



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA2821</b>
<b>Referrer:</b>	<b>A member of the public</b>
<b>Admission Authority:</b>	<b>The governing body of Hasmorean Primary School, Barnet, London</b>
<b>Date of decision:</b>	<b>23 February 2015</b>

### **Determination**

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

**By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.**

### **The referral**

1. The admission arrangements (the arrangements) of Hasmorean Primary School (the school), a voluntary aided (VA) school in Barnet, London, with a Jewish religious character for pupils aged 3 – 11, for September 2015, have been brought to the attention of the Schools Adjudicator by a member of the public in a referral dated 21 July 2014. The referral questions the priority given in the school's oversubscription criteria for the Reception Year (YR) to children who have attended the school's nursery and argues that the giving of such priority makes the arrangements unfair and hence not in accordance with paragraphs 14 and 1.8 of the School Admissions Code (the Code).

### **Jurisdiction**

2. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the school's governing body, which is the admission authority for the school. The arrangements were referred to the Office of the Schools Adjudicator (OSA) on 21 July 2014 which is after the deadline of 30 June 2014 for objections to admission arrangements for 2015. I am using my power under section 88I of the Act to consider the arrangements as they have

been brought to my attention and in doing so to consider the arrangements as a whole and to determine, as required by section 88I, whether or not they comply with the requirements relating to admissions and, if not, in what respects they do not.

### **Procedure**

3. In considering this matter I have had regard to all relevant legislation and the Code.
4. The documents I have considered in reaching my decision include:
  - a. the referral which was submitted using an objection form and dated 21 July 2014;
  - b. the school's response to the referral dated 24 October 2014 and subsequent correspondence and supporting documents;
  - c. information provided by the London Borough of Barnet which is the local authority (LA) for the area about numbers of applications for places at the school dated 10 December 2014;
  - d. the response of 9 December 2014 to the referral from the Elector Rabbis of the Jewish Secondary Schools Movement (JSSM) which is the religious authority for the school ;
  - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - f. confirmation of when consultation on the arrangements last took place;
  - g. copies of the minutes of the meeting of the governing body meeting of 12 November 2014 at which the arrangements were determined; and
  - h. a copy of the determined arrangements.
5. I have also taken account of information I received at and subsequent to a meeting I convened at the school on 23 January 2015 which was attended by representatives of the school and the JSSM. The LA had also been invited to send a representative but chose not to do so.

### **Matters which may not conform with the requirements relating to admissions**

6. The matters which I considered may not comply with the requirements relating to admission arrangements were as follows:
  - a. the arrangements for admission to the school in 2015 appeared not to have been determined as required by paragraph 1.46 of the Code or published on the school's website as required by paragraph 1.47 of the Code;

- b. the arrangements refer to a published admission number (PAN) for all year groups, yet the school only has a PAN for YR and this made the arrangements unclear contrary to paragraphs 14 and 1.8 of the Code;
- c. the arrangements give the required degree of priority to looked after children but do not state that children who were previously looked after are also entitled to this level of priority and hence did not conform with paragraphs 1.7 and 1.37 of the Code;
- d. the arrangements do not explain that parents can request that their child can take up their place at the school part-time until the child reaches compulsory school age and thus breach the requirement in paragraph 2.16 of the Code that arrangements **must** make this clear;
- e. the priority given for admission to YR for children who have attended the nursery may be unfair contrary to paragraphs 14 and 1.8 of the Code and may also amount to conditionality which is prohibited by paragraph 1.9a of the Code;
- f. the oversubscription criteria include an element of priority for children of staff but it was not apparent from the arrangements how this operates and this means the arrangements are not clear and so breach paragraphs 14 and 1.8 of the Code;
- g. the arrangements provide for some places to be allocated by lottery (referred to in the Code as random allocation) but do not set out how this will operate as required by paragraph 1.34 of the Code;
- h. the arrangements lack a final tie-break as required by paragraph 1.8 of the Code to separate two applicants who qualify equally for the final available place;
- i. the faith-based oversubscription criteria seem to lack clarity and objectivity and thus not to conform with paragraphs 14 and 1.8 of the Code. In addition, it would not be possible for parents to tell from the arrangements whether their own practice would satisfy the faith-based oversubscription criteria as required by paragraph 1.37 of the Code;
- j. the faith-based oversubscription criteria and associated Supplementary Information Form (SIF) and Rabbi Reference form (RRF) appear to breach specific provisions of the Code. These are paragraph 1.9a (by possibly taking account in deciding who should be offered a place of matters which are not part of the oversubscription criteria), 1.9e (by possibly taking account of activities which may not be taken into account) and paragraph 1.9i (by possibly taking account of religious activities which have not been laid out by the school's religious authority);

- k. the SIF asks for information which is unnecessary to apply the school's oversubscription criteria or which is specifically prohibited and thus breaches paragraph 2.4 of the Code;
- l. the school's website states that "*For entry to the Reception class in 2015 there are two forms which must be completed*". However, only those seeking priority under the school's faith-based oversubscription criteria need to complete the SIF and the arrangements thus appear to breach paragraphs 15d, 1.6, 1.36, 2.4 and 2.8 of the Code; and
- m. the school's admission policy (but not the SIF itself) states that the SIF must be submitted to the school by 1 September in the year before admission is sought. This is significantly earlier than the date of 15 January by which parents are required to apply for a school place and this appeared to make the arrangements unreasonable in breach of paragraph 1.8 of the Code. Because a different date is given on the SIF, the arrangements also appeared unclear and unfair in breach of paragraphs 14 and 1.8 of the Code.

## **Background**

- 7. The school has a PAN of 30 for YR. The nursery also provides for 30 children. The school consulted on its arrangements in 2013 and at the time of completing this determination is consulting on new arrangements for 2016. When I reviewed the school's website, I found a tab headed "Admissions" on the home page. This page set out some information about admissions and provided links to a document setting out the school's admissions policy and to the SIF and RRF which are combined into one document. The admissions policy document did not state which year it related to. It contained the school's oversubscription criteria which read as follows:

*"Where applications for admission of children exceed the number of places available, children will be prioritised on the basis of the following criteria in the order set out below:...*

- 1. *Orthodox Jewish children who are "looked after" by a Local Authority.*
- 2. *Orthodox Jewish brothers and sisters whose siblings are at the school at the time of admission.*
- 3. *Attendance at Hasmonean Nursery.*
- 4. *In Years 1 – 6 priority will be given to Orthodox children who are currently educated at non-Jewish schools*
- 5. *Looked after children other than those who are Orthodox Jews*
- 6. *Other children*

7. Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances:

*i where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, and/or*

*ii the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.*

8. *In the event of there being insufficient places for all applicants within any of the above criteria, 40% of the remaining places will be given to those living nearest to the school by straight line measuring in accordance with the Local Authority's measuring system described in its guidance booklet for parents applying for school places, but with measuring taking place to the main entrance of the school site and 60% of the remaining available places will be assigned by lottery to those children whose home address given on the Common Application form is within a one mile radius of the school. The 40%/60% split will be made rounding up or down to the nearest full number."*

8. The arrangements explain that "sibling" will be defined in accordance with the definition used by the LA in its composite prospectus. The arrangements also make clear that children with a statement of special educational needs which names the school will be admitted. The school uses the same oversubscription arrangements it uses for YR for the nursery (with the obvious exception of priority for those who attend the nursery). The school is oversubscribed for YR. Figures provided by the LA for 2013 and 2014 show the number of applications and places offered by preference and oversubscription category.

		P*1	P2	P3	P4	P5	P6	Total
<b>YR 2014</b>	No of applications	32	9	11	10	8	2	<b>72</b>
	Allocated (Orthodox siblings)	23	1	0	0	0	0	<b>24</b>
	Allocated (Orthodox attending Nursery)	5	1	0	0	0	0	<b>6</b>
	Allocated (total)	28	2	0	0	0	0	<b>30</b>
<b>YR 2013</b>	No of applications	35	10	10	4	2	2	<b>63</b>
	Allocated (Orthodox siblings)	18	1	1	0	0	0	<b>20</b>
	Allocated (Orthodox attending Nursery)	10	0	0	0	0	0	<b>10</b>
	Allocated (Total)	28	1	1	0	0	0	<b>30</b>

\*P1 – 6 represent each applicant's preference for the school compared to other schools

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

9. Determination and publication of arrangements: When the OSA first contacted the school following the referral it became apparent that the admission arrangements for 2015 had not been determined.

Paragraph 1.46 of the Code provides that admission authorities **must** determine arrangements each year by 15 April, with the effect that for 2015, the arrangements had to be determined by 15 April 2014. The school had failed to do this. In addition, where the information about admissions on the school's website in July 2014 included dates, these related to admissions in September 2014 and not 2015. At that time, for the school to be in conformity with the requirements of paragraph 1.47 of the Code it needed to have the arrangements for 2014 and 2015 published on its website.

10. My jurisdiction under section 88I of the Act applies only to determined arrangements and this meant that I was not able to consider the referral until the arrangements had been determined. The arrangements for 2015 were determined at a meeting of the governing body on 12 November 2014. At the meeting I held at the school, its representatives stressed that it would in future comply with the requirements relating to determination and publication of arrangements. The draft arrangements on which the school is consulting do indicate that the school proposes to make a number of changes to its arrangements in order to comply with the Code.
11. The PAN for the school: The arrangements state that "*The Published Admission Number for entry into Reception and other years is 30*". In fact, PANs relate only to "relevant age groups" which are those age groups at which pupils are normally admitted to the school, which for this school is YR. Children moving from, say Y1 to Y2 are not being admitted to the school. As currently expressed, the arrangements could be taken to mean that 30 further children will be admitted to the school in each age group which is not the case. Thus the arrangements are not clear as required by paragraphs 1.4 and 1.8 of the Code.
12. Looked after and previously looked after children: As a school with a religious character, the school is required by paragraphs 1.7 and 1.37 of the Code to give the highest priority in its oversubscription criteria to looked after and previously looked after children of the faith. They are also required by virtue of the same provisions of the Code to give the highest priority after all children of their faith to looked after and previously looked after children who are not of their faith. The school's arrangements do not meet these requirements as they refer only to looked after children and do not mention previously looked after children. In correspondence, the school said that it had received an application from a previously looked after child and that child had been given the required priority. However, this is not what the arrangements actually say. The arrangements fail to conform with the requirements of paragraphs 1.7 and 1.37.
13. Requirements as to part-time attendance: Paragraph 2.16 of the Code states that admission arrangements **must** make clear that parents can request that their child takes up a place offered at the school part-time until the child reaches compulsory school age. The school's arrangements do not mention this and so do not conform with the

Code.

14. Priority for children who have attended the nursery: I come now to the question of priority for children who have attended the school's nursery which was the focus of the referral. The school's nursery offers the 15 hours a week Government funded provision which is free to parents. It also offers additional provision for which parents pay. The school has told me that the great majority of children who attend the nursery attend for both the government funded provision and for additional hours. However, the issue of whether parents do or do not wish to purchase further provision is not taken into account for the purposes of allocating places in the nursery. The school explained at the meeting that its arrangements had included an element of priority for children who had attended the nursery for at least five years. The priority for nursery attendance in the arrangements is high (coming after looked after and previously looked after children and siblings).
15. The figures provided by the LA show that every child admitted to YR at the school in 2013 and 2014 had either attended the nursery or had a sibling at the school or both. The school has set out in correspondence its reasons for giving priority to nursery children. These focus on its curriculum, particularly its approach to integrating religious studies and the secular curriculum so that, for example, children have learned the Hebrew and English alphabets in the nursery and start YR ready to learn to read in both Hebrew and English. The school is also concerned that if they cannot give priority for YR to children who have attended the nursery, parents may opt for other early years provision and this will threaten the viability of the nursery. The school has also said that, in response to the referral and in the light of adjudicator determinations about other schools, it has decided to remove the priority for YR for children who have attended the nursery from its arrangements for 2016. This decision is reflected in the draft arrangements for 2016 which do not include any priority for children who have attended the nursery. However, I must come to a view about the compliance of the arrangements for 2015.
16. The Code which applies to admission arrangements for 2015 does not address the specific issue of whether admission authorities may or may not give priority to children who have attended a school's nursery. I have accordingly tested this aspect of the school's arrangements against the core requirements of the Code set out in paragraph 14 that arrangements **must** be objective, fair and clear and in paragraph 1.8 that the "*oversubscription criteria must be reasonable, clear, objective and procedurally fair, and comply with all relevant legislation, including equalities legislation.*" These were the paragraphs of the Code cited in the referral. The nursery criterion is objective and it is clear. I have considered carefully whether it is fair in the circumstances of this school and whether it amounts to conditionality which is prohibited by paragraph 1.9a of the Code. As the figures given above demonstrate, all children admitted to YR at this oversubscribed school in the past two years have had older siblings at the school or attended the nursery.

Some children who gained a place because they had one or more siblings at the school will also have attended the nursery. The number of places in YR is the same as the number of places in the nursery. The overall effect is that a child who is the only or oldest child of the family will have had no chance of a place in YR unless he or she attended the nursery. I consider that this means that the nursery criterion does amount to conditionality in breach of paragraph 1.9a of the Code. As well as only and eldest children, there are several other groups who will be particularly disadvantaged by the school's nursery criterion. They include children of families who move into the area in time for their oldest child to start school but after nursery age; families for whom the school's early years provision does not meet their childcare needs and families who prefer to keep their children at home with them until they reach compulsory school age. I conclude that the arrangements are not fair and do not conform with the Code. The school must revise its arrangements as quickly as possible. The school has already resolved to remove the nursery priority from its arrangements for 2016. The Admissions Code which came into force on 19 December 2014 and which applies to admission arrangements from 2016 includes specific provision on the circumstances in which admission authorities may give priority to certain children who have attended a school's nursery.

17. Priority for children of staff: When I reviewed the school's arrangements, I noted the reference to priority for children of staff. The wording used by the school and set out above was drawn verbatim from paragraph 1.39 of the Code which gives admission authorities a range of options in relation to priority for children of staff. Thus the school's arrangements simply set out those options rather than stating what this particular school does. This meant, for example, that it was not clear which groups of staff were covered by the priority or whether the priority was for one or other or both of the circumstances covered in the Code (that is for staff who had been employed at the school of more than two years or for those recruited to fill a vacant post for which there was a demonstrable skills shortage or both). Moreover, I could not tell from the arrangements how much priority was intended to be given to children of staff compared to those in other categories.
18. The school had said in correspondence that it intended to give priority to children of staff over those being considered by distance/lottery within any given oversubscription category. However, this is not what the arrangements actually achieve. As the arrangements said that the criteria were to be applied "*in the order set out below*", this would mean that "children of staff" were to be given priority after "other children" yet children of staff would themselves fall within the definition of "other children" unless they fell within one of the higher categories, that is categories 1 – 3 and 5 (category 4 being concerned with in-year admissions). At the meeting, the school accepted that the provision as it stood was not clear and thus did not conform with paragraphs 14 and 1.8. I determine that the arrangements are not clear as required by



paragraphs 14 and 1.8 of the Code and hence do not conform with the Code.

19. Final tie-break and places allocated by lottery: Paragraph 1.8 of the Code states that all admission arrangements **must** include a tie-breaker to “*decide between two applications that cannot otherwise be separated*”. As set out above, the arrangements provide that where the PAN is reached and exceeded among a particular oversubscription category, 40 per cent of places will be allocated by lottery (which is referred to in the Code as random allocation) and 60 per cent on the basis of distance from the school. So far as places to be allocated by lottery are concerned, there is no scope for two applications to satisfy the criteria equally. However, the Code also states at paragraph 1.34 that where random allocation is used the arrangements **must** set out clearly how this will operate. The school’s arrangements do not explain this and so fail to conform with the Code. So far as places allocated on the basis of distance are concerned, it is possible for two applicants to live exactly the same distance from the school especially where, as is the case for this school, it serves a densely populated urban area and where many families live in flats. The arrangements do not include a tie-breaker capable of separating two final applicants who qualify equally on the basis of distance for the final available place and hence do not conform with paragraph 1.8 of the Code. I note in this context that the draft arrangements for 2016 do include random allocation as a final tie-breaker. The draft arrangements do not set out how the random allocation procedure will operate which, as noted above, is a requirement of paragraph 1.34 of the Code.

20. The school’s faith-based oversubscription criteria: As a school designated by the Secretary of State for Education as having a religious character, the school is entitled by the Equality Act 2010 and paragraph 1.36 of the Code to use faith-based oversubscription criteria and allocate places by reference to faith when oversubscribed. As with other oversubscription criteria, faith-based criteria must be reasonable, clear, objective and fair. In addition, paragraph 1.37 of the Code states that “*admission authorities must ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.*”

21. The school gives priority to children who meet its definition of Orthodox Jewish children and it uses information obtained from its SIF and RRF to establish whether a child meets the definition. When I reviewed the arrangements, I noted that, as set out above, the admissions policy document included the following two statements:

*“..we prioritise children of the Orthodox Jewish faith as defined hereunder in paragraphs A & B:*

*A A child must observe and practice Orthodox Jewish traditions and practices as set out in Bii hereunder. In the event of any disputes as to whether a child meets these criteria, the authority of the Rabbis of the*

*Jewish Secondary Schools Movements is final.*

*B A child must have parent(s) who:*

*i Have a genuine desire for Orthodox Jewish schooling, and*

*ii Observe the Sabbath and Holy Days, adhere to the Dietary Laws and maintain active participation in an Orthodox synagogue, such synagogue to be one recognised as such by the Rabbis of the Jewish Secondary Schools Movement.”*

22. The question of whether parents have genuine desire for Orthodox Jewish schooling is assessed by a question on the RRF which asks the Rabbi *“In your opinion, do you feel that this family has a genuine desire for Orthodox Jewish schooling for their child?”* This question is not capable of an objective answer: it is, as it says, what the Rabbi feels about the wishes of others. As it is not an objective measure, it does not conform with paragraphs 14 and 1.8 of the Code.

23. The arrangements also require that for a child to fall within its definition of Orthodox Jewishness, the parent or parents must, *“Observe the Sabbath and Holy Days, adhere to the dietary laws and maintain active participation in an Orthodox synagogue, such synagogue to be one recognised by such Rabbis of the Jewish Secondary Schools Movement”*. The SIF and RRF accordingly ask about these matters and, in relation to active participation in a synagogue, ask the Rabbi for examples of this. When I reviewed the arrangements I could not find any definition or examples of what was meant by active participation nor did the arrangements give any indication of whether a particular synagogue is or is likely to be recognised as Orthodox by the JSSM. I was concerned that this would mean that the arrangements might not be clear or objective as required by paragraph 14 and 1.8 of the Code and that it would not be possible for parents to judge whether their own religious practice would satisfy the school’s faith-based oversubscription criteria as required by paragraph 1.37 of the Code. I raised these matters with the school at the meeting.

24. So far as active participation in a synagogue was concerned, the school and the religious authority emphasised that attendance at synagogue services was a key part of active participation but that other activities could also be taken into account. Both school and religious authority also recognised that for arrangements to be fair to children with only one parent where the parent was a mother, the arrangements needed to take account of the fact that certain roles in Orthodox synagogues were restricted to men. However, none of these issues is addressed in the arrangements. Furthermore, the ability to take account of religious activities which is set out in paragraph 1.9i of the Code has certain limits. These include the fact that activities which would breach paragraph 1.9e of the Code because they would amount to *“practical or financial support parents may give to the school or any associated organisation, including any religious authority”* cannot be taken into account. Paragraph 1.9i itself states that *“schools [with a*

*religious character] may take account of religious activities, as laid out by the body or person representing the religion or religious denomination. [my underlining]” In the case of this school, the JSSM as its religious authority has not - in its own words - provided any “*recent official written guidance*” on admissions and has not in consequence laid out any religious activities. Nor has the school provided any guidance for the Rabbis who must complete the RRF.*

25. At the meeting and in correspondence the representative of the religious authority emphasised the close links between it and the school. The religious authority said it had full knowledge of the admission policies of the school and believed that the school would be well aware of the religious authority’s expectations as to religious practice. However, in the absence of guidance from the religious authority to the school laying out religious activities, there is no permission for the school to take religious activities into account in its oversubscription criteria. The absence of guidance from the school to rabbis further means that there is also a risk that activities that are specifically prohibited by paragraph 1.9e of the Code might be taken into account. With no objective tests of active participation, there is also a risk that different rabbis will apply different tests – some of which may also not be objective. The arrangements breach paragraphs 14 and 1.8 of the Code as they are not objective and paragraphs 1.9e and 19i of the Code as they may take account of prohibited activities and as there are no religious activities laid out. As there is no way for parents to tell whether their practice would meet the school’s requirements, they also breach paragraph 1.37 of the Code. The Code requires the school to revise its arrangements, including the relevant aspects of its SIF and RRF, as quickly as possible.
26. I turn now to the question of the definition of an Orthodox synagogue. The arrangements explain that, for the purposes of admission to the school, an Orthodox synagogue is one recognised as such by the Elector Rabbis of the JSSM. There is, however, nothing in the arrangements to indicate what characteristics are required for a synagogue to be so recognised. This in turn will mean that parents may know that to qualify a synagogue must be recognised by the Elector Rabbis of the JSSM but they have no way of knowing from the arrangements whether their synagogue is recognised. This makes the arrangements unclear in breach of paragraphs 14 and 1.8 of the Code and means that they also fail to conform with paragraph 1.37 of the Code. At the meeting the school and the religious authority agreed that they needed to amend the arrangements to make clear what types of synagogue would and would not meet the JSSM’s test of orthodoxy.
27. The arrangements provide that where there is any dispute as to whether a child is eligible for priority on the basis of the school’s faith-based oversubscription criteria, the matter will be settled by the Rabbis of the JSSM. They will of course have the information that has been provided on the SIF and RRF and, indeed, the RRF explains in a section addressed to the rabbi that it is seeking “*help in assessing the suitability of the above mentioned applicant for a place at our school*”. I

deal below with the fact that oversubscription criteria are legitimately concerned with the relative priority to be given to different children and not with questions of “suitability”. That point notwithstanding, there is no indication in the arrangements as to how the Elector Rabbis of the JSSM will use the information provided on the SIF and RRF in order to determine whether a child is eligible for priority for a place at the school under its faith-based oversubscription criteria. There is no indication as to whether some of the questions are more important than others. There is nothing to indicate whether a child will only be considered to meet the school’s practice and commitment test if all the questions are answered positively or if it would be, for example, sufficient if a particular number received a positive response. Again, this means that it is not possible for a parent to look at these questions and understand what is necessary to satisfy the school’s faith-based criteria and the arrangements therefore fail to conform with paragraph 1.37 of the Code and are also unclear in breach of paragraphs 14 and 1.8 of the Code. One of the questions asks whether the Rabbi feels the “*family is suitable for Hasmonian and will support the ethos of the school*”. A separate question asks the Rabbi for “*any other comments or information to help us assess the suitability of this child for our school?*” Oversubscription criteria are concerned with the relative priority a child is to have for a place when a school is oversubscribed and not with whether a child or family is or is not “suitable” for the school. These questions are not reasonable and do not conform with paragraph 1.8 of the Code. In addition, the question seeking the rabbi’s opinion on suitability and whether the family will support the school’s ethos is not objective; it is asking for the Rabbi’s opinion and this is also contrary to paragraphs 14 and 1.8. The question asking for “*any other comments or information*” suggests that the answers given may be taken into account by the school in deciding who should be offered a place. To the extent that any such answers involve matters which were not part of the oversubscription criteria, this would breach paragraph 1.9a of the Code which states that admission authorities “*must not place any conditions on the consideration of any application other than those in the oversubscription criteria.*” . The RRF asks the Rabbi how long he has known the family. There is nothing in the arrangements to say that a Rabbi must have known the family for a particular length of time to complete the form. It is acceptable for the school to want to be sure that the Rabbi has known the family long enough to make a proper assessment. However, the arrangements need to make clear what the requirement is and what its purpose is. The arrangements fail to do this and accordingly are unclear and do not conform with paragraphs 14 and 1.8 of the Code. These aspects of the arrangements do not conform with the Code and must be revised as quickly as possible.

28. Information requested on the SIF: The use of SIFs is governed by paragraph 2.4 of the Code which provides that they can be used only to collect additional information which is necessary to process applications. There are also specific prohibitions on asking for certain information. I have considered the questions asked on the school’s SIF against the provisions of paragraph 2.4. First, the SIF asks for details of

synagogue membership. The school's oversubscription criteria do not include membership of a synagogue and the school is accordingly not entitled to ask this question. Second, the SIF asks for the gender of each applicant. As the LA's Common Application Form (CAF) will include the child's gender this cannot be asked for on the SIF. Third, the SIF asks for information about the ethnicity of applicants and the main language spoken in the home. The SIF does state very clearly that this information "*will not be used to discriminate or affect your application*" and that it is collected purely in order to provide information to the Department for Education to be used in official statistics. However, even with that disclaimer, the Code is very clear at paragraph 2.4 that SIFs can be used only to collect information that is needed when it has a direct bearing on decisions about oversubscription criteria. This information is not required and, indeed, could not form part of lawful admission arrangements. Moreover, paragraph 2.4b of the Code specifically prohibits asking for details of the first language of parents or children. By asking these questions on the SIF, the arrangements fail to conform with paragraph 2.4 of the Code. Paragraph 2.4e of the Code says that SIFs **must not** ask for "*both parents to sign the SIF*". The school's SIF and the RRF both ask for two signatures: "mother/guardian" and "father/guardian". The arrangements do not in this respect conform with the Code. At the meeting the school readily accepted that the SIF needed to be amended.

29. Requirement to complete SIF: The school's website said that to apply for the school for Reception in 2015 "*there are two forms which must be completed. i the Supplementary Information form ....ii the Common Application Form...*". The admissions policy, on the other hand, said "*Parents are strongly recommended to also complete an official Hasmonian Primary School supplementary information form. Failure to provide this may inhibit the school's ability to determine whether sufficient grounds of priority have been demonstrated.*" Paragraph 2.4 of the Code makes clear that a SIF can be required only where additional information is needed in order to consider an application. Paragraphs 1.5d, 1.6, 1.36 and 2.4 make clear that where a school has places available, they must be allocated to applicants without the use of conditions. For this school, the SIF is only necessary for those applicants seeking priority under the school's faith-based criteria and applicants who are applying for a place but not seeking priority on the grounds of faith cannot be required to complete a SIF for their application to be considered. By stating on the website that the SIF must be completed, the arrangements breach paragraphs 1.6, 1.36 and 2.4 of the Code. At the meeting, the school accepted the need to revise this aspect of its website.
30. The date for submitting the SIF and RRF: When I reviewed the arrangements for 2015, I noted that the policy document said that the SIF and RRF "*must be received in the school office by not later than 1<sup>st</sup> September in the year proceeding [sic] the commencement of the academic year of desired entry*". However, the relevant section on the

admissions page of the website said that the SIF had to be returned to the school by 15 January. This date, 15 January, each year is the national closing date for applications to be made for primary schools via applicants' home LA CAFs. This is set out in the timetable given in the Code. The school does not need early notification. The information can only be used to apply the oversubscription criteria after the school has received details of applicants who have completed their home LA's CAF. This makes the provision unreasonable and hence in breach of paragraph 1.8 of the Code. Moreover, the arrangements are inconsistent as different dates given in different places and this means that the arrangements are unclear. Requiring the submission of the SIF a full term before the deadline for submission of the CAF and before the date by which LAs have to publish the composite prospectus for all schools in their area could in particular disadvantage those who have more recently moved into the area or who are less familiar than others with the school's arrangements. It is thus also unfair. Because the arrangements are unclear and unfair in this regard, they breach paragraphs 14 and 1.8 of the Code. I note that this matter has been addressed in the draft arrangements for 2016 which refer to 15 January as the date for submission of the SIF.

## **Conclusion**

31. I have in this determination identified a significant number of breaches of the requirements relating to admissions. The school has indicated a desire to ensure that it has arrangements that conform with the law and Code and its draft arrangements show how it intends to do this. A number of further changes are required as set out in this determination. The school must revise its arrangements as quickly as possible and by no later than 15 April 2015 as the amended arrangements will apply to any late applications and the waiting list.

## **Determination**

32. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the governing body of Hasmorean Primary School, for admissions in September 2015. I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
33. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements as quickly as possible.

Dated: 23 February 2015

Signed:

Schools Adjudicator: Shan Scott