



**DETERMINATION**

**Case reference:** ADA2919

**Objector:** The London Borough of Redbridge

**Admission Authority:** The academy trust for The Palmer Catholic Academy, Ilford

**Date of decision:** 24 November 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 for the academy trust of The Palmer Catholic Academy, Ilford, Essex.**

**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 in the ways set out in this determination.**

**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 within two months of the date of this determination.**

**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 London Borough of Redbridge (the objector) which is the local authority (LA) area in which the school is located, about the admission arrangements for September 2016 (the arrangements) for The Palmer Catholic Academy, Ilford (the school) which is a Catholic academy school for children aged 11 to 18.
2. The objection is to a number of aspects of the school's faith-based admission arrangements and oversubscription criteria.

**Jurisdiction**

3. The terms of the academy agreement between the 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 on behalf of the academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 19 June 2015. 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.

4. I am also using 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 Code.

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

- a. the objector's email and form of objection dated 19 June 2015;
- b. the objector's email of 13 July 2015 detailing the objection concerning the school's arrangements;
- c. the school's response to the objection and supporting documents;
- d. the response of the Catholic Diocese of Brentwood (the diocese), which is the faith body for the school, to the objection;
- e. comments on the objection made by the Catholic Education Service (the CES);
- f. a copy of the arrangements as they appeared on the school's website on 7 July 2015, as provided by the school in response to the objection on 13 July 2015 and as they again appeared on the school's website on 27 September 2015;
- g. a copy of the Priest's reference form (the PRF), the associated diocesan guidance for parents and that for priests provided by the diocese;
- h. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
- i. confirmation of when consultation on the arrangements last took place;
- j. a copy of the minutes of the meeting of the governing body at which the arrangements were determined, and
- k. the school's comments on matters of concern regarding the arrangements which I had raised.

## The Objection

7. The objection made on 19 June 2015 was to the admission arrangements of nine Catholic schools, of which three are secondary schools and six are primary schools. Each of the schools is located in the area of the council and has the same religious body.

8. Since the objection was expressed in terms which were not specific to the schools individually, and since each of them is a separate admission authority, the objector was asked to provide the detail for each school in order that there should be no doubt as to the objection in each case. The objector did so and this was circulated to each school in addition to the objection in the form in which it was originally expressed.

9. The clarification of the objection concerning the school's arrangements was made in the following terms:

*"1. The admission authority failed to determine a priest's reference form that is in accordance with the requirements of the Code. The form used – which they say belongs to the Diocese and they have not determined – establishes parents' marital status by asking both parents to sign and provide their home addresses. It also asks parents to give the reasons they want a Catholic school. This is not included in the admission arrangements.*

*2. The arrangements fail to say how the information gathered on the priest's reference form on other parish activities will be used in determining their Catholicity. This is not included in the admission arrangements.*

*3. The guidance to priests on completing the form isn't considered part of the published admission arrangements and hasn't been made clear to parents. Again, the admission authority has failed to determine this and include it in the information published for parents.*

*4. The SIF used requires that parents provide proof of residence which has already been provided to the Local Authority. This is an unnecessary requirement and duplication.*

*5. In relation to Looked After children in these arrangements, it isn't clear if it is the birth or foster parents that have to be Catholic or the child. At criterion 1, the definition of previously looked after children differs from that mandated by paragraph 1.7 of the Code.*

*6. The meaning of permanent residence for the purposes of describing the parish in which the child lives is not defined. It is also unfair to any child who lives with a relative under a nearly new arrangement, if there was evidence that it was intended to be a longstanding arrangement.*

*7. The admission arrangements lack clarity as written – it isn't clear to parents if a higher Catholic score in criterion 3 would get priority over a lower Catholic*

score in criterion 1, or if it means the academy rank criterion 1 in terms of Catholicity, then do the same for criterion 2 and then criterion 3.

Parts of the Code breached

Paragraph 2.4

Paragraph 1.9

Paragraphs 1.8 and 1.37

Paragraph 1.7”

10. Although the LA did not say here which parts of the Code it believed were breached specifically in respect of the first four parts of the objection relating only to the school, it had done so in the original form of objection concerning all nine schools. The first matter set out above was said to breach paragraph 2.4 of the Code, the second paragraph 1.9a) and the third was said to be a breach of both paragraph 1.8 and paragraph 1.37. No specific reference was made to the Code in respect of the fourth or final parts of the objection. The objector said that the fifth part of the objection meant that paragraph 1.7 of the Code was breached by the arrangements and that paragraph 1.8 was breached as a result of the sixth aspect of the objection as set out above. The LA also said on the form of objection that the request contained in the PRF for information concerning any involvement in parish activities may also breach paragraph 1.9i of the Code.

**Other Matters**

11. Having viewed the school's admission arrangements as a result of considering the objection, I was concerned that they contained further matters which may constitute breaches of the requirements in the Code. I wrote to the school seeking its comments on these matters, which included:

**A. Concerning admissions to Year 7 (Y7)**

(i) the definition of “practicing Catholic” given in the arrangements states that this is will be “*confirmed by a reference from the applicant’s Parish Priest or Priest of the Church at which the applicant worships*”. Parents applying for a place at the school will therefore not know whether or not their application will be given priority because they are practicing Catholics. Paragraph 14 of the Code states that parents should be able to look at a set of arrangements and understand easily how places at that school will be allocated and that admission authorities must ensure that their practices are fair, clear and objective. I was concerned that the arrangements may fail to meet this requirement and that set out above in paragraph 1.37 of the Code;

(ii) applicants are required “to support the aims, objectives and ethos” of the school. I was initially concerned that this stipulation appeared as a condition applied to the consideration of such applications. Paragraph 1.9a of the Code forbids conditions being placed on the consideration of applications. It is also seemed to be incapable of being assessed objectively and paragraph 1.8 requires that oversubscription criteria are reasonable, clear and objective;

(iii) the arrangements make no statement concerning waiting lists as required by paragraph 2.14 of the Code; and

(iv) the arrangements do not state that all children whose statement of special educational needs or Education, Health and Care plan names the school will be admitted and it appeared to me that this may be a breach of paragraph 1.6 of the Code.

### **Concerning admissions to the sixth form (Year 12, (Y12))**

(i) paragraph 1.6 of the Code makes it clear that oversubscription criteria may only be employed when there are more applicants than the stated number of places available for the relevant age group and paragraph 2.6 of the Code that in the case of admissions to a sixth form, this refers to the number of places made available to external applicants. If these places as a whole are not oversubscribed, all applicants who meet any academic entry requirements must be admitted and it appeared to me that the arrangements did not conform with this requirement, and

(ii) the arrangements state that priority will be given to existing students of the school. Such students are already students at the school and their transfer to year 12 should have no bearing on the application of oversubscription criteria to external applicants for places. I was concerned that the arrangements may render the position unclear and fail to meet the requirements concerning the clarity of arrangements set out in paragraph 14 of the Code.

### **Concerning consultation**

12. The school provided details of the consultation carried out in December 2014 prior to the determination of the school's arrangements. I was not able to see any evidence that the school had consulted parents of children between the ages of two and eighteen, as required by paragraph 1.44a of the Code and asked the school if it could provide any further evidence of how this requirement was met.

### **Background**

13. The Palmer Catholic Academy is a larger than average secondary school located in Ilford in Essex. Its published admission number (PAN) for Y7 in September 2016 is 192. The school is designated under section 69(3) of the Act as a school with a Roman Catholic religious character.

14. The school was last inspected in October 2012, when it was judged by Ofsted to be good.

15. The school's admission arrangements for Y7 state that "*parents must be fully prepared to support the aims, objectives and ethos of the academy as set out in the Academy's Prospectus*". If the available places are oversubscribed, priority will be given in the order:

1. Looked after and previously looked after children from Catholic families.

2. Children of Catholic families who live within thirteen named parishes, which in practice form a catchment area for the school.

3. Children of Catholic families who live within a defined area covering a large part of north east London.

Priority in the event that the school becomes oversubscribed is given

- a. to practising Catholic children, as confirmed by the PRF, who have a sibling at the school;
  - b. to practising Catholic children, as confirmed by the PRF;
  - c. to baptised Catholic children who have a sibling at the school, and
  - d. to baptised Catholic children.
4. Applicants who are not baptised Catholics, in the order;
- a. looked after and previously looked after children.
  - b. applicants of other Christian traditions who support the aims and ethos of the school;
  - c. children of other faiths whose parents are in sympathy with the aims and ethos of the school;
  - d. other applicants living prioritised by distance from the school.

Further tie break criteria are provided.

16. Footnotes give a definition of looked after children, and of the term “practising Catholic”.

17. The school’s admission arrangements for the sixth form (Y12) state that 60 places are available to external students but that this number may vary since each student admitted must meet the general sixth form entry requirements, those for the course in question, and the school must be able to accommodate their subject choices. All students are expected to have met the stated minimum GCSE grades set out in the sixth form prospectus and to be considered for the purposes of being offered a place, must have predicted GCSE grades that satisfy the individual subject grades which are also given in the prospectus. Oversubscription criteria are provided in the event of oversubscription of Y12 as a whole, or of a specific course. First priority is given to looked after and previously looked after children from Catholic families, to baptised practising Catholic students who are in “public care”, to baptised practising Catholic students who are currently on the roll of the academy, to other baptised Catholic students already at the school, to other baptised practising Catholic students, to other looked after or previously looked after children, to non-Catholic students already at the school, to other qualified applicants and finally to qualified applicants whose chosen course of study has no vacancy and who are prepared to accept an alternative. If there are more applicants than places, predicted GCSE grades, distance from the

school and finally random allocation are used as tie breakers

### **Consideration of Factors and Other Matters**

18. Although invited to do so, the school has made no response concerning any part of the objection. I shall set out first my consideration of its different elements in the light of the information which is available to me. The school has provided me with comments concerning the matters which I have raised with it and I will set out below my view concerning these.

#### The Priest's reference form (PRF)

19. The school's admission arrangements have the following to say:

*"For applicants wishing to be considered under the category of Practising Catholic a Diocesan Priest's Reference will be required."*

The definition given of practicing Catholic is that *"the practice of the Catholic faith will be confirmed by a reference from the applicants Parish Priest or Priest of the Church at which the applicant worships. The Priest's Reference is a Diocesan document available from the Priest of the Church."*

20. Paragraph 1.38 of the Code says that schools with a religious character:

*"**must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based admission arrangements, to the extent that this guidance complies with the mandatory provisions and guidelines of this Code."*

The Code therefore makes it clear that diocesan guidance to admission authorities may not comply with the Code, which emphasises what is set out in paragraph 5 of the Code, which says:

*"It is the responsibility of admission authorities to ensure that admission arrangements are compliant with this Code."*

21. Whatever the guidance of the diocese concerning the form which the school uses as part of its admission arrangements, the responsibility for its compliance with the Code rests with the school itself, since it is the admission authority.

22. The Code gives the definition of a school's admission arrangements as being:

*"...the overall procedure, 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"*.

23. Places at the school are offered as a priority to practising Catholics. It is also clear from the admission arrangements that the means used by the school to decide whether a particular child's application is to be prioritised on

this basis is the PRF. This evidently therefore constitutes *“a device which is used to determine whether a school place is offered”*, and as such is part of the school’s admission arrangements.

24. The diocese has also stated to me its view that the PRF and the guidance which it gives to Priests on its completion are “diocesan property” and that they therefore do not have to comply with the Code. It does not matter whether the PRF is designed or in some way authorised by another body, only whether it is used in any way by an admission authority to determine the allocation of school places. If it does this, the PRF constitutes part of the school’s admission arrangements. It must therefore meet the requirements of the Code both generally and as they apply to SIFs specifically.

25. The CES was asked by the diocese to reply on its behalf to a request for copies of the PRF and its guidance to schools and to priests concerning the completion of the PRF. It provided a link to the PRF and the associated guidance for priests and parents, but did not provide any guidance which the diocese gives to schools concerning their faith-based oversubscription criteria and no such document can be found on the diocese’s own website. If such guidance is provided, it is not easily available as it should be.

26. The CES offered its own comments on the status of the PRF. It said that a doctor’s letter which gives evidence of exceptional medical need is not part of a school’s admission arrangements and that a priest’s reference is comparable to such a letter and therefore also not part of the admission arrangements.

27. However, if a school gives priority in its arrangements on the basis of a social or medical need, it is required by paragraph 1.16 of the Code to *“define this need and give clear details about what supporting evidence will be required (eg a letter from a doctor or social worker) and then make consistent decisions based on the evidence provided”*.

28. The Code requires the basis on which priority is given to be clear, whether it is a social or medical need or on the basis of faith. If the evidence which is needed by the admission authority that a child satisfies the criterion can be gathered using a proforma, such a form is subject to the provisions of the Code as I have explained above. By their nature, medical and social need are individual in nature, and the Code sanctions evidence of the child’s need being provided in the form of a letter from the relevant professional for that reason.

29. The school gives priority to practising Catholics and is required under paragraph 1.37 of the Code to make clear how this criterion is satisfied. I shall return to this point to consider the extent to which it has met this requirement below. The school gathers the evidence that children satisfy this criterion using its PRF. This is an appropriate approach in the case of a faith-based oversubscription criterion since, if it is clear how the criterion is to be satisfied as it should be, this will be in the same way for each child and not on an individual basis as in the case of medical or social need. So I do not accept that the argument that the CES makes has any relevance to the issue of whether the PRF is part of the school’s arrangements. The school uses a form



to gather information which is used to assess applications against the requirements of its oversubscription criteria, and this form therefore is part of its admission arrangements.

30. The objector has complained that the PRF breaches the Code by asking for the details of two parents and in asking for a reason why they wish their child to attend a Catholic school. Paragraph 2.4 of the Code says that admission authorities “...**must** only use supplementary forms that request additional information that has a direct bearing on decisions about oversubscription criteria...”, and paragraph 2.4e) specifically forbids the use of forms that ask both parents to sign. Information about two parents, or their reason for wanting a place at the school, is not needed to process an application for a place at the school but the form asks for both and for two parental signatures. It is in breach of paragraph 2.4 in each of these respects, and I uphold this part of the objection.

31. Paragraph 1.47 of the Code requires the publication by admission authorities of admission arrangements and therefore of any form which is part of them. When I looked at the school’s website on 7 July 2015, I was able to find there a document which was entitled “Supplementary Information Form Notes For Catholic Applicants” which accompanied by part A (the parental self-assessment which is used and retained by the Priest) and part B (the Priest’s reference which is returned to the school) of the PRF. However, when the school provided me with a copy of its admission arrangements on 13 July 2015, this did not include the PRF. I looked again at the school’s website on 27 September 2015 and the PRF was not provided there as part of the school’s admission arrangements. The objector stated that the PRF was not published as part of the arrangements when the objection was made, but it appears from the evidence available to me that if the school has at different times published the PRF as part of its admission arrangements, it has not done so consistently, as it must. This failure is a breach of paragraph 1.47, and I uphold this part of the objection.

32. Paragraph 1.9a) of the Code says:

*“ 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.”*

The objector believes that the arrangements fail to comply with this requirement because they do not state how Catholicity is determined using the information which is provided by applicants who complete the PRF. The arrangements give priority when the school is oversubscribed to practising Catholics and the PRF is used to decide whether an applicant is a practising Catholic. The arrangements may fail to say how a Priest decides that a family are practising Catholics, and I have raised this with the school and will set out below my consideration of their response to me on this point. However, the school uses the condition that applicants are practising Catholics to prioritise applications and its oversubscription criteria say so. I do not consider that

there is a breach of paragraph 1.9a) of the Code as a result.

33. However, the objector's complaint is that the inclusion in the PRF of a request that parents indicate their involvement, or that of their child, in parish activities constitutes a breach of the Code because it is not clear how this information is used to determine Catholicity. Paragraph 2.4 of the Code says that a SIF must only seek additional information that has a direct bearing on decisions about oversubscription criteria. The arrangements as a whole provide no link between this information and any of the school's oversubscription criteria. The diocese's guidance to Priests on the test they should apply to determine whether a person is a practicing Catholic, which is considered below, makes no reference to involvement in parish activities. So on these grounds at least, this information may not be asked for as part of a SIF. The fact that the PRF (which - in spite of what is stated in the school's arrangements - is a SIF within the meaning of the Code) does this is therefore a further breach of paragraph 2.4, and I uphold this part of the objection but on these grounds rather than those put forward by the objector.

34. The PRF allows applicants to indicate whether either they or the child for whom a place is sought participates in parish activities and the LA said in making the objection that this may breach paragraph 1.9i of the Code which forbids admission authorities from giving priority to children based on their own or their parents' hobbies or activities, but that "*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.*" The effect of this is that a faith school may only take into account religious activities which the faith body has laid out. To the extent that "parish activities" are laid out by virtue of the wording of the PRF, which has been provided by the diocese as the faith body for the school, I do not think that this provision is breached. However, it is not clear from the school's admission arrangements or from the form what use would be made of an involvement in parish activities in considering the application. Since the purpose of the PRF is to determine whether a child is a practising Catholic, which forms the basis of oversubscription criteria used by the school, it is therefore unclear how these faith-based criteria are satisfied, which is a breach of paragraph 1.37 of the Code and also paragraph 1.8 which requires oversubscription criteria to be clear. As a result, the arrangements as a whole are not clear, which is a requirement of paragraph 14 of the Code.

#### Guidance to Priests

35. The arrangements state that a Priest will use the information provided by an applicant on the PRF to confirm whether a child is a practising Catholic. The guidance to Priests which the diocese provides says that "*For the purposes of admission to school, the definition to be applied by all priests is set out in this guidance*". It is therefore clear to me that this aspect of the guidance to Priests is an essential part of the process of applying the school's oversubscription criteria and for the reasons set out above concerning the PRF it is also therefore part of the school's admission arrangements.

36. While the guidance is available to enquirers through the diocesan website, the school does not publish any part of it in its admission arrangements, as it

is required to by paragraph 1.47 of the Code. As a result it is not possible to read the published arrangements and have a clear understanding of how the school's faith-based over subscription criteria will reasonably be satisfied, which is a requirement of paragraph 1.37 of the Code. This renders the oversubscription criteria unclear and in breach of paragraph 1.8 of the Code. I therefore uphold this part of the objection.

#### Looked after and previously looked after children

37. In the fifth part of the objection, two matters are raised. First that it is not clear which party's Catholicity is required for a child to be given priority as a Catholic looked after or previously looked after child. Second the objector says that the arrangements do not provide a definition of previously looked after children which complies with that set out in paragraph 1.7 of the Code.

38. Paragraph 1.37 of the Code says that if an admission authority gives priority to children "of the faith" it **must** give the highest priority to looked after and previously looked after children of the faith. "The faith" in this case refers to the faith which corresponds to the school's religious designation. The school's arrangements use the terms "baptised Catholic" and "practising Catholic" and define both, but do not state in terms that a person is a Catholic if they are a baptised Catholic. However, the diocesan guidance to parents says that "*you are a Catholic if you have been baptised into the Catholic Church (or have been received into it after being baptised in another Christian church)*". So it is clear that a person "of the faith" for the purposes of admissions to the school is a baptised Catholic. This means that if the school gives priority to any Catholic children it must give first priority to looked after and previously looked after children who are themselves baptised Catholics, and that no further condition concerning their catholicity is permitted.

39. The arrangements give priority to "children from Catholic families" who are or who were previously looked after above the priority given to "children of Catholic families" within the school's oversubscription criteria. The school states that, as for other categories of Catholic children, looked after and previously looked after children are prioritised in the order set out above, with all children being practising Catholics or baptised Catholics. The arrangements do therefore require looked after or previously looked after children who are given priority over other such children to be "of the faith", which is in accordance with paragraph 1.37.

40. Nevertheless, the arrangements state that the priority is for such children "from Catholic families". The arrangements themselves provide no definition of a Catholic family and so are not clear as to what is meant although the diocesan guidance to Priests says that "*a family is normally to be regarded as a practising Catholic family where at least one parent is a practising Catholic and is doing his or her best to hand on the faith to his or her children*". Whether a child's foster or adoptive family are themselves baptised or practising Catholics cannot be a condition, the only relevant consideration being whether the child is a baptised Catholic. The school's practice of giving priority to looked after and previously looked after Catholic children from Catholic families, and not to all such children, is therefore a breach of paragraph 1.37 and I uphold this part of the objection.

41. The arrangements state that priority is given to children *“who were looked after but who ceased to be so because they were adopted or became subject to a residence order or special guardianship order”*. This conforms with the requirement concerning previously looked after children in paragraph 1.7 of the Code, and I do not uphold this part of the objection.

#### Permanent residence

42. The objector complains that the term “ordinary residence” is not defined and that as a result unfairness to some children is introduced into the school’s arrangements. The arrangements as provided to me by both the objector and the school do contain a detailed definition which consists of three paragraphs which deal with different aspects of residence, namely who counts as a parent for this purpose, how the separation of parents is handled, and under what circumstances full or part-time residence with someone other than a parent is to be treated as permanent residence. I do not uphold the first part of this aspect of the objection as it is evident that the arrangements do provide a definition of ordinary residence for the purposes of enabling parents to understand the effect of the school’s arrangements.

43. Paragraph 14 of the Code says that *“admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective”*. The objector says that the arrangements would be unfair to a child living with a relative on a recently-formed basis for which there was evidence of a long-term intention. The definition provided in the arrangements says in its third part that *“the Governing Body will accept this as the application address only if the permanent arrangement is long standing and can be confirmed as such .....If a child is merely looked after by a relative during the week, this would not alter their ordinary residence...that would be used for admission purposes.”* My view of this is that the school has gone to some length to clarify how ordinary residence is established under a range of circumstances including that envisaged by the objector and that in the wording which is used in the arrangements to cover it, the school is clearly signalling its intention not to accept ordinary residence which is claimed without evidence of it having a long-term and truly full-time basis. That in my view does not create unfairness in the circumstance put forward by the objector, which is quite capable of being accommodated fairly within the wording of the arrangements which the school has determined. I do not uphold this part of the objection.

#### Lack of clarity

44. The objector says that the interaction between the first three oversubscription criteria, which define categories of children to whom priority is given, and the means used to allocate priority within each category if there are insufficient places to satisfy all the applicants that fall within it, creates a lack of clarity as to how the oversubscription criteria operate. Specifically the objector says that it is not possible to tell from the wording of the arrangements whether a higher ranking within the four categories of Catholic for someone living in an area given lower priority has more priority than a lower Catholic ranking for someone living in an area to which higher priority is given.

45. The arrangements state clearly in my view that residence within the two geographical areas defined by the arrangements determines priority, in the order in which these are listed. It is only if the school needs to assign priority within one of the groups defined by the applicant's place of residence that the school's four defined levels of Catholicity are used. I do not see that this creates a lack of clarity, and I do not uphold this part of the objection.

#### Supplementary Information Form

46. The final part of the objection concerns a SIF. The objector provided as part of the objection a copy of the SIF which is for Catholic applicants and the SIF for the use of "other Christian traditions and other faiths". The school provided the same documents as part of its admission arrangements. Both SIFs contain a request that the school be given proof of residence by applicants.

47. Paragraph 2.4 of the Code says that if an admission authority employs a SIF it **must** only "request additional information when it has a direct bearing on decisions about oversubscription criteria". The objector has told me that proof of residence is established by itself, and the process which it uses to do so is set out clearly in the introduction to its co-ordinated scheme of admissions to secondary schools for September 2016, which I have seen. I uphold this part of the objection.

I turn now to the matters which I have raised with the school.

#### Practising Catholic

48. The school has responded to my concerns by saying that applicants will be "*very fully aware*" of what constitutes being a practising Catholic, and that the procedure and requirements for making an application on this basis are also clearly set out for parents in guidance to them provided by the diocese. The diocese has provided me with a copy of this document which does clearly spell out how the process involving the PRF works, but concerning how a Priest will decide whether an applicant is a practising Catholic says no more than "*This judgement will be based on your Mass attendance.*"

49. The diocesan guidance to Priests states that it wishes to establish a test of whether a person is a practising Catholic which is "*capable of being observed objectively*" and of "*being applied consistently by many different priests*" and which is "*susceptible to proof by reasonable evidence based on observation*".

50. The guidance is clear in stating that observation of the Sunday obligation requires attendance at Mass on Sundays and "*holidays [sic] of obligation*". However, it has the following to say about the length of this observation which is required to be considered a practising Catholic:

*"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 requirement of entry into a Catholic school.”***

51. Neither of the words “substantial” or “several” is given any definition, and each is therefore capable of being given a different interpretation by different individuals. My view of this statement is therefore that it does not meet the diocese’s intention of providing an objective test which is capable of consistent application and proof by reasonable observation. It is simply not clear what length of practice is required.

52. The school gives significant priority within its oversubscription criteria to those who are practising Catholics, but the arrangements rely entirely on the use of the PRF to decide whether a person is a practicing Catholic. There is no clear statement, either in the arrangements, within the PRF itself, in the guidance which the diocese gives to Priests or that which it gives to parents as to the duration for which Mass attendance on the basis described above is required to be considered a practicing Catholic.

53. The Code requires that oversubscription criteria are clear (paragraph 1.8) and that parents can easily understand how any faith-based criteria will be satisfied (paragraph 1.37). My view is that the school’s arrangements fail to comply with both these requirements.

#### Sympathy with the aims and ethos of the school

54. The school has told me that it believes that since the phrase “*whose parents are in sympathy with the aims and ethos of the school*” appears in oversubscription criteria, it is an allowed condition placed on applications within the wording of paragraph 1.9a of the Code. This reads:

***“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.”***

55. I accept that the school does not place a general condition on the consideration of applications since it includes this phrase in some of its oversubscription criteria but not in others. However, I do not see how sympathy with aims and ethos, as part of these oversubscription criteria, could be assessed objectively. Clarity and objectiveness are requirements placed on all oversubscription criteria by paragraph 1.8 of the Code. Again, the school has offered to remove reference to support for the school’s aims and ethos from its arrangements, but as these have been determined they are in breach of paragraph 1.8.

#### Waiting list

56. The school has stated that it will revise its arrangements to include a statement concerning waiting lists. In order to be compliant any such statement will need to satisfy all the requirements which paragraph 2.14 of the Code places on admission authorities. The school’s arrangements currently

contain no statement concerning waiting lists and so do not do so.

### Statements of Special Educational Need and Education, Health and Care Plans

57. 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..... All children whose statement of special educational needs (SEN) or Education, Health and Care (EHC) plan names the school **must** be admitted.”*

58. This means that the admission of a child to whom this applies is mandated, and that no conditions or further considerations will attach to it. Such an admission reduces the number of places available to other children, and in order to be consistent with paragraph 1.6 admission authorities **must** make this clear in their arrangements. The school’s arrangements do not do so, and do not comply with what the Code requires.

### Admissions to the school’s sixth form

59. The school has told me that it intends to:

- (i) clarify how oversubscription of places for external students can arise within the provisions of the Code, and
- (ii) amend its oversubscription criteria by removing the priority currently given to existing student of the school.

60. However, as determined, the school’s admission arrangements are in breach of paragraphs 2.6 concerning both these matters.

### Consultation prior to determination of the arrangements

61. The school has accepted that it did not meet the requirement concerning those who must be consulted, which is set out in paragraph 1.44 of the Code, on the most recent occasion it carried out a consultation on its admission arrangements.

### **Conclusion**

62. I have explained in the preceding paragraphs my reasons for upholding parts of the objection. The arrangements do not comply with the Code by:

- (i) not including either the PRF or that part of the diocesan guidance to Priests on its completion as part of the school’s admission arrangements and as a consequence also failing to make clear the meaning of oversubscription criteria which it employs or how its faith-based criteria can be satisfied;
- (ii) asking for information which has already been provided by applicants, which is not needed for the application of oversubscription criteria within the

schools arrangements, or which is not permitted, and

(iii) giving priority to looked after and previously looked after children “from Catholic families”.

63. I have also considered the school’s admission arrangements as a whole, and for the reasons which I have explained they do not comply with the requirements which are set out in the Code by:

(i) failing to set out clearly how applicants who seek to have their application given priority on the grounds that they are a practising Catholic can reasonably satisfy this criterion;

(ii) including an oversubscription criterion which cannot be assessed objectively;

(iii) not including a statement concerning a waiting list that conform to that which is required;

(iv) not stating the position of children whose statement of special educational needs or Education, Health and Care plan names the school in a way which is consistent with paragraph 1.6 of the Code, and

(v) failing to consult adequately prior to determining its arrangements.

64. I have also explained why the school’s admission arrangements for its sixth form are in breach of the requirements which the Code makes concerning them.

### **Determination**

65. 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 for the academy trust for the Palmer Catholic Academy, Ilford.

66. 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.

67. 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 within two months of the date of this determination.

Dated: 24 November 2015

Signed:

Schools Adjudicator: Dr Bryan Slater