Code. In addition, the arrangements for Y12 did not give the degree of priority for non-Catholic looked after and previously looked after children required by paragraph 1.7 of the Code;
- d. the arrangements lacked clarity in relation to the degree of priority given to sisters of girls already attending the school relative to the priority given on the basis of distance from the school thus breaching paragraph 1.8 of the Code;
- e. the SIF and Priests' Reference Form sought information which was either not necessary to apply the oversubscription criteria in breach of paragraph 2.4 of the Code and/or was prohibited from being asked for also by virtue of paragraph 2.4
- f. the arrangements implied that all applicants must complete the SIF which is a breach of paragraphs 15d and 2.8 of the Code;
- g. the oversubscription criteria included priority for girls who had attended unnamed feeder primary schools which is a breach of paragraph 1.15 of the Code;
- h. the school admits pupils each year to Year Y12 (Y12), but no published admission number (PAN) was set out in the arrangements in breach of paragraph 1.2 of the Code;
- i. the Y12 arrangements gave priority to catechumens of the Catholic Church ahead of looked after and previously looked after children who are not Catholics which is a breach of paragraph 1.7 of the Code; and
- j. the arrangements included priority for children of other Christian denominations and other faith who practise their faith regularly but in relation to Christians did not include a definition to enable parents to know whether their particular denomination was included and did not define what was meant by "practiced regularly" and thus breached paragraphs 1.8 and 1.37 of the Code.

Background

- 7. The school has a published admission number (PAN) of 186 for Y7 and the oversubscription criteria for that year of entry can be summarised as follows:

1. Looked After Catholic Children or Catholic “formerly Looked After Children” who have been adopted.
 2. Baptised Roman Catholic girls whose permanent residence is within one of a number of named Roman Catholic parish boundaries which together make up the Newham Deanery, and who with their family practice regularly as confirmed by the Priests’ Reference Form.
 3. Baptised Roman Catholic girls who attend any Roman Catholic Primary school but live outside the Newham Deanery and who with their family practice regularly as confirmed by the Priests’ Reference Form.
 4. Other baptised Catholic girls who live in the Deanery of Newham.
 5. Any other baptised Catholic girls.
 6. All other Looked After Children or “formerly Looked After Children” who have been adopted.
 7. Children of families of another Christian denomination in the following order of priority:
 - baptised Christians whose ministers can confirm their level of practice;
 - other Christians whose minister can confirm their level of practice;
 - any other Christians.
 8. Children of families of other faiths residing in Newham whose religious leader can confirm in writing that they are practising regularly.
 9. Any other applicants.
8. The arrangements provided that where the PAN is reached and exceeded in any of the categories: *“The attendance of a sister at the school who will be on the school roll at St Angela’s in September 2014/2015 in Years 8 – 13 will increase the priority of an application within each category.”* and *“Distance from home to the nominated central point of Newham, which has been agreed as the Front Entrance of Our Lady of Compassion Catholic Church, Green Street, London E13 9AX.”*.
 9. The school is regularly oversubscribed for admission at Y7. In each of the years 2012, 2013 and 2014 the school has been able to admit to Y7 every Catholic girl who wanted a place together with a small number of girls of other Christian denominations.

10. The school operates a joint sixth form with St Bonaventure's which is a Catholic school for boys also located in Newham. This collaboration is known as the St Angela's and St Bonaventure's Sixth Form Centre. It has a clear identity of its own including its own website, but I understand that it is not, however, a legal entity separate from the two schools. The school told me that male students are registered at the boys' school and female students at the girls' school and I understand that there is also some scope for dual registration of sixth form students. The oversubscription criteria for Y12 are different from those applying at Y7. The Y12 arrangements include academic requirements as permitted by paragraph 2.6 of the Code and as these are common to each category I have not set them out in summarising the arrangements for external applicants which I do below:

1. Looked after Catholic children.
2. Practising Catholics resident in the Deanery of Newham.
3. Catechumens.
4. Any other Looked After Children.
5. Children of parents resident in Newham.
6. Other applicants.

11. The Y12 arrangements also include the provisions noted above that within each criterion the presence of a sibling at the Sixth Form Centre will increase the priority given to an applicant and that distance from the school will be used to distinguish between applicants.

Consideration of Factors

12. As noted above, the school admits pupils to Y7 and Y12 and has – as it is entitled to – different oversubscription criteria for the two different points of entry. In the following paragraphs I indicate whether the issue under consideration is relevant for one (and if so which one) or both points of entry. Since the meeting, the school has varied its arrangements for admission to Y7 in a number of ways in order to bring the arrangements into conformity with the Code. The school is permitted to do this by virtue of regulation 19 of the School Admissions (Admission Arrangements and Determination of Admission Arrangements) (England) Regulations 2012 (the regulations) and is to be commended for taking swift and decisive action to improve its arrangements, although some breaches do remain to be remedied.

13. For admission to Y12, the situation at the time of writing this determination is different. The oversubscription criteria for Y12 are available on the sixth form website, but no application form was provided (as there is no LA wide CAF for Y12 admissions, a form is needed for all applications). I understand that the school and St Bonaventure's school are working together to develop new admission arrangements and a new application form and that these will be

published as soon as possible. As the full sixth form arrangements were not determined by 15 April and are not as yet available on the school's website the arrangements for Y12 do not conform with the Code and the Code requires the school to amend the arrangements as quickly as possible.

Tie-breaker and distinguishing between applicants within each oversubscription criterion

14. The arrangements for Y7 and Y12 when I first saw them did not include a final tie-breaker as required by paragraph 1.8 of the Code in order to separate two applicants who qualified equally for the final available place. The arrangements for Y7 do now include random allocation as a final tie breaker. However, arrangements for Y12 at the time of writing this determination do not contain a final tie-breaker and the Code requires the school to revise its arrangements as quickly as possible.
15. As noted above, the oversubscription criteria when I first saw them for Y7 and Y12 provided that when the PAN was reached and exceeded in any oversubscription category, the attendance of a sister at the school (for Y7) or a sibling in the sixth form centre (for Y12) would increase the priority given that applicant. I was concerned that this was not completely clear as it did not explain how much the priority would be increased. The revised arrangements for Y7 use a different form of words and are clearer. The arrangements for Y12 have not been changed at the time of writing this determination and are not clear. The Code requires the school to revise the arrangements for Y12 as quickly as possible.

Admission of pupils with statements of SEN and looked after and previously looked children

16. The arrangements when I first saw them explained that the admission to the school of pupils with statements of SEN were subject to a completely separate procedure. This is true, but I was concerned that the arrangements did not say clearly that the school would admit any child who had a statement of SEN that named the school and thus did not meet the requirement of paragraph 1.8 for admission arrangements to be clear. The revised arrangements contain a clear and prominent statement that girls with a statement of SEN that names the school will be admitted.
17. For Y7, the school's arrangements when I first saw them referred to looked after children and "*formerly Looked After Children who have been adopted*". The definition of formerly looked after children in the Code is actually a little broader than this as it includes not only children who have been adopted but also those who have been made subject to a residence order or special guardianship order. I am sure that the school has in fact included such children in its treatment of formerly looked after children, but the arrangements were not accurate and did not conform fully to the requirements of paragraph 1.7 of the Code. The revised arrangements do conform. For Y12, however, at the time of

writing this determination the arrangements still did not refer to previously looked after children. The arrangements do not conform to the Code and the Code requires the school to amend the arrangements as quickly as possible.

18. There is another aspect of the arrangements for Y12 relating to looked after and previously looked after children which when I reviewed the arrangements I considered might not conform with the Code. As outlined above, the school's arrangements give the highest priority to Catholic looked after children. Priority is then given to other groups of Catholics, then to children who are members of the catechumenate of the Catholic Church and then to other looked children. It is permitted by virtue of paragraph 1.37 of the Code for schools with a religious character to give priority to members of their faith ahead of looked after and previously looked after children who are not of their faith. However, they must give the highest priority after members of their faith to looked after and previously looked after children not of the faith.
19. The diocese's own guidance states clearly that: *"To be a Catholic you must have a Baptism or Reception Certificate from a Catholic Church."* Catechumens will not have such a certificate which is awarded on baptism or – for those who become Catholic having earlier been baptised into another Christian denomination – are received into the Catholic Church. When this happens, people are no longer catechumens. The school is not permitted to give higher priority to catechumens than to looked after and previously looked after children who are not Catholics. The arrangements do not conform with the Code and must be revised as soon as possible.

The faith-based criteria for Y7

20. When I first saw the arrangements for Y7, they gave an element of priority to children of families of other Christian denominations. However, no indication was given of which denominations were recognised as falling within this definition and I was concerned that the arrangements were accordingly not clear as required by paragraph 1.8 of the Code. In addition, this priority was accorded only to baptised Christians and some Christian denominations do not practise infant or childhood baptism. This provision is thus not clear or fair and so breaches paragraph 1.8 of the Code. The school has varied its arrangements to add a clear definition of Christian denominations and provide that priority is afforded to those baptised or for whom a service of thanksgiving has been held.
21. For the element of priority for non-Catholic Christians and for members of other faiths, there was in the arrangements when I first saw them a requirement for the family's Minister of religion to confirm that the family practised regularly. However, there was no indication of what constituted regularly which made the arrangements unclear in contravention of paragraph 1.8 of the Code and paragraph 1.37 which requires that *"parents can easily understand how any faith-based criteria will be reasonably satisfied"*. The school has varied its

arrangements so that this now aspect now refers to monthly practice and this is now clear.

22. The arrangements when I first saw them included an element of priority for *“Baptised Roman Catholic girls who attend any Roman Catholic Primary school but live outside the Newham Deanery and who with their family practice regularly as confirmed by the Priests’ Reference Form.”* Paragraph 1.15 of the Code provides for schools to name one or more feeder schools and that where this is done the selection of feeder schools **must** be transparent and made on reasonable grounds. The schools are not named and so do not conform to the requirements of paragraph 1.15. In addition it is not reasonable as required by paragraph 1.8 of the Code to include every Roman Catholic primary school – there are over 1,600 of these in England – as a feeder school. Finally, “any Roman Catholic Primary School” could include fee-paying schools and paragraph 1.9l prohibits the inclusion of such schools feeder schools. The school has now varied its arrangements which no longer include priority for girls who have attended Roman Catholic primary schools.

23. A number of the criteria refer to “Practising Catholic children, as determined by a Priest using the Priests’ Reference Form”. I have seen this form which is helpfully and clearly provided on the website of the Diocese of Brentwood along with guidance for Priests and for parents. The aim of the guidance is clear and it is to provide: “a single, objective test for Catholicity which is either met or not met for each person”. It says that *“for the purposes of this Priests’ Reference form a person is a practising Catholic if they observe the Church’s precept of attending Mass on Sundays and holy days of obligation”*. There is helpful material which makes clear that there may be reasons why a family are unable to attend every single Sunday (by reasons of illness for example) but makes clear that attendance that was only fortnightly would not meet the test of practising Catholic. I found the sections of the guidance dealing with the length of time for which practice had to be sustained rather less clear. The guidance says:

*“Priests cannot judge whether a person’s pattern of attendance at Mass corresponds to that required by the Church unless it has continued for a substantial period of time. Priests should enquire very carefully into the circumstances where the pattern of practice has not continued over several years. **A person is certainly not to be regarded as a practising Catholic if that practice has started recently solely in order to fulfil the requirements of entry into a Catholic school.**”*

24. The words “substantial” and “several” in relation to periods of time and years respectively are capable of being interpreted in different ways. In addition, there is no indication of what sort of responses to an enquiry by a priest about practice which has not continued over several years would mean a child could be considered a practising Catholic and what responses would not mean this. At the time of writing this determination, this section of the form has not been changed. The form is part of the admission arrangements for the school (and, indeed, of all

Catholic schools in the Diocese of Brentwood) by virtue of footnote 4 to paragraph 5 of the Code which defines admission arrangements as: *“the overall procedures, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered.”* The purpose of this form is to enable an application to be assessed against the school’s faith-based oversubscription criteria. Without the form no such assessment can be made. The form must accordingly meet the Code’s requirements for admission arrangements. I find that the guidance and definition of practising Catholic are not clear and hence do not conform with paragraphs 14 and 1.8 of the Code. In addition, I consider that parents looking at the guidance would not easily be able to understand whether their own practice did or did not meet the requirements as required by paragraph 1.37 of the Code which provides that *“admission authorities must ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied”*. The arrangements do not conform with the Code and must be revised as quickly as possible.

25. I have set out above the reasons why the form and its guidance are part of the admission arrangements for Catholic schools in the diocese. I now turn to the inclusion on the form of a number of questions which are not related to the oversubscription criteria of the school. The form comprises two parts: Part A - which has a heading which explains that it is to be kept by the Priest and not sent to the school - is described as “Your [the parents’] Self-Assessment”. It asks for information about the parents and the child. In relation to the parents, the form asks for details of both mother and father and – separately – their parish of residence, whether each is a Catholic and their frequency of attendance at Mass and for how long this practice has been sustained. Parents who do not attend Mass regularly are invited to say why and they are also invited to *“give any other details which may be relevant or useful”*. In relation to the child it asks about baptism, Holy Communion and First Confession and then says: *“If you or your child participate or contribute to parish activities, you may wish to indicate below.”* It then asks why the parents wish the child to attend a Catholic school and for both parents to sign the form. Part B of the form – which is the part returned to the school – asks the Priest to confirm whether the parents and child are known to him and whether or not he considers the child to be a member of a practising Catholic family.
26. The guidance to Priests explains that Part A *“is designed to give you a good, all round picture of the family’s pattern of practice and pastoral circumstance, so that you are able to fill in Part B of the Form consistently”*. The annex to the guidance explains that *“for the purposes of this Priests’ Reference form, a person is a practising Catholic if they observe the Church’s precept of attending Mass on Sundays and holy days of Obligation.”* Given that this is the definition of practicing Catholic, whether a child or his or her parent takes part in parish activities (other than attendance at Mass) is not relevant to the definition and neither are the reasons parents may have for wishing their child to attend a Catholic school nor are any reasons they may

have for not attending mass frequently.

27. As noted above, Part A requires the signatures of both parents and the parish in which each is resident. Paragraph 2.4 of the Code is clear that admission authorities when using a SIF **must not** require both parents to sign the form. While the Priests' Reference Form is not returned to the school, I think that it is covered by the principles which apply to the SIF. A single parent may – rightly or wrongly – consider that because he or she can provide only one signature, his or her application may be given less weight than those of other parents. I consider that this is unfair. Moreover, both this question and the question asking for the parish in which each parent is resident, could (especially in the case of parents who are not married or are separated) give information about marital status in contravention of paragraph 2.4a of the Code. The footnote to this question also requests the same information about any other person who has parental responsibility for the child. Again, this asks for information which could indicate the marital status of the parents (if, for example, details of a step parent were given) and is not, in any case, relevant to the oversubscription criteria. At the time of writing this determination, this part of the form has not been changed in the material sent to me since the meeting and at the time of writing this determination the material on the diocesan website continues to include Part A under the admissions tab. The use of this form in its current format with Part A included means that the admission arrangements for the school do not conform with the Code and the Code requires that the arrangements are revised as quickly as possible.
28. I turn now to the school's SIF which is returned to the school. First, the arrangements for Y7 when I first saw them stated that a SIF must be returned to the school with the implication that all applicants must complete a SIF. In fact, there is no requirement for an applicant to complete a SIF in order to make a valid application to this school (or indeed any other) although failure to do in the case of a school with a SIF may mean that the school cannot apply some of its oversubscription criteria and an applicant would not thus receive the priority she would enjoy if the SIF were completed. However, applicants who are seeking a place at St Angela's under the category of looked after or previously looked after children who are not Catholics would have no need to complete a SIF as the necessary information for such priority is included in the LA's CAF and paragraph 2.4 of the Code provides that a SIF can only be used to gather information not already provided on the CAF. Those applying under the school's final category of any other applicants would similarly not need to complete a SIF. The revised arrangements helpfully make clear which categories of application require a SIF and which do not. However, at the time of writing this determination, the school's website continues to state on its admissions page that a SIF must be completed. This page is part of the admissions arrangements and the arrangements do not therefore conform to the Code and the Code requires the school to revise the arrangements as quickly as possible.

29. The original SIF asked for details of both parents, including the address of each. I consider that this could reveal personal information about parents as noted above in relation to the Priests' Reference Form. The SIF also asked for a copy of the child's birth certificate or passport. Paragraph 2.5 of the Code states that admission authorities may ask for proof of date of birth but only after a place has been offered. The revised SIF does not ask for proof of birth but does continue to ask for details of birth parents. The SIF does not accordingly conform with paragraph 2.4 of the Code and the Code requires the school to amend the SIF as quickly as possible.

The PAN for Y12

30. When I first reviewed the arrangements, I could not find a PAN for Y12. The school is required set a PAN for each year group to which it regularly admits pupils by virtue of paragraph 1.2 of the Code and as noted above, there was no SIF for Y12 available on the website which is a breach of the requirement in paragraph 1.47 of the Code that arrangements must be published. These breaches of the Code had not been remedied at the time of writing this determination and the Code requires the school to revise its arrangements as quickly as possible.

Conclusion

31. When the arrangements first came to my attention, they included a number of breaches of the Code. The school was extremely responsive when these were drawn to its attention and has acted quickly to make changes. Some breaches remain as set out in this determination and the school is required by the Code to revise its arrangements as quickly as possible.

Determination

32. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing body of St Angela's Ursuline School, for admissions September 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

33. 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.

Dated: 20 August 2014

Signed:

Schools Adjudicator: Ms Shan Scott