



Office of  
the Schools  
Adjudicator

**DETERMINATION**

**Case reference:** ADA3195

**Objector:** A member of the public

**Admission Authority:** St Peter's Catholic Voluntary Academy Trust  
for St Peter's Catholic School

**Date of decision:** 26 August 2016

**Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2017 determined by the governing body for St Peter's Catholic School, Bournemouth.**

**I have also considered the arrangements in accordance with section 88I(5). I find that there are other matters which do not conform with the requirements relating to admission arrangements.**

**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 a member of the public (the objector), about the admission arrangements for September 2017 (the arrangements) for St Peter's Catholic School (the school), an academy school for children aged 4 to 18 in Bournemouth. The objection is to the clarity and fairness of the arrangements for admission to Year R and the consultation on and publication of those arrangements.

**Jurisdiction**

2. 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 school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined on 11 February 2016 by the governing body on behalf of St Peter's Catholic Voluntary Academy Trust, which is the admission

authority for the school, on that basis. The objector submitted her objection to these determined arrangements on 13 May 2016. The objector has asked to have her identity kept from the other parties and has met the requirement of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) by providing details of her name and address to me.

3. The school was subject to a determination by the adjudicator in October 2014. Regulation 22 of the Regulations says “*no objection may be referred to the adjudicator raising the same or substantially the same issues in relation to those admission arrangements within 2 years of the objection.*” Since 2014 the school has made a number of changes to its oversubscription criteria and this objection raises different matters from those considered in the 2014 determination.
4. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.
5. Bournemouth Borough Council is the local authority for the area (the LA) in which the school is situated and the Roman Catholic Diocese of Portsmouth (the diocese) is the religious authority for the school. Both are parties to this case.

### **Procedure**

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
7. The documents I have considered in reaching my decision include:
  - a. the objector’s form of objection dated 13 May 2016 and subsequent emails;
  - b. the admission authority’s response to the objection and supporting documents;
  - c. the comments of the LA on the objection and supporting documents;
  - d. the comments from the diocese on the objection and supporting documents;
  - e. confirmation of when consultation on the arrangements last took place;
  - f. copies of the governing body email vote which determined the arrangements; and
  - g. a copy of the determined arrangements.

## The Objection

8. The objector provided me with a history of alleged failure by the school to consult on and publish its admission arrangements as required by the Code. The objector also said that the school had given different priority in the past to siblings of pupils at the school and to children living in specific parishes. She said this was "*historical context*" for the 2017 arrangements.
9. The first part of the objection concerned the school's consultation on the arrangements from 15 December 2015 to 26 January 2016. The objector considered this unfair because the school was closed for two of the six weeks for the Christmas holiday and in that time no questions could be answered or information accessed. The requirements for consultation are set out in paragraphs 1.42 to 1.45 of the Code.
10. The second part of the objection was that the "*primary phase website has not published the 2017/18 primary phase admissions policy.*" The requirements for publication of the arrangements are set out in paragraph 1.47 of the Code.
11. The objector then referred to paragraph 1.8 of the Code and said the arrangements were unclear. She also referred to paragraph 1.14 of the Code saying "*The 17/18 policy gives no definition of catchment area/parish boundaries or area served by the school.*"
12. The next part of the objection was that "*parents cannot easily understand how faith based criteria will be reasonably satisfied*" as required by paragraph 1.37 of the Code. The objector expressed concern that the supplementary information form (SIF) used by the school had the potential for inconsistency and confusion. The requirements for SIFs are set out in paragraph 2.4 of the Code.
13. The objector considered that all of the above factors led to the arrangements contravening paragraph 14 of the Code.

## Other Matters

14. When I considered the arrangements as a whole it appeared to me that they did not or may not comply with requirements relating to admissions in the following ways.
15. Paragraph 1.8 of the Code requires that oversubscription criteria are clear. Two oversubscription criteria refer to looked after and previously looked after children; the definition of such children in the arrangements was not as full as that given in paragraph 1.7 of the Code and its footnotes and therefore may not be clear.
16. Some of the explanatory notes referred to in the oversubscription criteria did not appear to be correctly linked detracting from their clarity and a reference to students who are disabled may not comply with the

Equalities Act 2010 or paragraph 1.9m of the Code which prohibits interviewing children or their parents.

## **Background**

17. The school is a Catholic all-through academy for children aged 4 to 18. The school is jointly sponsored by the Roman Catholic Diocese of Portsmouth and the De La Salle Order. It is located in Bournemouth and became an academy in September 2011. Children are normally admitted to the school into Year R, Year 7 and Year 12; it first admitted children to Year R in 2014.
18. For Year R the published admission number (PAN) is 60 and the oversubscription criteria can be summarised as:
  1. Catholic looked after and previously looked after children.
  2. Baptised Catholic Children.
  3. Other looked after and previously looked after children.
  4. Children of staff at the school.
  5. Children of other Christian traditions.
  6. Children of other faiths.
  7. Other children.
19. Within each of the above the school ranks applicants according to:
  1. Level of religious practice.
  2. A sibling attending the school.
  3. Home to school distance.
20. Random allocation is used as a tie-breaker if two or more children cannot be separated after applying the above criteria. The arrangements include definitions of terms used in the oversubscription criteria.
21. The PAN for Year 7 is 240 and the oversubscription criteria are the same as for Year R.

## **Consideration of Case**

22. Some of the historical matters referred to by the objector were dealt with in the determination made by an adjudicator in October 2014 and the school and the LA commented on aspects of them. In reading these comments and those in subsequent emails from the objector and the other parties I have concluded that there is a range of perceptions and understanding of the evolution of the arrangements which are the subject of this determination. I am, however, only able to consider the

2017 arrangements as they stand and will not comment on historical matters.

### Consultation and publication

23. The objector said *“I would like it to be noted that the consultation period given for 17/18 arrangements was 6 weeks from 15 December 2015 – 26 January 2016: this period includes 2 weeks of Christmas holiday when the school was closed and therefore no questions could be asked or information gained. In order for the consultation to take place fairly, so that all concerned could easily access any information necessary, the period could cover term time weeks when the school and local authority offices are open.”*
24. Paragraph 1.43 of the Code sets out when and for how long admission authorities must consult if they are proposing any changes to their admission arrangements. It says *“consultation **must** last for a minimum of 6 weeks and must take place between 1 October and 31 January in the determination year.”*
25. The Code does not prohibit consultation during school or public holidays. The school has provided evidence that it consulted for six weeks during the period of time required by the Code and that its proposed arrangements were on its website as required by paragraph 1.45 of the Code. The objector does not dispute this but complained that *“no further ways of addressing interested parties was explored.”*
26. The school has complied with paragraphs 1.43 and 1.45 of the Code so I do not uphold this part of the objection. However, as the consultation only elicited three responses, the school might wish to review how future consultation could be improved to elicit more responses from a wider range of consultees. This would both help the governing body to make decisions and reassure the public that thorough consultation had taken place.
27. The objector also said that the 2017 arrangements were not published on the *“primary phase website”*. I had no difficulty in finding the arrangements on the school website when I looked for them on 25 May 2016 under the tab *“School Life”*. I also saw a tab headed *“Primary”* under which could be found the 2016 arrangements, but not those for 2017. The school has met the requirements of paragraph 1.47 of the Code to publish its arrangements so I do not uphold this part of the objection; however, having arrangements for different years in different places on its website has left the school open to criticism.

### Catchment area

28. The objector complained that the arrangements did not *“specify the parishes served by the school”* and gave *“no indication of the catchment area/parish boundaries or areas served by the school.”* She argued that *“There is potential for children living outside of Bournemouth Local Authority to be prioritised over primary children*

*living within the Borough and contravenes the purpose of setting up this new school in 2014, to satisfy a lack of primary places in Bournemouth.*” In support of this part of the objection she referred to the prospectus used in 2014 which is still to be found on the school’s website, this defines an area made up of seven parishes as the area the school will serve. She also referred to the school’s funding agreement which says *“the school provides an education for pupils who are wholly or mainly drawn from the area in which the school is situated.”*

29. In its response the school said *“For the first two years, the school gave priority to Bournemouth families, since it was within the borough that pressure on primary places was greatest. Given our proximity to the borough boundary we did not want to accept Catholic children from neighbouring Christchurch over Catholics in Bournemouth. Catholics from areas outside Bournemouth could still apply and would take precedence over other Christians and other categories. Since we did not fill with Catholics in the first two years this distinction seemed to be unnecessary.”* The school went on to point out that since 2016 it has not had a catchment area and for 2016, 97 percent of places offered were to children who lived in the borough of Bournemouth.

30. Schools are not required to have a catchment area. While this school had one in the past it no longer does and this is clear in the arrangements. Within the school’s oversubscription criteria, priority is given to children living closest to the school. As a school with a religious character with faith-based oversubscription criteria, I would expect that it would serve a wider area than a comparable school which did not have faith-based arrangements. In that context, from the figures quoted by the school, places are being offered mainly to children drawn from the area in which it is situated. I am satisfied that the school is complying with its funding agreement and with the Code and I do not uphold this part of the objection.

#### The faith-based criteria

31. The second oversubscription criterion reads in full:

*“2. Baptised Catholic children.*

*Parent(s)/Carer(s) will be required to produce their child’s Baptismal Certificate or (where (when age appropriate), because of extraordinary circumstances the Baptismal Certificate is not available following a move from overseas) the First Holy Communion Certificate (or letter stating the child has been received into the Catholic church)*

*In addition, the Parish Priest will be asked to provide a statement confirming that attendance at Catholic Mass has been either regular (attending Catholic Mass at least fortnightly on Saturday evening or Sunday) or less than regular (attending Catholic Mass less than fortnightly on Saturday evening or Sunday including not at all) during the previous twelve months.”*

32. The fifth and sixth criteria are also faith-based and read in full:

*“5. Children of other Christian traditions who are practising Christians*

*Parent(s)/Carer(s) will be required to produce their child’s Baptismal Certificate (or equivalent evidence of church membership) and a written statement from their Church confirming religious practice as deemed by their Vicar, Minister or Church Leader. Governors look for evidence of practice through completion of a Supplementary Information Form (SIF) (See explanatory note iv)*

*6. Children of faith traditions other than the Christian faith*

*Parent(s)/Carer(s) will be required to produce evidence of membership of and a written statement from their Faith Establishment confirming faith practice. Governors look for evidence of practice through completion of a Supplementary Information Form (SIF)”*

33. The arrangements say that within the criteria applications will be ranked in the order of level of religious practice, siblings and home to school distance. They say *“For Catholic applicants, the child’s Parish Priest will be asked to complete a Supplementary Information Form (SIF) and state whether the child’s practice has been regular attending Catholic Mass at least fortnightly on Saturday evening or Sunday) or less than regular (attending Catholic Mass less than fortnightly on Saturday evening or Sunday) during the previous twelve months. For children other than Catholics, the Governors look for evidence of regular practice through completion of a Supplementary Information Form (SIF) that will confirm religious practice through reference to the Minister, or Leader, of the place of worship that the family attends.”*

34. Paragraph 1.37 of the Code says *“Admission authorities must ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.”* The objector said that this was not the case. She said *“Two categories are given to indicate level of religious practice. The implication of the word ‘faith’ is that a person will practise their religion. If they do not practise, they have no ‘faith’. The inclusion of ‘not at all’ does not recognise any ‘faith’. The policy discriminates against Christian children with faith (i.e. they practise their faith) who fall within category 5.”*

35. In response the school said that it was acting in line with diocesan advice and *“If a child is baptised according to the rite of the Catholic Church then he or she is a Catholic. The formal duty of a Catholic is to attend mass and receive communion at least once a year.”* It continued to say *“The practice of faith is not limited to church attendance. It is not up to the school to judge the level of ‘practice’ in the faith life of the applicant; that is left to the priest or religious minister / leader.”*

36. In its comments the diocese said *“In canon law a baptised person is a member of the church whether or not they chose to practise their faith at a particular moment of their life.”* It went on to say *“For schools which are oversubscribed with baptised Catholics practice can be used to distinguish between applications. For school admissions purposes, the policy must define practice as “attendance at Sunday (or Saturday evening) Mass”.*
37. I am satisfied that the arrangements clearly set out how the faith-based criteria can be satisfied for Catholic applicants and that this is in line with diocesan guidance. I think parents can understand if they are a Catholic or not and whether their practice is regular, defined as at least fortnightly attendance at Mass, or not in the previous twelve months.
38. The diocese also gives guidance that *“practise for other Christian denominations and other faiths is to be confirmed by their ministers/leaders.”* It is not clear to me from the oversubscription criteria whether or not the school is expecting other faith leaders to identify different levels of religious practice or not. However, this is clarified in the SIF which I will discuss in more detail below. I do not uphold this part of the objection.

#### The supplementary information form

39. The objector said the SIF contained an ambiguity regarding *“category 2b”*. She said *“A priest may not be clear about whether to sign this part of the form if the baptised Catholic children never attend Mass. There is potential for inconsistencies and confusion for people signing the SIF.”*
40. The requirements for a SIF are set out in paragraph 2.4 of the Code. This says *“In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. They must not ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for:*
- a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates);*
  - b) the first language of parents or the child;*
  - c) details about parents’ or a child’s disabilities, special educational needs or medical conditions;*
  - d) parents to agree to support the ethos of the school in a practical way;*
  - e) both parents to sign the form, or for the child to complete the form.”*



41. The SIF used by the school begins by asking for the child's name, date of birth and contact details. This is followed by a table to be completed by the parent or carer and the parish priest or faith leader. There is then space for the priest or other religious leader to sign and confirm the contents of the table.
42. In the table, parents or carers are asked to indicate whether the child is or was looked after. This information is collected on the LA's common application form (CAF) and so it is not required on the SIF and may not be asked there. The SIF is seen by a priest or other faith leader; it is entirely unnecessary and inappropriate for such information to be shared with them in the context of school admissions. Furthermore, for children who are not Catholic, there is a box in the table asking the priest or faith leader to confirm this status; I do not think they are in the position to do so.
43. I do not however, see any ambiguity in what the objector refers to as "*category 2b*". This box asks the parent or carer to tick a box "*Baptised Catholic children with attendance at Sunday (or Saturday evening) Mass less than fortnightly (including not at all) during the past 12 months*" and for the priest to tick a box confirming this.
44. On the back of the SIF it asks for various documents to be supplied in support of the application. This includes confirmation from the LA that the child is or was looked after. As noted above this information is included on the CAF and school is not entitled to ask for it to be supplied again.
45. I also noted the list includes "*A Certificate of Catholic Practice*" which is not referred to anywhere else in the arrangements. This was also pointed out by the objector in an email. The diocese responded on this point saying this is an error and should not be on the form, it said "*it is a remnant of an earlier version of the form.*"
46. While I find that the SIF does not comply with the Code in other ways, I see no ambiguity regarding "*category 2b*" which was the issue raised by the objector and so I do not uphold this part of the objection.

### Siblings

47. The objector complained that in previous years' siblings had higher priority than non-practising Catholic children in the arrangements for Year 7. She said that this sibling priority was a factor in parents' decisions about school places.
48. The school responded that siblings had been given some priority in a former set of arrangements for Year 7 and said "*Even if parents in our first year looked to the secondary policy valid at the time, as a guide to where 'siblings' might come in a future primary policy, it was still clear that priority would be given to Catholics.*"

49. As the diocese pointed out in its comments, there is no requirement in the Code for siblings to be given priority over faith-based criteria. The school does give siblings priority within each of the main oversubscription criteria that it uses. This is clearly set out in the arrangements. The LA has pointed out that it also explains to parents in its literature that there is no guarantee of a younger child being offered a place at a school that an older sibling is attending. It is fair, reasonable and permitted by the Code for a faith school to prioritise members of the faith above other children. If there are sufficient places for some to be offered to children who are not Catholics, siblings will have priority against each of the relevant oversubscription criteria. I do not uphold this part of the objection.

### **Other Matters**

50. Paragraph 1.8 of the Code requires that oversubscription criteria are clear. When I looked at the arrangements I noted that in the two oversubscription criteria that refer to looked after and previously looked after children, the definition of such children was not as full as that given in paragraph 1.7 of the Code and its footnotes.

51. When I drew this to the school's attention it replied that it was not aware that it was a requirement for these definitions to be exactly as detailed in the Code. The diocese pointed out that the definitions of these terms in the glossary to the Code are not as full as in paragraph 1.7 and its footnotes. The school however agreed that it would be helpful to have a fuller definition. The Code requires that arrangements are clear and using the full definition of these terms used in paragraph 1.7 and its footnotes would leave no room for doubt about which children the criterion applied to.

52. Some of the explanatory notes referred to in the oversubscription criteria did not appear to be correctly linked. For example, the explanatory note to the fifth criterion concerning children of other Christian traditions was labelled "iv", the explanatory note labelled "iv" defined home address. This does not help make the criteria clear as required by the Code. The school acknowledged this and agreed to correct the labelling.

53. The arrangements include a section with the heading "*Applications for Students who are Disabled*". This section says "*The School welcomes and makes every effort to accommodate Students, irrespective of ability or disability and works closely with Parent(s)/Carer(s) and Students to achieve good access to the buildings, the curriculum and the life of the School. However, the buildings can present significant barriers to full inclusion for certain Students. Wherever possible, the School will endeavour to overcome these barriers through careful timetabling of lessons and additional support. Those with a disability are encouraged to contact the School prior to making an application.*"

54. As set out in paragraph 1.8 of the Code, school admission arrangements are required to comply with the Equality Act 2010. I was concerned that the final sentence in the above wording could lead to the arrangements not complying with the Equality Act and paragraph 1.9m of the Code which prohibits interviewing children or parents.
55. In response to my enquiries the school assured me that the sentence was intended to be of assistance to disabled applicants and to help the school, where the age of the building presents some challenges to students with disabilities, to work with parents and carers to ensure the needs of such students were met. The school said all prospective parents were encouraged to visit the school not just parents of children with disabilities, and confirmed that it was *“not a requirement for the parent to make contact or visit the school and whether they did or not would not be considered as part of the application process.”*
56. The school has offered to remove the sentence *“Those with a disability are encouraged to contact the School prior to making an application.”* and I consider that doing so is required in order to remove any doubt that the school may treat applicants with a disability any differently from others.

### **Summary of Findings**

57. For the reasons set out above I do not uphold any part of the objection. However, in considering the objector’s concern about the SIF I have identified other ways in which the SIF does not meet the requirements of the Code.
58. I also find that the arrangements do not comply with requirements in the other ways set out above.

### **Determination**

59. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2017 determined by the governing body for St Peter’s Catholic School, Bournemouth.
60. I have also considered the arrangements in accordance with section 88I(5). I find that there are other matters which do not conform with the requirements relating to admission arrangements.
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: 26 August 2016

Signed:

Schools Adjudicator: Phil Whiffing