



## **DETERMINATION**

<b>Case references:</b>	<b>ADA2957 and ADA2996</b>
<b>Objectors:</b>	<b>Two parents</b>
<b>Admission Authority:</b>	<b>The governing body of St Dunstan's Catholic Primary School, Woking, Surrey</b>
<b>Date of decision:</b>	<b>3 November 2015</b>

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold objection ADA2957 and I do not uphold objection ADA2996 to the admission arrangements determined by the governing body of St Dunstan's Catholic Primary School, Woking, Surrey for admission in 2016.**

**I have also considered the arrangements in accordance with section 88I(5). 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) 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 the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2016.**

### **The referrals**

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), objections have been referred separately to the Office of the Schools Adjudicator (the OSA) by two parents (the objectors), about the admission arrangements (the arrangements) for St Dunstan's Catholic Primary School (the school), a voluntary aided school for pupils aged four to eleven for September 2016. One objection is to the school's faith-based oversubscription criteria. The second is to the arrangements for the admission of children outside their normal age group and to the scope for children under compulsory school age to attend part time and for their admission to be deferred until they do reach compulsory school age.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. The objectors submitted the objections to these determined arrangements on 25 June 2015 (ADA2957) and 30 June 2015 (ADA2996). Both objectors wish their identities not to be disclosed to the school and other parties. They have satisfied the requirement of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) by providing their names and addresses to the adjudicator. The objections were submitted by the deadline for objections to admission arrangements for 2016. Objection ADA2957 raised a matter which was not within my jurisdiction; namely, the arrangements made in individual churches so that priests know who has attended Mass (often referred to as registration schemes or signing in records). Objection 2996 raised a number of issues relating to the way the school would consider and process applications made for children to be admitted outside their normal age range. I have jurisdiction to consider whether the school has made clear "*the process for requesting admission out of the normal age group.*" as required by paragraph 2.17 of the Code. I have no jurisdiction to consider how the school applies its arrangements to particular applications. As these matters are not within my jurisdiction I have not considered them further. I am satisfied that in other regards the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.
3. When I reviewed the arrangements I considered that there might be provisions in the arrangements other than those raised in the objections which did not comply with the requirements relating to admissions. I have accordingly 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:
  - a. the letter of objection dated 25 June 2015 in relation to ADA2957 and the form of objection dated 30 June 2015 in relation to ADA2996;
  - b. the school's responses to the objections and supporting documents;
  - c. the responses of the Catholic Diocese of Arundel and Brighton (the diocese) which is the school's religious authority to the objections;
  - d. the comments of Surrey County Council which is the local authority (LA) for the area on the objections;

- e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
- f. confirmation of when consultation on the arrangements last took place;
- g. copies of the minutes of the meeting of the governing body on 19 March 2015 at which the arrangements were determined; and
- h. a copy of the determined arrangements.

## **The Objections**

6. The two objections are about distinct aspects of the arrangements. Objection ADA2957 was concerned with faith-based aspects of the arrangements. The objector argued that as the faith-based oversubscription criteria did not specify the period of time for which attendance at Mass had to be sustained the arrangements were not objective - which is a requirement of paragraphs 14 and 1.8 of the Code - and that it would not be possible for parents to understand easily how any faith-based criteria would be reasonably satisfied – which is a requirement of paragraph 1.37 of the Code. The objector also argued that as the school's supplementary information form (SIF) asked for information about the length of time families had worshipped at a church even though this was not in the arrangements, the arrangements breached paragraph 2.4 of the Code. Because the oversubscription criteria give a higher priority to some Catholics who live outside the parish of St Dunstan's over some who live inside the parish, the objector considered that the arrangements did not follow the diocesan guidance on residence and thus breached paragraph 1.38 of the Code, were unfair in breach of paragraph 14 of the Code to those whose family circumstances prevented them from attending Mass and breached the Equality Act 2010 (the Equality Act). The objector argued that the arrangements were unfair and in breach of paragraphs 14 of the Code and the Equality Act as it was possible for a person who was not a Catholic and/or was not resident in the parish to fulfil the requirement to attend Mass as the parent or carer of a baptised Catholic child. The objector also considered that the arrangements were not clear as required by paragraphs 14 and 1.8 as priority was given on the basis of living in the parish of St Dunstan's, but there was no parish map on the school's website.
7. The objector in objection ADA2996 argued that the arrangements did not meet the requirements of paragraph 2.16 of the Code as they did not provide for children under compulsory school age to attend part-time or for a child's admission to be deferred until he or she did reach compulsory school age. The objection also argued that the arrangements breached paragraph 2.17 of the Code as they did not include a specific reference to the right of a parent of a summer born child to request entry into Reception (YR) at compulsory school age and did not make it clear that there is the possibility for a summer born child to enter YR the term after the child's fifth birthday.

## **Other Matters**

8. When I reviewed the arrangements I considered that they might not conform with the requirements relating to admissions as follows:
  - a. The oversubscription criteria appeared not to meet the requirement in paragraph 1.37 of the Code that where any element of priority was given to children not of the faith of the school, priority had to be given to looked after and previously looked after children not of the faith above other children not of the faith;
  - b. The oversubscription criteria appeared to lack a final tie breaker as required by paragraph 1.8 of the Code capable of separating two applicants who qualified equally for the final available place;
  - c. The school's SIF appeared to ask for information which was not necessary to apply the oversubscription criteria and so was not permitted by paragraph 2.4 of the Code and the arrangements also implied that it was necessary to complete the SIF in order to apply for a place which appeared to breach paragraphs 15d, 1.9a, 1.36 and 2.8 of the Code; and
  - d. The arrangements appeared to suggest that all applicants were expected to uphold the religious ethos of the school and that those who supported this ethos were welcome to apply and together these statements might breach paragraphs 15d, 1.9a 1.36 and 2.8 of the Code.

## **Background**

9. The school is designated by the Secretary of State under section 69 of the Act as a school with a Catholic religious character. It is thus entitled to have faith-based admission arrangements including faith-based oversubscription criteria. The school's arrangements, including its SIF, are easy to find on the school's website. The arrangements for 2016 were determined at a meeting of the governing body on 19 March 2015. The school consulted on its arrangements in December 2014 and met the requirements as to duration and timing for such consultations. The school has a published admission number (PAN) of 90 for YR. The arrangements explain that children with a statement of special educational needs (SEN) or an Education Health and Care (EHC) Plan naming the school will be admitted. The school is oversubscribed and for 2015 received 242 applications of which 137 were first preference applications. The school applied its oversubscription criteria and allocated places as shown in the table below (I have summarised the descriptions in some cases):

	Oversubscription category	Number allocated a place
1	Baptised Catholic looked after or previously looked after children	0
2	Baptised Catholic children who will have a sibling on roll at the time of admission whose parent/carer attends Sunday Mass weekly or at least three times a month	31
3	Baptised Catholic children resident in the parish of St Dunstan's whose parent/carer attends Sunday Mass weekly or at least three times a month	57
4	Baptised Catholic children who will have a sibling on roll at the time of admission whose parent/carer attends Sunday Mass once or twice a month	2

10. The school reached its PAN within oversubscription category 4 and the final child to be admitted under this category lived just under 1.5 kilometres from the school. No children were accordingly allocated places under its lower oversubscription categories 5 – 20. There is no need to set all of these out here, but I note that they between them they cover the following groups (not entirely in the order set out below):

- a. baptised Catholic children resident in the parish of St Dunstan's whose parent/carer attends Mass one or twice a month or less frequently or not at all;
- b. baptised Catholic children with a sibling at the school whose parent/carer attends Mass less than once a month or not at all;
- c. baptised Catholic children who live outside the parish of St Dunstan's and who do not fit into any of the higher categories by virtue of sibling links or attendance at Mass;
- d. children who are not baptised Catholics but whose parent or carer is preparing to be received into the Catholic Church or who has been received into the Catholic Church;
- e. other looked after and previously looked after children;
- f. children who are members of other Christian denominations;
- g. other children.

### **Consideration of Factors**

11. I deal first with the objection related to the school's faith-based oversubscription criteria. The objection covers a number of different aspects of the arrangements, but all are concerned with how the school

should distinguish between baptised Catholics. Given that the school is oversubscribed with baptised Catholics, it cannot admit every such child who would like a place there. The diocesan guidance emphasises that *“Catholic schools were established to provide Catholic education for Catholic children. In the Diocese of Arundel & Brighton, the Bishop expects all Catholic schools to give first priority to Catholic applicants”*.

12. The objector argues that residency in the parish should be the principal way of deciding which baptised Catholic children should be given a place at the school with higher priority given to those who live in the parish in which the school is located irrespective of practice. The objector thinks that the school is not following the diocesan guidance on residency by giving a higher priority to some baptised Catholics who live outside the parish than to those who live inside the parish. The diocesan guidance as well as saying that Catholic schools should give priority to Catholic applicants has this to say:

*“Where schools are oversubscribed with Catholic children, governing bodies may, for reasons of justice, give a higher priority to children from families who are able to demonstrate their commitment to the faith by their frequency of attendance at Sunday Mass.”*

13. The guidance does not say that baptised Catholics living in the particular parish where the school is located should always be given priority over those who live outside that parish. The requirement in paragraph 1.38 of the Code is that schools with a religious character *“must have regard to any guidance from [their faith body] when constructing faith-based admission arrangements, to the extent that the guidance complies with the mandatory provisions and guidelines of [the] Code.”* This is not the same as a requirement to follow the guidance. However, in this case, the school is not departing from the guidance offered by its faith body. The school’s arrangements make very clear that a baptised Catholic child will always have priority over a child who is not a baptised Catholic. After baptised Catholic children who are looked after or previously looked after different degrees of priority are afforded to siblings of existing pupils, those who live in the parish and those who live outside the parish taking account of the frequency of Mass attendance of the parent or carer. In the case of siblings, priority depends only on frequency of Mass attendance; the relevant criteria being silent as to residency. In the case of children who do not have a sibling at the school, children who live in the parish and whose parent or carer attends Mass *“occasionally ie less than once a month”* have a higher priority than those who do not have a sibling and who live outside the parish even if their parent or carer attends Mass every week. The diocese has said it is content with the school’s arrangements and that the arrangements conform with the Bishop’s expectation relating to priority for Catholic children. I find that the school has had regard to the guidance of its faith body and I do not uphold this aspect of the objection.

14. The objector also argues that the arrangements are unclear and possibly subjective in contravention of paragraphs 14 and 1.8 on the

grounds that they give priority for attendance at Mass but do not state for how long such attendance must have been sustained. The objector argues on the same basis that the arrangements do not meet the requirement in paragraph 1.37 that “admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.” It is the case that the arrangements do not say for how long the parent or carer must attend Mass in order for the child to gain priority. In a letter to the OSA the school has said that it has decided to include a period of a year for the purposes of Mass attendance and to introduce this for the first time for admission in 2017 as it wishes to consult first before making this change. The school makes the point that, as specifying a period would represent a change in its arrangements, it does not think that it would be fair or appropriate to change the 2015 or 2016 arrangements to include this period of attendance. The diocese has said that it does not believe that it is necessary to stipulate a time period for Mass attendance “as there are many variables as to why practice may differ between people, not least the individual’s own “faith journey””. The diocese also believes that the school’s arrangements as they stand are sufficiently objective and that parents will be able to understand whether their own practice meets the requirements. The LA has said that it believes that the objector has raised a valid point in relation to the length of time practice needs to be sustained to secure priority for a place at the school. The LA explains that it has raised this issue with the school and with the diocese and that it has asked the school to review its arrangements for 2017 and subsequent years.

15. I have considered carefully the points made by all the parties. The school’s arrangements give different degrees of priority based on different frequencies of attendance at Mass. The attendance is to be certified by a Priest. It is self-evident that attendance must be sustained for long enough for the Priest to have an adequate understanding of a person’s practice. Given that some priority accrues for attendance which is defined as “occasionally ie less than once a month” the person will need to attend on this basis for at least several months for a pattern of attendance to emerge. It is also the case that if a period of time is not specified, there is at least a risk that different priests may interpret the provisions differently. The arrangements as they stand are not clear and not objective and therefore in breach of paragraphs 14 and 1.8 of the Code. In addition, with no period of time specified it is not possible for parents to look at the arrangements and understand how the criteria will be reasonably satisfied which means that the arrangements are also in breach of paragraph 1.37. I uphold this aspect of the determination.
16. The objector has drawn attention to the fact that while there is no specified length of attendance required by the arrangements, the SIF asks the parent/carer how long he or she has worshipped at the church and, if for less than three months, for details of the church previously attended. Paragraph 2.4 of the Code allows schools to seek information and use a SIF for this purpose only when the information has a direct bearing on the admission arrangements. While the

school's arrangements do not specify a period of practice, the SIF cannot ask for such information. I uphold this aspect of the objection.

17. The objector argued that the arrangements were unfair as they allow a baptised Catholic child to gain priority on the basis of attendance at Mass by a parent or carer who may not be a Catholic and who may not be resident in the parish. I have dealt above with the question of residence in the parish making clear that the Code does not require that baptised Catholics who live in the parish in which the school is located should always have priority over baptised Catholics resident outside the parish. The arrangements give priority to children who are baptised Catholics with additional priority gained if a parent or carer attends Mass. The arrangements do not state that the parent or carer needs to be a Catholic and it is possible that in some families a non-Catholic parent or carer may attend the Mass service and a baptised Catholic child gain priority for a school place on the basis of this attendance. The objector has suggested that this might not be fair and might offend against the provisions of the Equality Act on the grounds that this is "*allowing a non-Catholic, non-resident to be instrumental in the school refusing a place to a resident Catholic child*". I am entirely unpersuaded by this argument. The priority is gained by the baptised Catholic child on the basis of the attendance of the parent or carer. The school has chosen not to require the attendance to be by a Catholic and there is nothing in this which breaches the Code or the Equality Act or goes against the guidance offered by the diocese. I do not uphold this aspect of the objection.
18. The objector has also argued that it is a breach of the Equality Act for the school to refuse to admit a child of the school's faith when residence (in a parish) forms part of the arrangements. The objector appears to be of the view that the school can refuse to admit only children who are not of the faith when it is oversubscribed. This is simply not correct. This school is oversubscribed with baptised Catholic children and cannot admit all such children who would like to go there. It is not only entitled but is required by virtue of the Act and the Code to have oversubscription criteria which will allow it to rank all applicants and distinguish between them. The Equality Act is relevant here only to the extent that it disapplies the prohibition against discrimination on the basis of religion in order to permit (but not to require) a school with a religious character to discriminate on the basis of religion in terms of admissions. I do not uphold this aspect of the objection.
19. The objector argues that because the arrangements give greater priority those who attend Mass more frequently compared to those who attend less frequently and to those who attend at all than to those who do not attend at all, they may be unfair to those who are unable to attend Mass. The objector gives as examples single parent families, those who do not wish to take small children to Mass, those with special needs and those who attend "ethnic chaplaincies". So far as those who do not wish to take small children to Mass are concerned, that is a choice for them, but it does not make the school's



arrangements unfair. So far as those who attend “ethnic chaplaincies” are concerned, the arrangements do not require attendance at any particular church so attendance at a Mass service conducted by a chaplain to a particular ethnic community would be valid for the purposes of satisfying the school’s faith-based oversubscription criteria. So far as single parent families and those with special needs are concerned, I do not consider that the level of attendance required to secure the highest priority under the faith-based oversubscription criteria is so onerous that the generality of such families could not meet this. I do not uphold this aspect of the objection.

20. The objector noted that no map of the parish of St Dunstan’s was available on the school’s website. The arrangements give significant elements of priority to children who live in the parish. The arrangements state clearly that “*a list of streets within the Parish boundary can be viewed on the Parish website and at the school office.*” The school in its response said that it would be happy to include a link to this in its arrangements. The parish church is not the admission authority and it is not reasonable to expect parents to have to visit a different website in order to see whether their address falls within the parish or not. The arrangements when determined were not clear and I accordingly uphold this aspect of the objection. However, the school has now published on its website a list of the roads which make up the parish and need take no further action in this regard.

21. I turn now to the matters raised in objection ADA2996. The objector argued that the arrangements breached paragraphs 2.16 and 2.17 of the Code. In the case of paragraph 2.16, the objector argued that the arrangements breached the Code as that they did not include certain information which paragraph 2.16 states **must** be included in arrangements. As it happens, the school’s arrangements do contain all of the information required by paragraph 2.16. The school pointed this out in its response to the objection and the objector subsequently sent a letter to the OSA apologising for having included this matter in the objection. I do not uphold this aspect of the objection.

22. Paragraph 2.17 of the Code is concerned with the admission of children outside their normal age group. The paragraph explains that parents may seek a place for their child outside of their normal age group for a range of reasons. It also explains that, in relation to a summer born child (that is, a child born between 1 April and 31 August) the parents may choose not to send the child to school until the September following their fifth birthday and may request that the child be admitted to YR rather than Year 1. The Code states that “*Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*”

23. The school’s arrangements have a section which is headed “**Admission of children outside their normal age group**” and which goes on to say:

*“Please note that it is the view of the Government, the Diocese, the LA*

*and the Governing Body of this school that a child is educated alongside his/her age equivalent peers, in almost all cases.*

*Should a parent/carer request to have a decelerated entry, ie to start later than other children in their chronological age group, they must initially apply for a school place in accordance with the deadlines that apply for their child's chronological age.*

*[As an example, a request to the school for a summer born child (ie between 1 April to 31 August), to be admitted to the reception class in the September following their fifth birthday, must be made prior or during the application process for the child's normal year group. An application also needs to be made to the LA for a school place in the correct year group. This will ensure that parents/carers are not disadvantaged for a preference school place in the event the request is refused]."*

24. The objector argues that the arrangements do not “*make clear that there is the possibility for a summer born child to enter Reception class the term after his or hers [sic] fifth birthday... Instead St Dunstan's discusses decelerated entry, which is a professional term that refers to all cases of below the usual chronological peer group, where the summer born first-entry is only one of the possible scenarios and that cannot be expected to be clear to any reasonable parent.*” The school in response has pointed out that the use of “decelerated entry” is followed immediately by a definition of the term which is “*ie to start later than other children in their chronological age group*”. I also note that the example given by the school concerns the admission of a summer born child to YR following the fifth birthday. The objector argues that the arrangements suggest that requests for a summer born child to be admitted to YR following the fifth birthday are treated as any other request for deceleration. The school is a primary school and it admits children regularly only into YR. Any other requests for deceleration could by definition only relate to children already in the school (and therefore not covered by the admission arrangements) or children joining the school as casual admissions and therefore not covered by these admission arrangements. The objector also argues that the school has given initial capitals to all the words in the heading “*In Year Admissions*” but only given an initial capital to the heading “*Admission of children outside their normal age group*” and that this might lead parents to think that the latter is a sub-heading of the former. In fact, the arrangements adopt a variety of approaches to the matter of initial capitalisation of headings. I consider it relatively unlikely that a parent would notice this and, even if he or she did, I am entirely unpersuaded that a parent would draw the conclusion proposed by the objector. The requirement in the Code is that the arrangements set out the process for requesting entry out of the normal age group. The school's arrangements do this and they do so in a clear and informative way. I do not uphold the objection.

## Other matters

25. When I reviewed the arrangements, I noted that they afforded a degree of priority to children who were not baptised Catholics but whose parent/carer had been received into the Catholic Church or who was preparing to be so received. The priority given in such cases was higher than that given to looked after and previously looked after children who were not baptised Catholics. Paragraph 1.37 of the Code makes clear that “*Where any element of priority is given in relation to children not of the faith [admission authorities] **must** give priority to looked after children and previously looked after children not of the faith above other children not of the faith.*” The diocesan guidance explains that members of the Catholic Church are those baptised or received into the Church. The guidance also does suggest that children who are not baptised Catholics but are the children of those preparing to be received can be given a higher priority than looked after or previously looked after children who are not Catholics. In this regard, the guidance conflicts with a mandatory provision of the Code and this means that the school is not bound by the requirement in paragraph 1.38 of the Code to have regard to the guidance. The school has varied its arrangements and published the varied arrangements on its website and these provide that looked after and previously looked after children who are not Catholics receive the priority they are entitled to.
26. The arrangements when I saw them provided that if PAN is reached within any oversubscription category social and medical need and then distance from the home to the school will be used to distinguish between applicants. The arrangements also dealt with the possible situation in which two applicants who live in the same block of flats qualify equally for the final available place. However, the arrangements made no provision for a situation in which two children who live in houses which are equidistant from the school qualify equally for the final available place. The arrangements did not accordingly meet the requirement of paragraph 1.8 of the Code for a final tie-breaker to separate applicants in such circumstances. The school has now varied its arrangements and included an appropriate final tie-breaker which is the drawing of lots.
27. As noted above, SIFs can be used only to seek information needed to apply the oversubscription criteria. When I reviewed the arrangements, I saw that the SIF sought information which I thought was not necessary. First, the SIF asked which Mass is attended by the child. The oversubscription criteria do not require attendance at any particular Sunday/Saturday evening vigil Mass in order to gain priority under the school’s faith-based criteria. There is also a separate provision on the SIF for the parent or carer to state how often he or she has attended Mass and for the Priest to confirm this. The question relating to which Mass is attended is not necessary to apply the oversubscription criteria. Second, the SIF asked what parish the child lives in. Given that priority is given to children who live in the parish of St Dunstan’s, it is permissible to ask if a child lives in that parish. As no priority is gained by living in any other specific parish, there is no justification for

including a question about this on the SIF. The school's SIF asks for information which is not necessary to apply the oversubscription criteria and is accordingly in breach of paragraph 2.4 of the Code. The school has offered to change the wording to remove the question about which Mass is attended and to change the question about residence to ask "*Which parish do you live in?*" The school has said that it is concerned that if it asked only if children lived in the parish of St Dunstan's those completing the form might be confused as to the relevance of going on to provide details of their Mass attendance. I have considered the school's arguments and acknowledge their wish to make the form clear for parents. It is open to the school to organise the questions they need to ask as they wish (they do not have to put the question about residence immediately above the question about Mass attendance). However, the Code is clear that information unnecessary to apply the oversubscription cannot be requested. The arrangements do not conform with the Code and must be revised.

28. The SIF includes a statement that to apply for a place at the school, applicants should complete the SIF and goes on to say that "*ALL applicants should complete Part 1 and Part 4 (and Part 5 if applicable).*" The SIF rightly acknowledges that it is not mandatory to complete the SIF and goes on to say: "*if the school does not receive a completed SIF it is likely that governors will only be able to rank the application within the last, ie "Any other children" criterion*". This statement is not accurate. Information about whether a child is looked after or previously looked after will be available on the LA's common application form (CAF). This means that a parent or carer seeking a place for a child who is not Catholic and is looked after or previously looked after (which is not the "any other children criterion") would not need to complete the SIF. Paragraph 2.4 of the Code is clear that SIFs can only be used when additional information is required in order to apply oversubscription criteria and this is not the case for those applying under criterion 14 (of the arrangements as determined) or 13 (as subsequently varied) as well as under criterion 20. Moreover, if the school were not oversubscribed it would be required to admit all who sought a place in accordance with paragraphs 15d, 1.37 and 2.8 of Code. The school has said that it does not consider that the wording of its SIF is in any way inappropriate and has drawn my attention to the inclusion of the words "*likely that*". It has also emphasised that it would use information from the CAF in order to ensure that all applicants received the right priority. The school says that "*For the vast majority of parents, the practical reality of not submitting a SIF would mean not being offered a place and we believe a clear statement is needed on this point.*" The school is permitted by the Code to have a SIF and to make clear the consequences of not completing that SIF. However, the wording currently used on the SIF is not in accordance with the provisions of the Code and must accordingly be revised.

29. The arrangements state that "*The governors expect that parents applying for places for their children will accept and uphold the Catholic character and ethos of the school.*" and "*The Governing Body also welcomes applications from those of other denominations and faiths*

*support the religious ethos of the school.*” Paragraph 2.8 of the Code states that “*With the exception of designated grammar schools, all maintained schools, including schools designated with a religious character, that have enough places available **must** offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria*” [my underlining]. Paragraphs 15d and 1.37 also make clear that a school which has places available **must** admit every child who would like a place. I recognise that St Dunstan’s is oversubscribed; however, the sentences from the arrangements quoted above taken together may suggest that if the school were not oversubscribed, it would only admit children whose parents were willing to uphold the school’s religious character or who supported the religious ethos of the school. The wording could also imply that those who are not of any faith are not welcome to apply as they are not included in the description of those who are welcome to do so. This would breach the paragraphs noted above. It could also amount to a condition which is prohibited by paragraph 1.9a of the Code. When my concerns were drawn to the school’s attention, it said that it did not agree that they implied that upholding the Catholic ethos of the school was a condition of entry. The school argued that reference to “expectation” must be read in context and pointed out that the school currently has a number of non-Catholic children on roll. I have considered the school’s points carefully. I remain concerned that some parents who might like to apply for a place at the school would be put off from doing so if they felt that they would be expected to uphold its Catholic ethos and that their application would be welcome only if they supported the school’s religious ethos. I determine that the arrangements do not conform with the Code and the Code requires that they be revised.

## **Conclusion**

30. I have found that the school’s faith-based oversubscription criteria do not comply with the requirements relating to admissions in a number of ways. I have partially upheld objection ADA2957 for the reasons given in this determination and I have not upheld objection ADA2996 for the reasons given in this determination. The school has already acted to remedy a number of the breaches when these were drawn to its attention.
31. The Code provides that the admission authority must revise its arrangements within two months of the date of this determination unless I specify an alternative timescale. I am aware that the school has already undertaken to consider the requirement to specify a period of time for Mass attendance for admission in 2017 and I have considered whether in the light of that it would be appropriate for me to specify a different deadline for the revision of the arrangements. I am mindful that some parents may already have applied for places at the school for 2016 and that others will do so by the deadline for applications which is 15 January 2016 on the basis of having already seen the arrangements. I also recognise that the school will need to draw up a new SIF as well as revise its oversubscription criteria. I have

accordingly decided that the arrangements should be revised by 28 February 2016.

### **Determination**

32. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold objection ADA2957 and I do not uphold objection ADA2996 to the admission arrangements determined by the governing body of St Dunstan's Catholic Primary School, Woking, Surrey for 2016.
33. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
34. 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 the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2016.

Dated: 3 November 2015

Signed:

Schools Adjudicator: Shan Scott