



Office of  
the Schools  
Adjudicator

**DETERMINATION**

**Case reference:** ADA2918

**Objector:** The London Borough of Redbridge

**Admission Authority:** The academy trust for The Ursuline Academy, Ilford

**Date of decision:** 24 November 2015

**Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body for the academy trust of The Ursuline 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 Ursuline Academy, Ilford (the school) which is a Catholic academy school for girls 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 and as provided by the school in response to the objection on 14 July 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 by the LA 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 LA 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.*

### Parts of the Code breached

*Paragraph 2.4*

*Paragraph 1.9*

*Paragraphs 1.8 and 1.37”*

10. Although the LA did not say here which parts of the Code it believed were breached specifically in respect of the 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 part of the objection in the original objection. 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 school gives priority within its oversubscription criteria to Catholic children. This term is not defined within the arrangements. Paragraph 1.8 of the Code requires oversubscription criteria to be clear, and paragraph 1.37 requires admission authorities for schools with a religious character to ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied;

(ii) the definition of "practicing catholic" given in the arrangements states that this means there must be "*regular family attendance at Sunday Mass*". The term "regular" is not defined and this may fail to meet the requirements set out above;

(iii) children of other Christian traditions and of other faiths "*whose parents are in sympathy with the aims and ethos of the school*" are given priority within the arrangements. 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 also seemed to be incapable of being assessed objectively and paragraph 1.8 requires that oversubscription criteria are reasonable, clear and objective;

(iv) the arrangements as posted on the school's website state that waiting lists will be maintained until 31 August annually. Paragraph 2.14 of the Code requires waiting lists to be maintained until at least 31 December annually, which is the statement contained within the document provided by the school on 14 July 2015. I asked the school to confirm if the version posted on the website was in the form in which the arrangements were determined and whether the admission authority has subsequently varied this aspect of the arrangements;

(v) although looked after children are defined in a footnote to the arrangements, no definition of previously looked after children is provided. Without this it is not clear that the school gives the priority which paragraph 1.7 of the Code says it **must** also give to all previously looked after children when giving priority to looked after children, since there is more than one group of children who fall within this group. I was concerned that this may contravene paragraph 1.8 of the Code which requires oversubscription criteria to be clear;

(vi) no statement is made to tell parents whether or not they need to complete the supplementary information form (SIF), which itself refers to all potential applicants. So it appeared not to be clear, for example, whether “other applicants” are asked to complete the SIF. Paragraph 14 of the Code requires it to be clear how places at the school are allocated.

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

(i) the arrangements state that priority will be given to existing students of the school. Since such students are already students at the school, 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;

(ii) the school requires “*all students*” to “*make a commitment to the Catholic ethos of the school*”. Since however internal transferees from the school’s Year 11 have previously been admitted to the school, this applies in practice to external candidates seeking to be admitted. I was initially concerned that this stipulation appeared as a condition applied to the consideration of such applications and so in breach of paragraph 1.9a of the Code which forbids conditions from being placed on the consideration of applications. It is also seems to be incapable of being assessed objectively. Paragraph 1.8 requires that oversubscription criteria are reasonable, clear and objective;

(iii) the arrangements state that an oversubscription criterion for external candidates is their average points score at GCSE and this means that academic entry requirements may be different to those for internal students, which is not permitted by paragraph 2.6 of the Code, and

(iv) as with the arrangements for admission to Y7 no definition is provided concerning previously looked after children, which may contravene paragraph 1.8 of the Code.

## **Background**

12. The Ursuline Academy is a smaller than average secondary school located in Ilford in Essex. Its published admission number (PAN) for Y7 in September 2016 is 120. The school is designated under section 69(3) of the Act as a school with a Roman Catholic religious character.

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

14. The school’s admission arrangements for Y7 state that 90 places are available to Catholics and 30 to other Christian traditions, other faiths and other applicants. In the event of either group of places being undersubscribed, unallocated places will be made available to the other group. If the available places are oversubscribed, priority will be given in the order:

1. Catholics

- a. Looked after and previously looked after children from Catholic families.
- b. Catholic children of staff members (as defined).
- c. Baptised practising Catholic families who live within twelve named parishes, which in practice form a catchment area for the school.
- d. Baptised practising Catholics who live elsewhere.
- e. Baptised Catholics who reside in one of the twelve parishes.
- f. Baptised Catholics who live elsewhere.

2. Other Christian traditions, other faiths and other applicants

- a. Other looked after and previously looked after children.
- b. Children of staff members.
- c. Children of other Christian traditions and other faiths whose parents are in sympathy with the aims and ethos of the school living in one of the twelve parishes.
- d. Children of other Christian traditions and other faiths whose parents are in sympathy with the aims and ethos of the school living elsewhere.
- e. Other residents of the twelve parishes.
- f. Other applicants living elsewhere.

Within each sub criterion priority is given to sisters of girls in Years 7 to 10 of the school at the time the application is made. Further tie break criteria are provided.

15. Footnotes give a definition of looked after children; state that *“practising Catholic means regular family attendance at Sunday Mass which is confirmed by the Diocesan Priest’s Reference”*; and say that if the Diocesan Priest’s Reference Form or the other Christian traditions and other faith reference form is not completed *“it is very unlikely that your child will get a place at the school”*.

16. The school’s admission arrangements for the sixth form (Year 12, Y12) state that the school expects to have 100 students and that *“preference will be given to existing students of the school”*. 40 places are available to external students. All students are expected to have stated minimum GCSE grades, the individual subject grades provided in the school’s prospectus, and *“to make a commitment to the Catholic ethos of the school”*. Oversubscription criteria are provided for external students. First priority is given to looked after and previously looked after children, followed by the use of students’ average points score at GCSE and finally tie-breaker criteria are stated. A footnote defines looked after children, but there is no definition given for previously

looked after children.

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

17. I shall set out first my consideration of the objection in the light of the information which is available to me, since although invited to do so, the school has not commented on the first three parts of the objection. I shall, then set out my view of the matters which I have raised with the school, concerning which it has provided me with comments.

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

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

*"For Catholic applicants a Diocesan Priests reference is required. Applicants from other Christian traditions and other faiths must also return a reference form from their respective religious leader.....Please note that the Priest's Form for Catholics is a Diocesan document and not a School document, likewise the other faiths reference is not a School document."*

19. 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."*

20. 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.

21. 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".*

22. 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.

23. 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 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.

24. 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.

25. 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.

26. 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"*.

27. 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.

28. 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.

29. 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.

30. 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 “Priest’s Reference”. However, when the diocese responded to my request for a copy of the form it became evident that the document which I had seen was not the whole of the PRF but only the second half, which is the part completed by the Priest and returned to the school. The first half of the PRF is a self-assessment provided by the applicant to the Priest which the latter uses when completing the second half of the form. The school has not shared with me its reasons for not publishing all of the PRF as part of its admission arrangements, but since the whole of the form is the document which is used to determine whether a child is given priority as a practising Catholic, all of it is part of the arrangements and all of it must be published as such. This failure is a breach of paragraph 1.47, and I uphold this part of the objection.

31. 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. 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 the school's statement to the contrary – 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.

32. 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

33. 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.

34. 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 oversubscription 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.

#### Supplementary Information Form (SIF)

35. The final part of the objection concerns a SIF. When I looked at the school's website the document under this title made no request that a parent provide the school with proof concerning their address, and no such request was made in the other supplementary information form, the "Other Christian Traditions and Other Faith Reference Faith Reference Form" which the school uses. However, the arrangements themselves did contain the statement "*the governors require all applicants to submit two proofs of residency*".

36. The copy of the SIF and of the arrangements themselves which the objector provided as part of the objection contained no request that the school be given proof of residence by applicants, and I note that the school will have notified the objector of any change to its determined arrangements under paragraph 3.7 of the Code.

37. The school has told me that the arrangements had been amended prior to their publication to remove a request for residency documentation. The school was entitled to make such a change following the determination of its arrangements under paragraph 3.6 of the Code since the inclusion of a request for proof of residence would have constituted a breach of a mandatory provision in paragraph 2.4, but it has provided no evidence of having done so. I have clear evidence in the form of the school's acceptance that it removed the request from the arrangements it determined, and in the presence of the statement in the version of the arrangements which was posted on the school's website when I looked at it, that the arrangements as determined by the governors on 11 December 2014 did require proof of residence to be provided to the school. I uphold this part of the objection.

I shall now turn to a consideration of the matters which I have raised with the school.

38. The school responded to the concerns which I raised by means of an annotated copy of the letter which I had sent it which was accompanied by "updated" versions of the arrangements and of the SIF, but no explanation as to the origin or status of these comments or documents. In reply to my request for clarification, the school said that the response had been made by the Headteacher with the approval of the Chair of the school's Admissions Committee, but that no meeting of the school governors had taken place, and that the material had been sent for the adjudicator's approval prior to its publication.

39. The role of the adjudicator is to consider the determined admission arrangements for a school and whether or not they comply with the requirements of the Code and of legislation. This role does not involve giving approval to proposed admission arrangements as the school imagines. I shall set out below my view of the school's determined arrangements which remain

those agreed by the governors of the school on 11 December 2014, varied as discussed above.

### Definition of “Catholic”

40. The school intends to include a definition of the term “Catholic” in a footnote to the arrangements, but in the form in which they were determined, no such definition was given. As a result, the arrangements as a whole are not clear, and it is not clear to parents how they would satisfy the faith-based oversubscription criteria which rely on membership of the Catholic faith. The arrangements are in breach of paragraphs 1.8 and 1.37 of the Code for these reasons.

### Practising Catholic

41. The PRF is used by the Priest, in the light of the guidance issued by the diocese, to tell the school whether or not an applicant is a practising Catholic. The footnote to the arrangements states that *“Practising Catholic means regular family attendance at Sunday Mass which is confirmed by the Diocesan Priest’s Reference”*. The arrangements rely entirely on the use of the PRF, and do not state themselves what is meant by the term “practising Catholic”, since what is meant by “regular” is not stated.

42. 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”*.

43. 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.**”*

44. 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.

45. In the case of this school, significant priority within the oversubscription criteria is given to those who are *“practising Catholics”*, which in turn depends upon their *“regular family attendance at Sunday Mass”*. 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). The school has offered in response to my concern to remove the word “regular” from its arrangements. However, this would in my view do nothing to improve their compliance with the Code, since it is not the presence of the phrase “regular attendance” itself but the lack of clarity as to the meaning which is attached to it within the arrangements as a whole, which as I have already stated includes the PRF and the diocesan guidance to Priests, which is the reason that I am of the view that they fail to comply with what is required. “Attendance”, if undefined, is no easier to understand than “regular attendance” if this is undefined. The arrangements are not clear because there is no clear and objective definition of “regular attendance”. This means that a parent cannot understand whether their family’s practice will mean that they are considered practising Catholics. For these reasons, the arrangements fail to comply with paragraphs 1.8 and 1.37 of the Code.

#### Looked after and previously looked after children

46. Paragraph 1.37 of the Code also 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 refer to “Catholic applicants”, 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.

47. The arrangements state that the priority is for such children “from Catholic families” and that *“family’ normally includes the Catholic or Catholics who have legal responsibility for the child”*. Whether a child’s foster or adoptive family are themselves baptised or practising Catholics cannot not be a condition for a looked after or previously looked after child. The only relevant consideration is whether the child is a baptised Catholic. Equally, a looked after or previously looked after child who was themselves not a baptised Catholic could only be given priority over Catholic children if the school had decided that all looked after and previously looked after children were to have first priority in its arrangements, but it does not do this. The school’s practice does not conform to what is required and this is therefore a further breach of paragraph 1.37.

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

48. The school has informed me of its intention to remove the phrase *“whose parents are in sympathy with the aims and ethos of the school”* from the introduction to its admission arrangements and from two of the oversubscription criteria which it uses.

49. However, as determined, the arrangements contain the phrase. I accept that the school does not place a general condition on the consideration of applications by including this phrase in some of its oversubscription criteria. However, I do not see how sympathy with aims and ethos, as part of these oversubscription criteria, could be assessed objectively. It is also not clear on what basis a minister of religion would support the application. Clarity and objectiveness are requirements placed on all oversubscription criteria by paragraph 1.8 of the Code. Again, the school has offered to remove this phrase from its arrangements, but as these have been determined its presence constitutes a breach of paragraph 1.8.

#### Waiting list

50. The school has confirmed that, as determined, its arrangements contain a statement that complies with the stipulation in paragraph 2.14 of the Code that waiting lists are maintained until at least 31 December of each school year of admission. The inaccurate version of the arrangements which has appeared on the school's website will, it says, be changed.

#### Definition of previously looked after children

51. The school has also indicated that it intends to include a definition of a previously looked after child in its arrangements, but as determined the arrangements do not do so and as a result the oversubscription criteria which include previously looked after children are not clear. This is a breach of paragraph 1.8 of the Code, which requires oversubscription criteria to be clear.

#### Use of the SIF

52. The school makes available a PRF and states in its arrangements that this is relevant to those who wish to have their application considered for one of the places priority for which is given to Catholics. It also provides a reference form which it requires those seeking to have their application considered for one of the other places to complete. A third form, called a SIF, is also provided, but there is no equivalent statement which explains its use. A footnote refers to the importance of returning religious reference forms and although the school has indicated that it intends to include in this footnote a reference to the SIF which makes it clear that those who do not claim any religious affiliation are not required to do complete it, even this is not present in the determined arrangements. This omission means in my view that the arrangements as a whole and the means used for the allocation of places are insufficiently clear and in breach of paragraph 14 of the Code.

#### Admissions to the school's sixth form

53. The school intends to:

- (i) remove the phrase giving preference to existing student of the school;
- (ii) delete the statement that applicants are required to make a commitment to the Catholic ethos of the school, and

(iii) provide a definition of previously looked after children.

54. However, as determined, the school's admission arrangements contain the two phrases to be removed and so are in breach of paragraphs 2.6 and 1.9a of the Code, and fail to define previously looked after children and so do not comply with the requirement of paragraph 1.8 of the Code, which requires that oversubscription criteria are clear.

55. The school has also stated that since the arrangements say that the minimum entry requirements are the same for all pupils it does not accept the basis for my concern about the use of average GCSE points scores to give priority to external students. However, it seems to me to be plain that such a criterion means that the minimum academic performance required for an external candidate to secure a place would be higher than that for an internal student if the places were oversubscribed with students who had achieved the minimum academic requirements. The arrangements are therefore in breach of paragraph 2.6 for this further reason.

## **Conclusion**

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

(i) not including and publishing either the PRF or that part of the diocesan guidance to Priests on its completion as part of the school's admission arrangements and also failing to make clear the meaning of oversubscription criteria which it employs or how its faith-based criteria can be satisfied, and

(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.

57. 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 state what is meant by the term "Catholic";

(ii) 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;

(iii) including oversubscription criteria which cannot be assessed objectively,

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

(v) not defining the meaning of the phrase "previously looked after children", and

(vi) failing to state which applicants are required to complete the school's SIF.

58. 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**

59. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the governing body for the academy trust of The Ursuline Academy, Ilford, Essex.

60. 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.

61. 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