



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3322

Objector: Lincolnshire County Council

Admission Authority: The Academy Trust of The King's (The Cathedral) School, Peterborough

Date of decision: 14 December 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 The King's (The Cathedral) School, Peterborough on behalf of the academy trust.

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

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

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 local authority (the objector), about the admission arrangements for September 2018 (the arrangements) for The King's (The Cathedral) School (the school), Peterborough which is a Church of England Academy for pupils aged 7 to 18 years of age. The school is a partially selective school and is designated as a school with a religious character. The objection concerns the school's faith based oversubscription criteria and its testing relating to partial selection.

2. The initial objection did not distinguish between the admission arrangements for Year 3 and those for Year 7. The objector confirmed in subsequent correspondence seen by all parties that it refers to both and I have also made this clear to the school.

3. The local authority for the area in which the school is located is Peterborough City Council (the local authority). That local authority is a party

to this objection as is the school's academy trust and the objector. The other party to the objection is the Diocese of Peterborough (the diocese) in its role as the school's designated faith body.

Jurisdiction

4. 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 its 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 they are within my jurisdiction. I have also used 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 School Admissions Code (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 admission authority's response to the objection and supporting documents, and subsequent correspondence;
- c. the comments of the local authority on the objection and supporting documents, and subsequent correspondence;
- d. the comments of the diocese;
- e. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2017 and that for 2018;
- f. confirmation of when consultation on the arrangements last took place;
- g. copies of the minutes of the meeting at which the governing body of the school determined the arrangements;
- h. a copy of a Deed of Variation to the Funding Agreement for the school dated 11 September 2017; and
- i. a copy of the determined arrangements.

I have also taken account of information received during a meeting I convened on 18 September 2017 at the school.

The Objection

7. The objector is Lincolnshire County Council, which is a neighbouring local authority to Peterborough, where the school is located. The objection is to the following:

- (i) that the arrangements contain an unclear oversubscription criterion (the “faith” criterion). Paragraph 1.8 of the Code requires oversubscription criteria to be clear and paragraph 14 requires that arrangements as a whole are clear;
- (ii) that the same oversubscription criterion is also procedurally unfair. Paragraph 1.8 of the Code requires oversubscription criteria to be procedurally fair, and paragraph 14 of the Code requires the criteria used to decide the allocation of places at a school are fair;
- (iii) that the arrangements fail to be objective because they provide no single test of faith and because they rely on attendance registers being maintained at places of worship. Paragraph 14 of the Code requires the criteria used to decide the allocation of places are objective; and
- (iv) that the test used to select for musical aptitude includes elements of testing for musical ability.

Other Matters

8. When I viewed the arrangements, I was concerned that they:

- (i) appeared to contain no statement which meets the requirement of paragraph 2.17 of the Code concerning admissions outside the normal age group;
- (ii) employ application forms which may breach what is set out in paragraphs 2.1 to 2.4 of the Code concerning the local authority role in the coordination of admissions to schools and the forms which admission authorities themselves may employ;
- (iii) appear to require applicants to select a category of place which they apply for, which may be a breach of paragraph 1.6 and 1.7 of the Code which state how oversubscription criteria must operate within determined admission arrangements; and
- (iv) employ supplementary information forms (SIFs) which do not conform with paragraph 2.4 of the Code because they provide for information to be gathered which is not directly related to decisions about oversubscription criteria.

9. I therefore raised these matters with the school and the other parties in this case, seeking their views concerning them, and saying that I was using my powers under section 88I of the Act to consider the arrangements as a

whole. At the meeting I raised the further issue with the school that the arrangements appeared not to provide clear definitions of either “other Christian denominations” or “other faiths”, and so may be unclear in breach of paragraph 14 of the Code, and use an oversubscription criterion which is unclear, in breach of paragraph 1.8.

Background

10. The school was founded in 1541 by Henry VIII and prior to its conversion to become an academy school in 2011 it was a voluntary aided 11 to 18 Church of England school. Sections 6(7) and 6(8) of the Academies Act 2010 make provision for the conversion of a voluntary school designated under section 69(3) of the Act as a school having a particular religious character to academy status. The effect is that the school is to be treated as an independent school having that character. It is now a Church of England Academy for children aged from seven to 18 years of age. Its normal points of admission are Year 3, Year 7 and Year 12.

11. As a former maintained school, its pre-existing partially selective admission arrangements are permitted by section 100 of the Act. These are set out in the amended Annex B to the school’s Funding Agreement, dated 11 September 2017, which the school has provided to me. This states that for admissions to Year 7 the permitted partially selective proportions are:

- a. three pupils by reference to their musical ability or two per cent of the determined Published Admission Number (PAN) for Year 7 if different (whichever is the greater figure); and
- b. twelve pupils by reference to their general academic ability or eight percent of the determined PAN if different (whichever is the greater figure).

12. For admissions to Year 3, the school is permitted to give priority to up to nine Peterborough Cathedral Choristers out of 15 places, or 60 percent of the PAN for Year 3 (whichever is the greater figure).

13. The admission arrangements were determined by the school’s governing body on 20 March 2017, which is after the last date of 28 February 2017 by which the admission authority was required to determine admission arrangements for September 2018.

14. The arrangements for Year 3 state that the PAN is 15. They state that if these places are oversubscribed, oversubscription criteria will be applied in the following order of priority:

- i. Looked After and previously Looked After children (as defined) (referred to as “category 1” in the arrangements)
- ii. Up to nine Cathedral choristers (referred to as “category 2” in the arrangements);

- iii. Children of worshipping members of the Church of England or Methodist Church (referred to as “category 3” in the arrangements);
- iv. Other children on the basis of the distance between their home and the school (as defined).

15. A form entitled “Application – Year 3 September 2018 entry” asks parents to state which “categories” they wish their child to be considered for. It also includes a “box” for parent to tick if their child has a statement of special educational needs or Education, Health and Care plan which names the school, as well as a box for each of the other categories. A SIF is provided for candidates to supply additional information in connection with “category 3”. This is to be completed by the relevant Priest or Minister and it asks for details of the parent’s pattern of worship which can range from “major festivals” to “more than weekly throughout the year” (with six levels of frequency of worship in total) and also for the period for which this has occurred in number of years. The form also allows for the Priest or Minister to provide “any other comments”. An attached note for the Priest or Minister includes the following information:

“ Application Marking Process

Frequency of Attendance at Worship	Marks
More than weekly throughout the year	5
Four/Five times per month	4
Three times per month	3
Fortnightly	2
Monthly	1
Major Festivals only	0.5

Period of Attendance at Worship	Marks
Greater than 8 years	9
Between 7 and 8 years	8
Between 6 and 7 years	7
Between 5 and 6 years	6
Between 4 and 5 years	5
Between 3 and 4 years	4
Between 2 and 3 years	3
Between 1 and 2 years	2
Less than 1 year	1

The **total** mark awarded for each application will be the product of the marks for frequency and period of attendance for worship, (i.e. frequency mark multiplied by period of attendance mark). Places are offered strictly in descending order of each applicant’s **total** mark.”

16. The arrangements for Year 7 state that the PAN is 135, giving a year

group of 150. Oversubscription criteria are, in order:

Group A (maximum 120 places)

A1 Looked After and previously Looked After children (as defined);

A2 Children of worshipping members of the Church of England or Methodist Church (maximum 74 places);

A3 Children of members of staff;

A4 Siblings of children at the school (as defined);

A5 Children of worshipping members of other Christian denominations or of other faiths;

A6 Other children on the basis of the distance between their home and the school (as defined).

Group B (maximum 15 places)

B1 12 children selected on overall academic ability;

B2 3 children selected on the basis of musical ability.

17. clear statement is made which explains how places not taken up in Group B will be reallocated.

18. Notes state that for “*applications*” for “category” A2 places, “*the application*” must be signed by a Church of England Priest or a Methodist Minister or their substitute. The form provided for this purpose is called the “*Application - Year 7 September 2018 Entry*” form, and this requests those completing it to indicate by ticking “*all the appropriate boxes*” the categories of place which the parent wishes the child to be “*considered*” for. All the Group A and Group B places are listed as categories of place on this form. For Group A 2 places a further form is provided, the “*Support for Year 7, Category A2 Application*” form, which the arrangements say “*must be submitted*” in relation to an application for one of these places. This form allows the Priest or Minister to certify the frequency and duration of worship by a parent of the child, but also provides for “*any other comments*”.

19. An attached note for the Priest or Minister completing the form sets out the application marking process, which is the same as that used for Year 3 admissions.

20. Further forms allow parents to apply for their children to sit the entrance exam for category B1 places and for music audition in connection with category B2 places.

21. There have been previous objections raised concerning the school’s admission arrangements, most recently in 2012. At that time, the school’s arrangements involved governors making an assessment for the purpose of awarding A2 places of a combination of worship and involvement in the life of

their religious community of Church of England and Methodist applicants. The adjudicator had referred to advice which she had been told the diocese had given to the school that it should define this group using “a single test of faith”, that this single test was to be evidence of worship, and it should find a more objective method for giving priority within it. A similar procedure was nevertheless still in place for admissions to the school in 2017 consisting of an assessment by the school governors of each individual’s commitment using information provided by them about their attendance and involvement over a minimum of five years. The school, however, consulted on revised arrangements for admissions in 2018 which replaced this governor assessment with the “application marking process” described above.

Consideration of Case

22. I shall consider each of the matters raised by the objector in turn, followed by those which I have brought to the school’s attention.

23. The objector has said that the admission arrangements are unclear, because it is necessary to read the SIF which contains the “application marking process” as well as the oversubscription criteria themselves in order to understand how priority is given to those seeking priority on the grounds of faith to category A places under oversubscription criterion A2. The school’s response was to say that it had decided to include the SIF within the admission policy, so removing the concern. The diocese commented that it thought the arrangements clear because the oversubscription criterion refers to footnotes, which “*stipulate the need to complete the supplementary form*”.

24. There is no doubt that the SIF forms part of the admission arrangements. A footnote on page 5 of the Code defines the admission arrangements for a school as:

“...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.”

The question at issue here, however, is not whether the arrangements contain the information which parents need, but whether the arrangements are clear. The wording of the objection makes it plain that it is precisely the objector’s concern that it is necessary to read both the policy listing the oversubscription criteria and the SIF in order to understand the oversubscription criteria fully and thus to know how priority is given.

25. It is not the case that those applying for a place, much less those who might consider applying for one, will necessarily read the SIF, even though it forms part of the arrangements. The purpose of the SIF is to allow applicants to supply additional information if they seek priority under the relevant oversubscription criterion, and so in my view those who have already decided to apply are likely to read it, but others may not. The footnotes to the oversubscription criteria make no mention of the scoring system. While they do say that governors will use evidence of frequency and duration of worship provided on the SIF to assess each application, that is not the same as setting

out in full in the oversubscription criteria the scoring system.

26. Paragraph 14 of the Code says that:

“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated” (my emphasis).

The marking system introduced for 2018 by the school is intended to make decisions about priority for faith-based places more objective. However, this new approach will only assist parents if it is also easy for them to see how this criterion now operates. As noted above, the scoring system appears only on a note attached to the SIF which is relevant to those seeking priority under criterion A2. This can be found within the school’s Year 7 Entry Booklet on its website, for example, where the oversubscription criteria are also listed on page 6, but quite separately on page 12. My view is that this separation does not make it at all easy for parents to see how the criterion operates, even assuming that they think the SIF may be relevant to their considerations. The arrangements do not at any point define what is meant by “worshipping members of the Church of England or Methodist church” although this may implicitly be intended to mean those who score above zero on its scoring system, since the criterion as set out is relevant to anyone falling under the definition. This is, however, also far from clear. Each of these matters makes the arrangements as a whole insufficiently clear and I uphold the objection that this breaches paragraphs 1.8 and 14 of the Code.

27. The objector cites these same paragraphs of the Code in the second part of the objection, which is that the oversubscription criterion which gives priority to members of the Church of England and the Methodist Church is procedurally unfair. I asked the objector to explain what the reasoning was behind this assertion, and I circulated its response to the other parties. Its concern was that because the scoring system favours those who can evidence a longer period of having attended worship, anyone who came to faith later in life will be disadvantaged, even though they may worship equally assiduously as others. The diocese has said that it does not consider this part of the objection to be valid and referred to the greater objectivity provided by a numerical scoring system. The school also did this, saying that the scoring system was clear, fair and objective and cited the reference in the adjudicator’s determination in 2012 to the recommendation of The National Society that the only criterion which should be used on constructing faith-based oversubscription criteria is attendance at worship. I have taken this last comment to be a reference to the removal in the arrangements for 2018 of the element of priority which had previously been given in consideration of the parent’s involvement in church activities, but this does not seem to me to speak directly to the question of any procedural unfairness.

28. The objector alleges that there is procedural unfairness because the arrangements give priority to those who have worshipped for the longest time. Any oversubscription criterion which gives greater credit for longer religious practice will discriminate between those seeking a place in exactly this way. Such means of giving priority are not forbidden by the Code, provided they are in accord with its other provisions. The scoring system used by the school

gives credit based on religious practice of between less than a year and greater than eight years. So from a procedural point of view, there is no unfairness to those who are recent converts such as might have been the case if their length of religious activity were given no recognition at all. This had in fact been a feature of the arrangements until the present year, since governors did not previously recognise for the purpose of giving priority practice which had lasted for less than five years. I do not find that there is a procedural unfairness which results from the scale, and I do not uphold this part of the objection.

29. Thirdly, the objector says that the arrangements are not objective because they do not provide “a single test of faith”. The objector gives as an example of what it considers would constitute a “single test of faith” worship lasting for at least a year. That is a binary approach in which a threshold is met or not met, rather than a scale based on length and frequency of practice as used by the school. The objector is also concerned that the school’s approach relies on the keeping of registers at places of worship. Asked to expand on this point, the objector said that because places of worship do not as a rule keep such registers *“the incumbent’s support for the application can only be subjective and the longer the period covered the more likely this is to be the case.”*

30. The diocese told me that it did not consider the objector’s example as a “single test of faith”. As I have said above, this phrase seems to have been introduced by comments made some time ago by the diocese in connection with a previous objection, but it now says that there is no reference to any such requirement in the Code, which I agree with. What the Code provides is for schools with a religious character to be able to construct faith-based oversubscription criteria and in so doing to have to have regard to guidance from the relevant religious authority for the school. They must also ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.

31. The diocese has provided me with a copy of its current guidance to schools concerning admission arrangements, and it has also said that it has provided no specific guidance to the school individually. The general guidance contains a definition a worshipping member of the church which is that this:

“....would imply a pattern of attendance at worshipthat is more than “occasional” and has been sustained for more than a short, very recent, period of time.”

This does not require a school to adopt a particular single threshold of religious observance, or “single test of faith” of the sort referred to by the objector, but only sets out what a minimum level of religious practice might be. The arrangements give credit for a range of levels and durations of religious practice, and the absence from them of a single level of recognised religious practice does not cause them to fail to be objective in my view.

32. The diocese says that some parishes do keep records of attendance, but it recognises that not all do so equally carefully. The school points out that the arrangements make no requirement concerning registers but that it relies

on there being “*sufficient reliable sources of evidence*”, as it puts it, which will allow a Priest or Minister to attest to a level and duration of religious practice claimed by a parent, or not.

33. Clearly, the longer the period concerning which information is sought, the more written records are likely to be a more reliable source than memory, as the objector observes. The arrangements ask for information which might have to stretch over a period of eight years. This introduces the risk of there being some inaccuracy attending the certification of practice by those asked to do this by the school, but this does not in my view mean that the arrangements themselves fail to be objective. The arrangements clearly set out objective means for recognising different levels and durations of religious practice. If a minister of religion cannot in conscience certify the practice which a parent claims, then they could be expected not to do so. The school has told me that it received no comments on this point from either the diocese or representatives of the Methodist denomination when it consulted them on introducing the scoring scale for the arrangements for 2018. I do not agree that the arrangements fail to be objective for either of the reasons given by the objector, and I do not uphold this part of the objection.

34. The fourth part of the objection concerns those children who are admitted to Year 7 on the basis of musical ability. The objector says that the tests, which are described in the arrangements, and which include an audition in which the candidate performs or sings a piece of their choice, do not conform to the requirement of paragraph 1.32a) of the Code that tests of aptitude in a particular subject are not tests of ability.

35. I have set out above the reason why the school is allowed to continue with its previous partially-selective arrangements, and the fact that there is a specific provision within the school’s funding agreement for the selection of pupils both by reference to general academic ability and by reference to musical ability for admission to Year 7. There is therefore no reason why the school cannot employ tests which are ability tests in relation to the selection of pupils on the basis of their musical ability. It plainly does this, but is not in breach of the provisions of the Code which relate to selection on the basis of aptitude, since they are not relevant here. I do not uphold this part of the objection.

36. I turn now to the matters which I have raised with the school. Paragraph 2.17 of the Code says that:

*“Admission authorities **must** make clear in their arrangements the process for requesting admission out of the normal age group.”*

The school responded to my concern that the arrangements failed to do this by pointing out that its admission arrangements for 2018 contain the following statement:

“Parents who are considering applying for a child born after 31 August 2007, must discuss the situation with the Headteacher of The King’s (The Cathedral) School before submitting the application.”

37. This does not in my view amount to a description of a process to be followed, and is certainly inadequate to cover all relevant cases. Admission out of the normal year group could of course be a late admission (of a child born before 1 September 2006) as well as an early admission, and paragraph 2.17 applies to all points of entry to the school, not just Year 7. The school has suggested a revised form of wording which it intends to include in the arrangements for Year 3 and Year 7. However, as the arrangements were determined, they fail to comply with the requirement set out in paragraph 2.17 of the Code.

38. The school admission arrangements for both Year 3 and Year 7 include a form which is entitled “*Admission- Year 3 (or Year 7) September entry*” and which is to be returned to the school in the case of the Year 7 form “*by 9.00 am Friday 20 October 2017*”. This date was before the national deadline for applications for secondary school places in September 2018 of 31 October 2017. The form for each year group asks for details of both the child and a parent or carer to be provided and for a parental signature. The school initially said that it did not understand the reason for my reference in relation to these forms to paragraphs 2.1 to 2.4 of the Code.

39. Paragraph 2.1 has the following to say:

*“For applications in the normal admission round, local authorities **must** provide a common application form (CAF) that enables parents to express their preference for a place at any state funded school.....”*

The school is required by its funding agreement to participate in the co-ordinated admission arrangements operated by the local authority. So admission applications for the school are made through completion of the local authority’s CAF. All local authorities provide a CAF for Year 7. If their local authority does not provide a CAF for admissions to Year 3, a parent will in that case need to refer directly to the school, which will then be justified in providing them with an application form.

40. Paragraph 2.4 of the Code 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.”*

Any form used by an admission authority is such a form because it is supplementary to the CAF. Paragraph 2.4 makes it clear that a SIF is only permitted at all if it is necessary to obtain information not available to the admission authority through the CAF. Paragraph 2.4 also makes provisions about the nature of the information that may and may not be obtained using a SIF. A form which is an “application form” is not sanctioned by paragraph 2.4, and is not permitted, except in the unlikely event that a CAF is not available for a normal point of entry to the school, as mentioned above.

41. The school needs to know for admissions to Year 7 whether a parent wishes to register with the school to take the tests associated with either or both of the category B types of selective place. The school provides separate SIFs for this purpose as permitted under paragraph 2.4. For both Year 3 and Year 7, it needs additional information if applicants wish to be given priority under the relevant oversubscription criteria. This additional information can only be provided through appropriate SIFs. I shall consider below the SIFs which the school uses.

42. As part of my consideration of the use by the school of application forms, I have taken the view that it is necessary for me fully understand what is meant in practice by these complex admission arrangements, and also how they have been understood by the local authority and by parents applying for places at the school. I have therefore asked the school and the local authority to make plain to me the relevant admission data for Year 7 admissions in September 2017. I was keen to understand the relationship between those parents who submitted the school's application forms and those parents who did not, in terms of their success in obtaining a place at the school for their child. The school in particular has been most patient in responding to my repeated requests for greater clarity in this matter and has engaged assiduously in this task, for which I am grateful.

43. The picture which has emerged from this correspondence is as follows:

2017 Year 7 admission data

Number of places: Group A (non-selective) 120 Group B (selective) 15

Number of expressed preferences (applications): 705 (518 "home" LA, 187 others)

Group A: numbers of parents submitting school "application forms" and supplementary information forms (highest ranking oversubscription criterion relevant to each application only). Number of places allocated are shown in brackets:

A2 (CofE/ Methodist) 121 (74)

A3 (staff) 5 (6)

A4 (siblings) 36 (35)

A5 (other faiths) 130 (nil)

A6 (proximity) 34 (nil)

Total 332.

(5 children of a total of 6 initially requesting admission admitted with special needs or as looked after/previously looked after, 15 transfers from Year 6. Total places allocated 120). I note here in passing that the school's Entry Booklet refers to the Board of Governors offering places to children with a Statement of Special Educational Need or Education, Health and Care Plan

because it was felt that the school could meet their individual needs. This implies that this is a decision made by governors, and that if they did not think this, the child would not have been admitted. I have not pursued this matter with the school, but I am sure that it is conscious that paragraph 1.6 of the Code and the school's funding agreement state that if such a Statement or Plan names the school, the child in question must be admitted, subject only to an appeal to the Secretary of State.

Group B: numbers of parents submitting application forms seeking admission to Group B places only

B1 (general ability) 23 (12)

B2 (musical ability) 3 (3)

44. There were of course many parents who sought both selective places and non-selective places, and many who sought priority under more than one of the oversubscription criteria for the non-selective places. For example, 326 children in total were registered for the general ability selective tests for entry, and 48 for the musical ability selective tests, resulting, following the availability of test results, in the above numbers of parents seeking a place.

45. The figures show that the number of preferences which were from parents who also completed the school's own admission forms was 358. Only children who were given priority under the three highest oversubscription criteria were admitted to the school's non-selective places. The number of expressed preferences from parents who did not complete these forms was 347. None of these parents secured a place at the school for their child.

46. The school can be justifiably proud of its deserved popularity. However, it seems to me that it is difficult for many parents considering seeking a place there to see clearly the full extent of this popularity which is outlined above. The arrangements are complex and this is added to by the inappropriate employment by the school of what it refers to as "application forms", and the resulting terminology which it uses when describing preferences which have been expressed for a place. The school's Year 7 Entry Booklet (which in any case may not be read by all parents considering making the school one of their preferences) gives much of the above information, but understates the number of preferences expressed by omitting those from parents living in neighbouring authorities. While the school is not obliged to provide such information, if it does do this, the figures should be accurate. The booklet also contains clear but erroneous statements that both the CAF and the school's application forms must be completed when applying for a place at the school. The school's application forms are not necessary, and a SIF is needed (and therefore permitted) only if it is relevant to the application of an oversubscription criterion for a non-selective place or for the purposes of selection. I am of the view that the school's use of application forms is in breach of paragraph 2.4. of the Code. It also acts to make the admission arrangements less clear than they should be, and so causes a breach of paragraph 14 of the Code, which requires that admission arrangements are clear.

47. Paragraph 1.6 of the Code says:

*“The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied.”*

Paragraph 1.7 says:

*“All schools **must** have oversubscription criteria and the highest priority must be given to looked after children and all previously looked after children.....Oversubscription criteria **must** then be applied to all other applicants in the order set out in the arrangements.”*

48. For admissions to Year 7, the school has two, but only two, categories of place – the Group A places, which are non-selective, and the Group B places which are selective. It is clearly possible for a parent to apply for a place which is selective in nature, and at the same time for a place which is non-selective in nature. Each category of place is discrete and the arrangements say how many places there are in each category, and how the selective places are awarded. I have already said that it is clear that the selection arrangements make it necessary for a parent to let the school know that they wish their child to take part in them. What the school does however is to extend this approach to the non-selective places, in effect treating each oversubscription criterion as a category of place in its own right, which it tells parents they should apply for using its SIF. The SIF specifically says that parents should “*tick all appropriate boxes*” and allows this for each of the six Group A oversubscription criteria.

49. Paragraph 1.7 of the Code however, makes it clear that oversubscription criteria are applied to candidates who have expressed a preference for a place at the school, in the order in which they are set out in the arrangements. As I have explained above, the school needs additional information from parents to establish whether they are seeking priority for a place under some, but not all, of its oversubscription criteria. It does not need parents to say that they wish to be considered under - say - the distance or sibling criteria in order to apply these criteria. It will know from the CAF both whether the child has a sibling at the school and where the child lives. The parent has expressed a preference for a place at the school and the school must therefore consider that preference against its oversubscription criteria using any necessary information from the CAF and SIF. It is not for parents to have to request consideration under each criterion which their child might meet. To operate in any other way risks disenfranchising candidates unwittingly. The arrangements do not allow for this approach, since candidates are required by them to state which “criteria” are relevant to their application, including the final oversubscription criterion of distance, which is clearly applicable in any case to all applications.

50. It is an entirely different matter for the school to invite those who have applied for a non-selective place to say which oversubscription criterion they believe will give them priority for a place, and to provide supporting evidence to that effect through a SIF, as allowed for by the Code. The changes which

the school has suggested it could make include stating that the SIF need not be completed by parents applying for non-selective places, which is helpful. However, they also say that a completed SIF is required if the application is to be considered under any of the Group A1 to A5 “criteria”, which is clearly not the case. No information other than that available to the school through the CAF is needed to consider all of the candidates for a place at the school against criteria A1 and A4, as well as A6. As determined, the arrangements fail to conform with the requirements set out in paragraphs 1.6 and 1.7 of the Code.

51. The admission arrangements include SIFs which allow those applying for places in Year 3 and Year 7 to provide additional information about the family’s pattern and history of worship in the Church of England or the Methodist Church, for those seeking priority under this oversubscription criterion. Paragraph 2.4 of the Code says:

*“In some cases, admission authorities will need to ask for supplementary information 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....”*

52. Each of the SIFs is completed by the relevant Priest or Minister and each allows them to provide “*any other comments*” after they have provided the information used by the school to give priority under the relevant oversubscription criterion. No other information is required and no opportunity to go beyond what is specified in the oversubscription criterion should be provided by the school in the forms which it issues. The school has said that it will remove this question from its SIFs, but as they were determined the SIFs contain an impermissible question, and cause a breach of paragraph 2.4 of the Code.

53. I also raised at the meeting my concern that the points scoring system used by the school to give priority to children whose families are practicing members of the Church of England or the Methodist Church might be unreasonable. For those with the longest period of practice, the score obtained for frequency of attendance is multiplied by a factor of nine. It seemed to me that this might have the effect of placing too great a weight on length of practice. So, in this example, those who have been practicing for more than eight years, but only fortnightly, obtain a higher score (18) than someone who attends four or five times a month but who has only done so for up to four years (who scores 16). Similar comparisons could be made across the scoring system, and I do not limit my concern to the highest score which is available for length of practice alone, but to the higher levels of the scale. In my experience, it is uncommon for schools which employ scoring systems of this type to give credit for periods of attendance as long as those within the school’s arrangements.

54. The school has responded to my concern by saying that it considered that there were a number of reasonable aspects of the scoring system, such as:

- (i) that it gives no credit for daily worship;
- (ii) that the school acts reasonably by giving credit for long periods of religious practice, which it regards as equally important to the frequency of worship;
- (iii) that those who have worshipped for a longer period are given more credit than recent converts;
- (iv) that the upper limit of worship is capped so that older worshippers are not unfairly advantaged over younger worshippers;
- (v) that it believes from its modelling of the scoring system using historical information that it does not “*result in anomalous rankings or distributions which would be unexpected to the communities which we serve*”; and
- (vi) that ranking frequency and attendance equally would not be a reasonable approach when each is a different element in a person’s pattern of worship.

55. The general approach which the school is using is common to many schools, and indeed it is not the approach itself of having a points score for the duration and extent of practice which I have thought to question, but the length to which this is taken in the school’s scoring system. It remains to be seen, however, whether in practice the scoring system has outcomes which are reasonable, since it is in its first year of operation.

56. The school has told me that it will give further thought to the concerns which I expressed at the meeting that the terms “*other Christian denominations*” and “*other faiths*” are not defined in its admission arrangements. They are both employed in one of the oversubscription criteria used for admissions to Year 7. The school must do more than this, since in my judgement without definition each term is open to interpretation and therefore unclear. This is a breach of paragraph 14 of the Code, which requires admission arrangements to be clear, and of paragraph 1.8 which requires oversubscription criteria to be clear.

Summary of Findings

57. I have stated why I am of the view that the arrangements are in breach of the requirements of the Code, as follows:

- (i) paragraphs 1.8 and 14, in being unclear because they use unclear oversubscription criteria;
- (ii) paragraph 2.17, by not including the statement which this requires;
- (iii) paragraphs 2.4 and 14, by employing the school’s own application forms;

- (iv) paragraphs 1.6 and 1.7, which set out how oversubscription criteria are to operate; and
- (v) paragraph 2.4, because of the information sought on the SIFs which are used.

Determination

58. 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 The King's (The Cathedral) School, Peterborough on behalf of the academy trust.

59. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

60. 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: 14 December 2017

Signed:

Schools Adjudicator: Dr Bryan Slater