



DETERMINATION

Case reference:	ADA3312
Objector:	Worcestershire County Council
Admission Authority:	The Governing Body of St Clement's Church of England Primary School on behalf of the Rivers Multi-Academy Trust, Worcestershire.
Date of decision:	11 October 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2018 determined by the governing body of St Clement's Church of England Primary School on behalf of the Rivers Multi-Academy Trust for St Clement's Church of England Primary School in Worcester, Worcestershire.

I also considered the arrangements in accordance with section 88I(5) and found there were other matters which did not conform to the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

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 Worcestershire County Council, (the objector), about the admission arrangements (the arrangements) for St Clement's Church of England Primary School (the school), for entry in September 2018. The school is a primary academy converter school designated as having a religious character. The objection related to a number of elements in the admission arrangements which the objector claimed did not conform to the School Admissions Code (the Code).**
- 2. The local authority for the area in which the school is located is Worcestershire County Council. The local authority is the objector. Other parties to the objection are the Rivers Church of England Multi-Academy Trust (the trust), the governing body of the school and the**

Diocese of Worcester (the diocese), which is the designated religious authority for the school.

Jurisdiction

3. The terms of the academy agreement between the multi-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 of the school on behalf of the trust, which is the admission authority for the school, on that basis. The objector submitted an objection to these determined arrangements on 15 May 2017. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.
4. The governing body varied its determined arrangements in response to the objection (the first variation of the arrangements), and again following a meeting convened by me at the school on 20 July 2017 (the second variation of the arrangements). An admission authority is permitted to vary its arrangements in order to give effect to a mandatory provision of the Code by virtue of paragraph 3.6 of the Code. I have considered the objection against the arrangements in force at the time the objection was made as that is what the Act requires me to do. In exercising my powers under section 88I of the Act, I initially considered the first variation of the arrangements and subsequently the second variation. In determining whether any revisions need to be made, I have considered the second variation of the arrangements. The second variation of the arrangements has been published on the school's website.

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 form of objection dated 15 May 2017;
 - b. the governing body's response to the objection and supporting documents;
 - c. the comments of the diocese;
 - d. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2017;
 - e. maps of the area identifying relevant schools;
 - f. confirmation of when consultation on the arrangements last took place;

- g. a copy of the determined arrangements for September 2018;
 - h. a copy of the first variation of the arrangements made in response to the objection; and
 - i. a copy of the second variation of the arrangements sent to me on 27 July 2017.
7. I have also taken account of information received during a meeting I convened on 20 July 2017 at the offices of the diocese. Those attending the meeting were the Associate Headteacher for St Clement's and representatives from the local authority and the diocese. A representative from the trust was expected but sent apologies shortly before the meeting was due to start.

The Objection

8. The objection related to a number of aspects of the arrangements, which the objector claimed did not conform to the Code. These were that:
- one of the faith-based oversubscription criteria did not conform to paragraphs 1.37, 1.38 and 14 of the Code;
 - the Supplementary Information Form (SIF) and the Religious Application SIF both required information which could have had no bearing upon a decision as to whether the oversubscription criteria had been met, which did not conform to paragraph 2.4 of the Code; and
 - the meaning of the word "*support*", which was used in the context of the priest or minister being required to sign a form stating that he/she was willing to support the application, was not sufficiently clear, which did not conform to paragraphs 2.4 and 14 of the Code.

Other Matters

9. In a letter to the parties dated 7 July 2017 I raised a number of other matters which had not been raised in the formal objection and which appeared not to conform to the Code. They were subsequently discussed at the meeting on 20 July 2017. These matters concerned:
- the statement in the arrangements that the school was a Voluntary Aided School;
 - the use of various terms which were unclear and not defined, and dates which were unspecified;
 - the fact that terminology used in the arrangements relating to the faith-based oversubscription criteria was inconsistent with terminology used in the SIF;
 - the section headed "*Admissions other than normal*", which was a

general statement, and did not make clear the process applicable for this particular school;

- late applications;
- lack of availability of catchment area maps;
- applications for children from multiple births; and
- the waiting list.

Background

10. The school converted to become an academy on 1 October 2014. It is a mixed primary school with an age range of 4 -11. The published admission number (PAN) is 30. There are 207 pupils on roll, and the capacity of the school assessed by the Department for Education is 210. A copy of the Rivers Multi-Academy Trust Scheme of Delegation was sent to me on 20 July 2017, which indicates that the governing body has “*full responsibility and control of admissions*”.

11. The original arrangements had eight oversubscription criteria, which were followed by notes and information about the appeals procedure. The arrangements also provided information about the ethos of the school, the applications process, in-year applications and late applications. The oversubscription criteria were as follows:

“1. Relevant looked after and previously looked after children.

2. Siblings of pupils already attending St. Clement’s at the time of admission from within the parish currently attending the school whose parents habitually worship at St. Clement’s Church or St. John in Bedwardine Church (Link to parish via schoolwebsite).

3. Children from within the parish whose parents habitually worship at St. Clement’s Church or St. John in Bedwardine Parish Church.

4. Siblings of pupils already attending St. Clement’s at the time of admission from outside the parish currently attending the school whose parents habitually worship at St. Clement’s Church or St. John in Bedwardine Parish Church.

5. Children from outside the parish whose parents habitually worship at St. Clement’s Church or St. John in Bedwardine Parish Church.

6. Children who themselves or parents are practising members of

i) other Anglican churches

ii) other faiths and wish to have their child attend a school with a religious standing

iii) other denominations.

7. Siblings of pupils already attending St. Clement's at the time of admission.

8. Children living closest to the school. The distance will be measured in a straight line between home and school, measuring from mid point of the property to the main pedestrian entrance of the school on Henwick Road."

12. The school varied its determined arrangements in response to the objection and again following the meeting of 20 July 2017. The second variation of the arrangements does not include the criterion numbered 6 above and changes have been made to some of the other oversubscription criteria.

Consideration of Case

13. The response from the diocese indicated that they do not provide generic guidance to their schools, but they do provide advice on a school by school basis should this be sought. There is no requirement upon a religious authority to issue guidance, but in this particular case, the school would have benefited from some direction and support in drawing up its arrangements. The trust responded to the objection but did not attend the meeting on 20 July 2017. It appeared to me that the trust had not provided any direction or support to the school either.
14. As noted above, the school varied its determined arrangements in response to the objection. However, at the time it did so, it was not aware of the other matters which I subsequently raised under section 88I of the Act and had not had the benefit of the discussions which took place at the meeting on 20 July 2017. Therefore, the first variation of the arrangements did not make all of the changes necessary in order for the arrangements to conform to the Code. However, as I have said, the school has now sent me a second variation of the arrangements. The second variation does address all of the areas of non-compliance I identified along with those raised originally in the objection. However, the second variation also introduces one provision relating to the school's faith-based criterion which is not in conformity with the Code as discussed below.
15. The objector claimed that the school's criterion giving priority to those of other faiths and denominations and to Anglicans who worship other than at the churches named in other criteria did not conform to paragraphs 1.37, 1.38 and 14 of the Code. This criterion referred to *"Children who themselves or parents are practising members of other Anglican churches, other faiths and wish to have their child attend a school with a religious standing and other denominations."* Paragraph 1.37 of the Code states: *"Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied."* Paragraph 1.38 states: *"Admission authorities... **must** consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated."* Paragraph 14 states: *"In drawing up*

*admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*

16. I have concluded that this criterion did not conform to paragraph 1.37 of the Code. This is because the term “*practising members*” was not defined, and so it would not have been easy for a parent to understand whether their application fell within this criterion, or not. For this reason, I have also concluded that this aspect of the arrangements did not conform to paragraph 14 because it was unclear. I therefore uphold this aspect of the objection as the arrangements in force at the time the objection was made did not conform to the Code. I note that this oversubscription criterion has now been removed in the second variation of the arrangements.
17. The arrangements included two SIFs – a general SIF and a Religious Application SIF. The objector referred to the fact that the general SIF required that the name of an applicant’s previous school and the start date be provided. The objector claimed that this did not conform to paragraph 2.4 of the Code because the oversubscription criteria did not give priority to feeder schools. Paragraph 2.4 states: “*In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** use only 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 and ability....*”. I agree with the objector that the information requested could not have had any bearing on an application for admission administered under the determined and published arrangements because there were no feeder schools listed in the oversubscription criteria. I therefore uphold this aspect of the objection.
18. The Religious Application SIF requested information such as confirmation of baptism or dedication at the church and attendance at Sunday school or Junior Church. This information could have had no bearing upon a decision to offer a place at the school, as none of these matters feature as elements of the oversubscription criteria for gaining priority for a place at the school. The form also requests “*particular reasons*” why parents wish their child to attend the school – again this could have had no bearing on an application administered under the determined and published arrangements. This did not conform to paragraph 2.4 of the Code. I therefore uphold this aspect of the objection.
19. A priest or minister was requested to sign the Religious Application SIF in support of an application. The meaning of the word “*support*” was not made sufficiently clear to the person requested to sign the form. Note A in the arrangements referred to “*regular attendance*”, which was defined as “*normally at least twice a month for a minimum period of sixth months prior to the application*”. However, the Religious

Application SIF made no link to this term, or any reference to its definition. The priest signing the form could not be expected to know what the requirements in the arrangements were. Paragraph 14 of the Code requires that admission arrangements must be clear. The arrangements stated that the support of a priest or minister was essential in order for an applicant to be admitted under criteria 2 – 6. The arrangements were unclear, and did not conform to paragraph 14 of the Code. I therefore uphold this aspect of the objection. The SIF which was sent to me as part of the second variation of the arrangements no longer contains requests for information which would not be pertinent to determining an application for admission to the school, and this does now conform to paragraph 2.4 of the Code.

20. The objector states that it is not for the school to determine what constitutes active involvement in a faith which is not the designated faith of the school, and that it is the faith body which should make these decisions. The objector states that this element of the arrangements did not conform to paragraphs 1.37 and 1.38 of the Code. In my opinion, these statements are incorrect. The admission authority for the school must set out the criteria determining how places will be allocated. The admission authority must have regard to diocesan guidance in determining any faith-based oversubscription criteria and must consult with the diocese. In this case there was no diocesan guidance, and in any event it is for the admission authority, namely the governing body in this case, to determine the oversubscription criteria and which applications fall within those criteria. I therefore do not uphold this aspect of the objection.
21. I now turn to consideration of the further matters raised by me under section 88I of the Act. A number of these matters relate to paragraph 14 of the Code which I have set out above. I should say from the outset that the second variation of the arrangements has addressed these matters so that these aspects of the arrangements do now conform to the Code. I have, however, set them out below for the sake of completeness.
22. Under the heading “*Introduction*”, it was stated that the school is a Voluntary Aided School, whereas the school is an Academy.
23. Under the heading “*Admissions*”, in the first paragraph there were two references to “*nominated date*” as the date by which applications had to be made for a school place and the date on which offers of places would be made. Neither date was set out. This made the arrangements unclear and meant that they did not conform to paragraph 14 of the Code.
24. Paragraph 2.16 of the Code states: “*Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that, where they have offered a child a place at the school:*

- a. *That the child is entitled to a full-time place in the September following their fourth birthday;*
- b. *The child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and*
- c. *Where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age."*

The arrangements did not make clear what they were required to make clear under each of the subparagraphs a, b and c. There was no reference to the entitlement to part-time attendance, or to the right of parents to request deferred entry in reception. Therefore, the school's wording did not conform to paragraph 2.16 of the Code.

- 25. Paragraph b) of the section headed "*Late Applications*" did not conform to paragraph 14 of the Code. This is because the criteria relating to late applications referred to in that section were not stated clearly. Also, the section stated that the local authority would decide when to accept a late application, whereas this is a matter for the admission authority, which for this school is the governing body on behalf of the trust and not the local authority.
- 26. In the paragraph which followed paragraph b), it is unclear what was meant by the words "*In all other circumstances*". This did not conform to paragraph 14 of the Code.
- 27. Under the heading "*Admissions Criteria*", criterion 2 was not worded clearly. The phrase "*habitually worship*" was not defined, and did not feature on the Religious Application SIF. The phrases "*at the time of admission*" and "*currently attending the school*" appeared to contradict one another. This is because, for example, a child in Year 6 at the time of a younger sibling's application would have left the school by the time of that younger's sibling's admission. This did not conform to paragraphs 1.37 and 14 of the Code.
- 28. A number of the oversubscription criteria give different degrees of priority to children on the basis of their living inside or outside the parish of "the parish". Criterion 3 of the oversubscription criteria refers to "*Children from within the parish*". Criteria 2, 4 and 5 also made reference to "*inside*" or "*outside*" the parish. "The parish" is accordingly a catchment area within the meaning of paragraph 1.14 of the Code and hence "*must be designed so that [it] is reasonable and clearly defined.*" Parish is not defined in the arrangements. The arrangements did not describe the parish boundaries, and were therefore not sufficiently clear. The parish boundary is integral to understanding the arrangements, and therefore has to be published as part of those arrangements. The failure to define the parish made criteria 3, 4 and 5

unclear and therefore not in conformity with paragraph 14 of the Code. They also did not conform to paragraph 1.14 of the Code

29. In criterion 3, the phrase "*habitually worship*" was not explained, and was inconsistent with Note A, which referred to "*regular attendance*". Whichever phrase is selected in a set of admission arrangements, it must be defined clearly and used consistently in order for arrangement to be clear and easily understood. Where a priest/minister is required to sign a form as part of the arrangements, that person must be clear about what it is they are confirming. The form which is sent to the priest/minister should use the same phrase as is used in the arrangements and should define it, so that it is clear to the priest/minister that he/she is signing as an assurance that the criterion (as defined) has been met. This did not conform to paragraphs 1.37 and 14 of the Code.
30. In note B, which defines the meaning of siblings and parents for the purposes of the oversubscription criteria, the phrase "*A parent includes all of those people*" was unclear. This did not conform to paragraph 14 of the Code.
31. In note D, it was stated that "*if a multiple birth place is requested the Governing body will seek advice*". It was unclear what advice would be sought or from whom. A parent with children from a multiple birth reading this to a parent with multiple birth children whether, and in what circumstances, any or all of their children would have been offered a place at the school. This did not conform to paragraph 14 of the Code.
32. The section headed "*Waiting lists*" stated that the waiting list "*would be kept open until the end of the autumn term*". Paragraph 2.14 of the Code requires that "*the admission authority must maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission*". The autumn term each year ends well before 31 December. Thus, this section of the arrangements did not conform to paragraph 2.14 of the Code.
33. The school has cooperated fully throughout this process. Following receipt of the objection, the school varied its admission arrangements to address the points raised by the objector. The associate headteacher attended a meeting on 20 July 2017 to discuss the matters raised in the objection and the other matters raised by the adjudicator under section 88I of the Act. These had been set out in my letter of 7 July 2017. A second variation of the arrangements was sent to me on 27 July 2017. The school has worked hard to produce a second variation of the arrangements which conform to the Code in relation to the issues raised by the objector and the further matters raised by me. They deserve full credit for their cooperation and for the speed within which the proposed revisions were made.
34. There is one matter introduced in the first variation of the arrangements which does not conform to the Code. The faith-based oversubscription criterion refers to "*worshippers*" at St Clement's and St John in

Bedwardine Churches but does not define the term. The school explained at the meeting that they did not wish to define it, and that parents who attend these churches – even if only once a year – would fall within the criterion. However, since this is not explained, and since “*worshippers*” is not a term that has an obvious everyday meaning, the arrangements remain unclear and therefore do not conform to paragraphs 1.37 and 14 in this regard. In addition, the Religious Application SIF requires a priest of minister to sign as confirmation of the application for a church place. Since the priest of minister would not know which requirements they were judging attendance against, there is a risk that this could lead to inconsistent decisions.

Summary of Findings

35. Having considered the arrangements for admission to the school in September 2018 which were referred to me by the objector on 15 May 2017 together with the relevant paragraphs of the Code, my findings are that some of the matters referred to by the objector did not conform to the Code. There is one aspect of the objection which I do not uphold. There were a number of other matters raised by the adjudicator in relation to aspects of the arrangements which also did not conform to the Code. These were shared with the school at the meeting on 20 July 2017. I also find that the school acted promptly in sending me a second variation of the arrangements which remedies all but one of the points raised in the objection and the points raised by the adjudicator under section 88I that needed to be addressed.

Determination

36. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2018 determined by the governing body of St Clement’s Church of England Primary School on behalf of the Rivers Multi-Academy Trust for St Clement’s Church of England Primary School.
37. I have also considered the arrangements in accordance with section 88I(5) and find there were other matters which did not conform with the requirements relating to admission arrangements.
38. By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 11 October 2017

Signed:

Schools Adjudicator: Dr. Marisa Vallely

