



DETERMINATION

Case reference: ADA2806

Objector: The Fair Admissions Campaign

Admission Authority: The academy trust of the Bishop of Winchester Academy, Bournemouth

Date of decision: 21 November 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body of the Bishop of Winchester Academy, the admission authority for the school, for admissions in September 2015.

I have also considered the arrangements as a whole in accordance with section 88I(5) of the Act and I determine that these 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 objection

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator by the Fair Admissions Campaign, the objector, about the admission arrangements (the arrangements) for September 2015, for the Bishop of Winchester Academy, Bournemouth (the school), an academy school for students aged 11 to 18 years. The objection has three aspects that: criterion 3 implies both parents/carers are required to demonstrate commitment to the faith, which is unfair on those who just have one parent who is religious; the word "regularly" in relation to church activity is not defined; and there is an ethos statement within the sixth form arrangements which students are expected to acknowledge.

Jurisdiction

2. The terms of the academy agreement between the Bishop of Winchester Academy Trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing body of the Bishop of Winchester Academy, which is the admission authority for the school, on 27 March 2014, on that basis.

3. In this case, the objector submitted the objection to these determined arrangements for 2015 on 30 June 2014 and I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

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

- the objection dated 30 June 2014;
- the school's response dated 1 October 2014;
- a response from Bournemouth Council, the local authority (the LA) dated 20 August 2014;
- comments from the Diocese of Winchester, (the diocese) dated 19 August 2014, together with a copy of its guidance to schools;
- minutes of the meeting of the full governing body held on 27 March 2014 at which the arrangements for admission to the school in September 2015 were determined;
- a copy of the determined arrangements for 2015;
- a copy of the funding agreement dated 23 March 2010; and
- the LA's composite prospectus for 2015.

The Objection

6. The objection to the arrangements of the school has three aspects and the objector has cited the paragraphs of the Code which the arrangements are said contravene.

- Criterion 3 implies both parents/carers are required to demonstrate commitment, which is unfair on those who just have one parent who is religious. This statement is then contradicted by the 'Religious Commitment' definition and the supplementary information form (SIF) which specify just one. Paragraphs 1.8 and 14.
- The text '*regularly involved in a weekday Christian church activity including an element of worship*' does not specify how regular. Paragraphs 1.8, 1.37 and 14.
- "*The Academy's Christian ethos is as much at the heart of the 6th form as elsewhere in the Academy and Students will be expected to acknowledge and respect this and its importance to the Academy community*". Paragraph 1.9a.

Other Matters

7. In the course of considering the objection, I reviewed the arrangements as a whole. The arrangements for the sixth form do not appear to conform with the requirements of the Code in the matters of the priority given to looked after and previously looked after children; the inclusion, in the oversubscription criteria, of students who are already on the roll of the school; and the need to determine a published admission number (PAN) for the number of external applicants to be admitted to the sixth form.

Background

8. The school is a Church of England secondary comprehensive academy for students aged 11 to 18 years located in Bournemouth. It is sponsored by the Church of England, through the Diocese of Winchester and specialises in Enterprise & Innovation and mathematics. It has capacity to accommodate 1250 students and has a PAN of 210 for year7 and there are approximately 739 on roll. The school has an attached centre for students with complex communication difficulties and admits up to a maximum of eight students all of whom have a statement of special educational needs. These places are in addition to the PAN of 210.

9. The school's prospectus refers to the opening of a new sixth form in September 2014. The school has confirmed that the sixth form opened as planned and currently has 58 students, of which eight were external applicants.

10. When I reviewed the school's website in July 2014 I found the arrangements for 2014 were easily accessible for parents via the information tabs on the homepage, through the route 'Academy- Important Information- Admissions'. The admissions page itself then has links to the arrangements for 2013, 2014 and 2015.

Consideration of Factors

11. The objection has three aspects and in the first the objector says that criterion 3 implies both 'parents/carers' are required to demonstrate commitment to the faith, which is unfair on those who just have one parent who is religious; and that this is then contradicted by the definition of religious commitment in the arrangements and by the SIF which specify just one parent.

12. The objector contends that this contravenes paragraph 14 of the Code which says, "*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 fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*" The objector also refers to paragraph 1.8 which requires that oversubscription criteria are procedurally fair.

13. The school says there is a typographical error in criterion 3 which is not reflected throughout the rest of the document and the SIF is very specific in using the term 'parent/carer'. The diocese agrees and says there is an error in the text of criterion 3, but throughout the remainder of the document the singular "parent/carer"

is used. The diocese suggests the requirements of the SIF would be obvious and would have no impact on applicants. The LA says that in its experience the school has not treated applications from single parents differently.

14. When I considered the arrangements I noted that they include a clear definition of the term “parent/carer” in a section entitled ‘Definitions’ under the heading “Parent(s)/Carer(s). *“A Parent/Carer is any person who has parental responsibility for or is the legal guardian of the child....”* The SIF which forms part of the arrangements is also clear and states *“I, (name) being the parent/carer of”* and provides space for a single signature. The objection refers specifically to criterion 3 which states, *“Up to 40 % (84 for Years 7 and 8, 60 for Years 9 to 11) places for the admission of students who can or whose Parents/Carers can, demonstrate commitment to their religion.....”*

15. Under a heading in the arrangements, “Religious Commitment,” the admission authority clarifies for parents, *“For applicants wishing to use the Religious Commitment Criteria, either a Parent/Carer applying for a place or the child will be asked to declare their religious Commitment.....”* The SIF then refers to *“A regular worshipper who attends at least a monthly Christian family or church service.....”* In my opinion the arrangements overall, explain to applicants that it may be either the child or a parent who demonstrates religious commitment and I am not persuaded that there is any disadvantage to single parents. However, while I accept the school’s explanation that the plural in criterion 3 is a typographical error, as written it does not convey with sufficient clarity the intention of the governing body and for this reason I uphold this aspect of the objection.

16. The second aspect of the objection is that the text, *“regularly involved in a weekday Christian church activity including an element of worship”* does not specify how regular this is expected to be. This is said to contravene paragraphs 1.8, 1.37 and 14. The text is included in the section headed ‘Religious Commitment’, note A, ‘Attached to a Christian Church’.

17. The school says that regular attendance at a weekday activity is part of a sentence defining regular worship as being at least monthly and this would imply the same for weekday activity. The diocese says that there is no problem with this paragraph and that it is a single sentence stating the requirement for monthly attendance at a church service or a weekday church activity that includes worship. The arrangements state, *“A- “Attached to a Christian Church”. You are a regular worshipper who attends at least a monthly family or church service or who is regularly involved in a weekday church activity including an element of worship.”* The view of the LA is that the drafting of the arrangements could more accurately reflect the school’s intentions.

18. I must consider whether or not the arrangements meet the requirements set out in the three paragraphs of the Code cited by the objector. Paragraph 14 says, is cited above. Paragraph 1.8 states, *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”* Finally, paragraph 1.37 says, *“Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.....”*

19. Although the intention is clear to the school and to the diocese, this may be because they were involved in considering how the arrangements are set out. In my view it may be less apparent to a parent reading the arrangements for the first time, how regular involvement in week day activities may be satisfied. The way the text is written could be interpreted as *either* requiring attendance services that are at least monthly, which is quite clear, *or* a weekday activity that is regular (but is not defined). This could be clarified further to state exactly what is expected in terms of the frequency weekday church activity and therefore how this faith-based criterion may be satisfied and for this reason I uphold this aspect of the objection.

20. The third aspect refers to the statement that, “*The Academy’s Christian ethos is as much at the heart of the 6th form as elsewhere in the Academy and students will be expected to acknowledge and respect this and its importance to the Academy community*”, and the objector contends that the arrangements in this regard do not meet the requirement set out in paragraph 1.9a of the Code, “*It is for admission authorities to formulate their admission arrangements but they **must not**: a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements.*”

21. In its response the school said, “*The ethos statements asks for applicants to acknowledge and respect the ethos of the Academy community and does not affect the rights of students who are not of the Christian faith in applying for the 6th form.*” Both the diocese and the LA are of the opinion that this statement about the ethos of the school does not form part of the arrangements.

22. Paragraph 1.9a of the Code says 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.” Although the school has included a general statement about the ethos of the school it does not require parents or students to complete any statement on the application form to confirm that they agree to support the ethos of the school in any practical way. In my view the arrangements therefore do not place any conditions on the school’s consideration of applications and for this reason I do not uphold this aspect of the objection.

Other Matters

23. Having reviewed the arrangements as a whole for admission to the school in September 2015, I have some concerns about the arrangements for admission to the sixth form. The first of these the mandatory requirement to afford the highest priority in arrangements to looked after children and previously looked after children. Currently, criterion 1 refers to students attending the school who are in year 11 and criterion 2 refers to the admission of looked after and previously looked after children. Students, who are already on the roll of the school in year 11, must not be included in the oversubscription criteria of the sixth form arrangements.

24. The introductory paragraph to the sixth form arrangements explains that the total number of places made available each year will be 100 and priority will be given

to students already on roll at the school, with any remaining places up to the maximum of 100 allocated to other students.

25. This does not convey how many places will be offered to external applicants. The sixth form has capacity to accommodate 100 students in each year of the sixth form and the school will give priority to students already on roll at the school, but if the school intends to admit students new to the school the admission authority must determine a PAN, to indicate to external students the minimum number of places that will be available to them in the sixth form, so that they can assess their chance of gaining admission.

26. Schools generally make available sixth form places for students who are already on the roll of the school, when they wish to stay on into year 12, providing they meet the minimum academic entry requirements laid down by the school, if the school sets academic criteria as permitted by paragraph 2.6 of the Code. Where schools choose to open admission to the sixth form to students who attend other schools, they must indicate the minimum number of places that will be made available to external applicants, in order to meet the requirement as set out in paragraph 1.2 of the Code, “..... *admissions authorities must set an admission number for each’ relevant age group.*” This is defined in section 142 of the Act as ‘an age group in which pupils are or will normally be admitted’, in other words a PAN refers to the number of new students to be admitted to a school and should not be confused with the capacity of the sixth form, as in this case. The school quickly needs to determine a PAN for external students to the sixth form. This will represent the minimum number of external students that *will* be admitted. If there is space remaining in the sixth form, more places may of course be offered.

Conclusion

27. Having considered the three aspects of this objection carefully against the requirements of the Code I have concluded for the reasons given above that in the first part, that is, in the requirement for both parents to demonstrate commitment to the faith, the arrangements do not provide the clarity required by the Code; and in the second part, that there is a need for further clarity about the frequency of regularly involvement in a weekday Christian church activity, to enable parents to be able to easily understand how faith-criteria may be satisfied, and I uphold these aspects of the objection.

28. However, in the matter of an expectation that students will uphold the ethos of the school I am not persuaded that in the wording of the ethos statement the school sets a condition on the consideration of applications for admission; but instead the school only considers applications against the oversubscription criteria in its determined arrangements and for this reason I do not uphold this aspect of the objection.

29. I have also considered the arrangements as a whole, for admission to the school in September 2015 and have concluded that in the following matters, the arrangements do not comply with the Code: the requirement for looked after and previously looked after children to receive the highest priority in the arrangements; the need to determine a PAN for the admission of external applicants to the sixth

form; and the need to remove from consideration within the oversubscription criteria, students who are already on the roll of the school.

Determination

30. 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 the Bishop of Winchester Academy, the admission authority for the school, for admissions in September 2015.

31. I have also considered the arrangements as a whole in accordance with section 88I(5) of the Act and I determine that these do not conform with the requirements relating to admission arrangements.

32. 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.

Date: 21 November 2014

Signed:

Schools Adjudicator: Carol Parsons