



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference: ADA3363**

**Objector: A parent**

**Admission Authority: Our Lady Immaculate Catholic Primary School the academy trust, for Our Lady Immaculate Catholic Primary School Chelmsford**

**Date of decision: 9 May 2018**

### **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 2019 determined by Our Lady Immaculate Catholic Primary School, Chelmsford, Essex.**

**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 parent, (the objector), about the admission arrangements (the arrangements) for Our Lady Immaculate Catholic Primary School (the school), an academy school for children aged 4 to 11 for September 2019. The objection is to the consultation undertaken before the arrangements were determined, the fairness of the arrangements to families living outside of parishes named in the arrangements and the clarity of the catchment area.**
- 2. The local authority for the area in which the school is located is Essex. The local authority is a party to this objection. Other parties to the**

objection are the objector, the school's governing board and its academy trust together with the Diocese of Brentwood (the Diocese) which is the religious authority for the school.

### **Jurisdiction**

3. The terms of the academy agreement between the school's academy trust (the trust), which is also called Our Lady Immaculate Catholic Primary School, 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 board on behalf of the trust which is the admission authority for the school, on that basis.
4. The objector submitted his objection to these determined arrangements on 14 March 2018 and provided clarification of the objection on 19 March 2018. He subsequently raised the matter concerning the catchment area on 1 April 2018. The objector has asked to have his 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 by providing details of his name and address to me. 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.

### **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 14 March 2018 and subsequent correspondence;
  - b. the admission authority's response to the objection, supporting documents and its responses to my enquiries;
  - c. the comments of the local authority on the objection;
  - d. the comments and information received from the Diocese;
  - e. a map of the schools in the area;
  - f. copies of the minutes of the meeting at which the governing board of the school determined the arrangements; and
  - g. a copy of the determined arrangements.
7. I have also taken account of information received during and after a

meeting (the meeting) I convened on 30 April 2018 at the school. The meeting was attended by representatives of the school, the local authority and the Diocese. The objector was invited to attend the meeting, but chose not to attend in order to keep his identity from the other parties.

### **The Objection**

8. On his objection form the objector said he was unaware of any public consultation regarding the changes that had been made to the admission arrangements for the school. I asked the objector to clarify whether his objection was solely about the perceived lack of consultation or if there was any aspect of the arrangements which he thought may not comply with the Code. In response he said *“we feel that the new arrangements are unfair and prejudicial to existing parents (ie parents with children already in the school, who are outside the parishes stated in Section 3 of the Oversubscription Criteria in the school’s admission policy.”*
9. Paragraph 15 of the Code was quoted by the objector it says that, other than for increases in a school’s published admission number (PAN), if an admissions authority wishes to change its arrangements *“the admission authority **must** first publicly consult on those arrangements”*. Paragraphs 1.42 to 1.45 of the Code set out the requirements for that consultation. Paragraph 14 of the Code says *“In drawing up their 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.”*
10. In subsequent correspondence the objector referred to the *“catchment area”* map in the arrangements. He said *“The line showing the edge of the catchment area is a relatively (compared to the widths of the roads) thick line on the map. In our case we have been told that we are just outside of catchment area, but the line is not clear on the map.”* He quoted Paragraph 1.14 of the Code which requires that catchment areas are clearly defined.

### **Other Matters**

11. When I considered the arrangements as a whole I considered that they did not or may not comply with requirements in the following ways:
  - a. The copy of the arrangements sent to me and the one published on the school’s website were dated December 2017. Neither says that the arrangements are for September 2019. This may make the arrangements unclear, paragraph 14 of the Code requires that arrangements are clear.
  - b. The sixth paragraph in the introduction to the arrangements said

*“The planned admission number for Year 3 is 32”*. Paragraph 1.2 of the Code and its footnotes set out what a PAN is and make clear that it relates only to pupils joining a school for the first time. It does not, therefore, include pupils progressing from one year group to the next in the same school. This statement in the arrangements implies that up to 32 additional children are admitted into Year 3, taking the year group up to 62. The school only admits two new pupils to Year 3 and so this part of the arrangements could be considered unclear.

- c. The first oversubscription criterion gave priority to *“Catholic looked after and previously looked after children”*. Note 3 defines Catholic children and extends this to include *“a looked after child who is part of a Catholic family”*. This may not be clear as there was no definition of *“Catholic family”* and the inclusion of looked after children who are not baptised Catholics may not comply with paragraph 1.37 of the Code.
- d. The section *“Tie Break”* refers to the distance of the school from the home address, but did not appear to meet the requirements of paragraph 1.13 of the Code.
- e. Paragraph 2.14 of the Code sets out the requirements for waiting lists. The part of the arrangements about waiting lists did not appear to meet those requirements.
- f. Note 9 in the arrangements refers to *“exceptional social, medical or pastoral need”*. As there is no priority in the oversubscription criteria for such factors, the purpose of Note 9 is unclear.
- g. Paragraph 2.4 of the Code sets out the requirements for supplementary information forms (SIFs). It appeared that the SIF in the arrangements might not meet those requirements.

## **Background**

12. The school is situated near the centre of Chelmsford, it became an academy on 1 May 2012; the local authority advised me that the school is oversubscribed and in the Diocese’s comments it is said that the school normally has more Catholic applicants than can be offered places. (Catholic children having a higher priority than other children). The school has a PAN for Year R of 30 and has nine oversubscription criteria. These are:

- 1. Catholic looked after and previously looked after children.
- 2. Catholic Children with a Certificate of Catholic Practice where a parent is a member of staff at Our Lady Immaculate Primary School.
- 3. Catholic Children with a Certificate of Catholic Practice who are resident in the linked parishes of Our Lady Immaculate and Holy Name or Our Lady of Mount Carmel in Stock, for whom Our Lady Immaculate School is the nearest Catholic school.

4. Catholic Children with a Certificate of Catholic Practice who are resident in a parish other than those given in Category 3, for whom Our Lady Immaculate School is the nearest Catholic school.

5. Other Catholic children who are resident in the linked parishes of Our Lady Immaculate and Holy Name or Our Lady of Mount Carmel in Stock, for whom Our Lady Immaculate School is the nearest Catholic school.

6. Other Catholic children.

7. Other looked after and previously looked after children.

8. Catechumens and members of an Eastern Christian Church.

9. Any other children.

13. Notes in the arrangements define terms used in these criteria. Within each of the above criteria, priority is given to siblings of children who will be at the school at the time of admission with distance and then random allocation used a final tie break. The arrangements include a map labelled as showing the "*catchment area*".

14. These oversubscription criteria are significantly different to those which were in use for admission in September 2018. One change is the replacement of a description of Catholic practice with the requirement to hold a Certificate of Catholic Practice (CCP). Another is the introduction of a requirement for the school to be the nearest Catholic school to the child's home in some of the criteria. In 2018 there were separate criteria for siblings, in 2019 siblings take highest priority within each of the criteria. The oversubscription criteria in 2018 were:

1) Looked After Children and previously looked after children of a Catholic family attending mass weekly living in one of the parishes of Our Lady Immaculate and The Holy Name, Chelmsford or Our Lady of Mount Carmel, Stock.

2) Baptised Catholics having a Catholic parent/guardian who is a member of staff at Our Lady Immaculate Primary School who attends mass weekly.

3) Baptised Catholics living in one of the parishes of Our Lady Immaculate and The Holy Name, Chelmsford or Our Lady of Mount Carmel, Stock. Having a Catholic parent/guardian who attends mass weekly and having a sibling at the school at the date of admission.

4) Baptised Catholics living in a parish other than those named above. Having a Catholic parent/guardian who attends mass weekly and having a sibling at the school at the date of admission.

5) Baptised Catholics living in one of the parishes of Our Lady Immaculate and The Holy Name, Chelmsford or Our Lady of Mount Carmel, Stock. Having a Catholic parent/guardian who attends mass weekly.

- 6) Baptised Catholics: living in a Parish other than those given in the named parishes and having a Catholic parent/guardian who attends mass weekly.
- 7) Baptised Catholics: Having a sibling at the school
- 8) Baptised Catholics living in one of the parishes of Our Lady Immaculate and The Holy Name, Chelmsford or Our Lady of Mount Carmel, Stock.
- 9) Baptised Catholics residing in a parish other than the named parishes.
- 10) Non-baptised children of a Catholic parent/guardian. Having a sibling at the school at the date of admission.
- 11) Non-baptised children of a Catholic parent/guardian.
- 12) Other looked after Children and previously looked after children.
- 13) Any child for whom the parent/guardian, as a practising Christian, desires a Catholic education. Whose application is signed by a Christian Minister.
- 14) Remaining applications.
15. As places have already been offered under these criteria for 2018, it is too late to comment on the extent to which they do not comply with the Code.

## **Consideration of Case**

### Consultation

16. Paragraphs 15 and 1.42 of the Code set out the circumstances when an admission authority must consult on its arrangements. Paragraph 1.43 sets out when and for how long an admission authority must consult for, while paragraph 1.44 sets out who must be consulted. Finally paragraph 1.45 sets out some requirements on the method of consultation and ends "*Failure to consult effectively may be grounds for subsequent complaints and appeals.*"
17. In its response to the objection the school told me that it decided to consult on new admission arrangements following communications from the Diocese about the CCP and the need for Catholic schools to review their admission arrangements following new guidance from the Diocese.
18. The school told me that after taking advice from the local authority it consulted all primary schools in Chelmsford, the Diocese, the local authority and the priest for the parishes named in the arrangements. The school provided me with copies of emails to these parties dated 11 December 2017, attached to these emails were copies of the proposed

arrangements. However, these emails did not indicate by when recipients should send any comments on the proposed arrangements to the school. Paragraph 1.43 of the Code requires that consultation is for at least six weeks between 1 October and 31 January. Although there were more than six weeks between the issue of the emails and the end of January, consultees would not have known by when their comments were required.

19. The school did not provide me with any evidence that it met the requirement of paragraph 1.45 to “*publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website together with details of the person within the admission authority to whom comments may be sent and the areas on which comments are not sought*” for the whole of the consultation period. At the meeting, the school representatives confirmed this had not been done.
20. Paragraph 1.44 of the Code says “*Admission authorities must consult with: a) parents of children between the ages of two and eighteen; ...*” and lists other parties who must be consulted. The other parties listed appear to have had some degree of consultation; however, I have seen no evidence that any parents were consulted. Parents are the first group listed in paragraph 1.44 of the Code and the group with the greatest interest. I note that when the school sought advice from the local authority on who should be consulted, they were not advised to consult parents. At the meeting the local authority accepted that it had not told the school that it should consult parents, it had assumed that the school would be aware of the requirements of the Code. The guidance from the Diocese on consultation refers the governing board to the relevant paragraphs in the Code. At the meeting the representatives of the school confirmed that they had not checked the requirements of the Code and only consulted those bodies listed in the advice from the local authority and therefore had failed to consult parents.
21. The school is its own admission authority and thus responsible for meeting the requirements of the Code. Taking advice from the local authority does not excuse the school from checking the Code for itself to establish whom it should have consulted. I find that the school has not consulted as required by the Code and I uphold this part of the objection.

#### Catchment area

22. I now turn to the parts of the objection concerning the arrangements themselves. It is possible for an admission authority to conduct an exemplary consultation and then determine arrangements that fail to comply with the Code or to fail to consult at all before determining arrangements that fully comply with the Code. Before considering the question of fairness of the arrangements to siblings of children who attend the school but live outside of the named parishes, it is first necessary to establish the geographic areas in which residence gives priority for admission.

23. Two geographic areas are defined in the oversubscription criteria. In criteria 3 and 5 priority is given to children *“resident in the linked parishes of Our Lady Immaculate and Holy Name or Our Lady of Mount Carmel in Stock, for whom Our Lady Immaculate School is the nearest Catholic school who live in the named parishes and for whom the school is the nearest Catholic school.”* In criterion 4 priority is given to children *“resident in a parish other than those given in Category 3, for whom Our Lady Immaculate School is the nearest Catholic school.”*
24. Paragraph 1.14 of the Code says *“Catchment areas **must** be designed so that they are reasonable and clearly defined.”* The objector drew my attention to the map entitled *“Our Lady Immaculate Primary School Catchment Area”* associated with Note 10 in the arrangements. He said *“The line showing the edge of the catchment area is a relatively (compared to the widths of the roads) thick line on the map”* and that it would be difficult for parents living at the edge to see if they fell inside or outside the area.
25. In Note 10 of the arrangements it says *“For the purposes of this policy, parish boundaries are as shown on the attached map and will be applied to the admission arrangements.”* The map appeared to have been photocopied from a street atlas with the boundary of the parishes drawn on by hand using a line which is thicker than some roads. According to the map, the northern, eastern and western boundary of the parishes are in places coincident with the edge of the page which I consider is unlikely.
26. The school representative said *“The reason the line makes it slightly unclear on the boundaries is due to the fact that the Parish Boundary is widespread and will not fit clearly onto A4 size as was requested by the Diocese of Brentwood - the original map has been shrunk to size for this purpose.”*
27. Criteria 3 and 5 give priority to children resident in the named parishes for whom the school is their nearest Catholic school. Either the school is the nearest Catholic primary school to all parts of the named parishes, in which case it is unnecessary to say *“for whom Our Lady Immaculate School is the nearest Catholic school”*, or there are parts of the named parishes which are closer to other Catholic primary schools, in which case the map described as showing the *“catchment area”* is inaccurate as it purports to show the named parishes which would be a greater area than that described in criteria 3 and 5.
28. I asked the Diocese if it could supply an accurate map of the parishes. It provided a written description of the parishes, the first one I considered was entitled *“Chelmsford (Immaculate Conception)”*, it was dated 1985 and began *“From 080709 east to the A130 via First Avenue, King’s Road and Park Avenue to the A1060. West along the A1060 to Blackwall Bridge. Bear west towards Thatchers Farm then south to Hoestreet, Hillcroft, Benedict Otes to Blows Farm. Thence north-west to Patience Bridge and then follow the Roxwell Brook north-east to where it meets the road at 087643. Thence by the road [sic]*



*north-east to Boyton Cross.*” I attempted to follow this boundary on an Ordnance Survey map, this proved difficult because the eastings and northings in the grid references appear to be transposed and there have been new roads built and renumbered since 1985. I do not find this description of the parish boundaries to be clear.

29. After considering Ordnance Survey maps of the area and the map in the arrangements, it appeared to me that it was possible to identify some roads which were in the named parishes, but were closer to St Pius X Catholic Primary School also in Chelmsford. At the meeting the school representative confirmed this was the case. There is also a primary school which is designated as having both Catholic and Church of England character in Chelmsford. The arrangements do not make it clear if living nearer this school is taken into account.
30. The school representative also said that it had not been the intention to exclude parts of the parishes, however, this is what including the words *“for whom Our Lady Immaculate School is the nearest Catholic school”* does. In order to assess applications against this criterion, the school will not only need to know if the applicant lives in the named parishes but also measure the distance of the applicant’s home from other Catholic schools to establish if the school is the nearest Catholic school to the applicant’s address.
31. The Code requires that arrangements are clear and that any catchment area is clearly defined, it says in paragraph 14 that *“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”* Because the parish boundaries do not appear to be well defined, it will be difficult for parents who live near the boundary of the named parishes to establish if they live in them or not and also difficult for parents to know if they live nearer to the school or another Catholic school.
32. The second geographic area is defined in criterion 4 where priority is given to children who live in other parishes for whom the school is their nearest Catholic school. As the arrangements say distances are measured in a straight line this will be a polygon. The school does not provide a map showing this area nor does it provide any other way to allow parents to easily understand if they meet this criterion. To understand if they meet this criterion a parent would need to identify other Catholic schools and measure the distance of their home from them.
33. I have been unable to find, either in the arrangements or elsewhere, a clear delineation of the parish boundaries on which the oversubscription criteria 3 and 5 are based. Criterion 4 requires knowledge of the location of other Catholic schools and a means of measuring distance between homes and schools. This makes the arrangements as a whole, and the catchment areas in particular, unclear. It would not be easy for a parent to understand whether or not they lived in the areas defined in criteria 3, 4 or 5. I therefore conclude that the arrangements do not comply with paragraphs 14 or 1.14 of the

Code and uphold this part of the objection.

### Fairness

34. Paragraph 14 of the Code says *"In drawing up their 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."*
35. The objector said *"The new arrangements have "downgraded" the priority of children with siblings already attending the school (but who do not live in the named parishes) so that it is now less likely that they will get an offer of a place at the school. We feel that this is unfair as families of children in the school who had previously assumed, and made decisions on the basis, that they would get priority for subsequent children, are now in a position where these children are unlikely to be able to attend the same school as their siblings."* He went on to list problems that would be presented to families if they had children at two different primary schools.
36. In response the school said that *"The Admission Policy had been adapted to allow fair access to those who lived closest to the school."* It said this was *"as directed by the Diocese of Brentwood"*. In its comments the Diocese said the advice it had given was on the suitability of the former policy, clarity and the use of the CCP. Possession of a CCP has, in line with the guidance from the Diocese, become the measure of practice of the faith replacing the previous description of attending Mass weekly. For the purpose of considering changes to oversubscription criteria below, I am equating meeting the former practice requirements with holding a CCP.
37. At the same time, separate criteria for siblings were removed with siblings being given priority within each criterion and clauses concerning proximity to other Catholic schools were introduced. The local authority did not comment on this issue.
38. The objection concerned the fairness of the policy for siblings who did not live in the parishes named in the arrangements. I have looked at the 14 oversubscription criteria for September 2018. The first two were for looked after and previously looked after children and children of members of staff; there were no applicants meeting those criteria. Catholic siblings who did not live in the named parishes would have fallen into criterion 4 if they met the practice requirement and criterion 7 if they did not. I have tabulated the order of priority for baptised Catholic children in the 2018 arrangements below together with the offers of places made. I note that there were no applicants meeting criteria 4 or 7 in 2018; all places were offered to children who lived in the named parishes.

Criterion	3	4	5	6	7	8	9
Baptised Catholic	Y	Y	Y	Y	Y	Y	Y
Meeting Practice Requirement	Y	Y	Y	Y			
Sibling	Y	Y			Y		
Resident in Named Parishes	Y		Y			Y	
Applications	15	0	15	8	0	0	1
Places offered	15	0	15	0	0	0	0

39. At the meeting I asked the school to undertake the exercise of applying the 2019 oversubscription criteria to the 2018 applicants. I have tabulated the order of priority for 2019 and the way in which places would have been offered if the 2019 criteria were applied to the same set of applicants.

Criterion	3 with sibling	3	4 with sibling	4	5 with sibling	5	6 with sibling	6
Baptised Catholic	Y	Y	Y	Y	Y	Y	Y	
CCP	Y	Y	Y	Y				
Sibling	Y		Y		Y		Y	
Resident in Named Parishes and nearest school	Y	Y			Y	Y		
Applications	29		1		0		9	
Places that would have been offered	29		1		0		0	

40. It can be seen from these tables that Catholic children holding a CCP and who have a sibling at the school but who did not live in the named parishes, remain in the fourth criterion. However, Catholic children, living in the parishes, holding a CCP who do not have siblings now fall into the third criterion above them.

41. If in 2018, had there been a Catholic sibling, holding a CCP, who did not live in the named parishes, he or she would have been offered the sixteenth place ahead of a child also holding a CCP living in the parishes but without siblings at the school. In 2019 the child with a

sibling would have been offered the thirtieth place.

42. Catholic siblings who did not live in the named parishes and did not meet the practice requirement fell into criterion 7 in 2018. In 2019 they would be at the top of the sixth criterion. The relative priority for these children remains unchanged.
43. It is reasonable that a school with a religious character gives priority for admission to residents of parishes that it has traditionally served and from which it draws financial and other support. However, in order to consider if this is fair I must consider the disadvantage that might accrue to siblings not living in the named parishes. If 2018 is a typical year, then there would appear to be few such children and places might become available because the number of potential parish residents is reduced by the requirement for the school to be their closest Catholic school.
44. There are 33 state funded primary schools in Chelmsford listed on the Department for Education website. These include one other Catholic school and one with joint Church of England and Catholic religious character. Both of these schools give priority for admission on the basis of parish residence while the community schools and most of the academy schools use catchment areas to give priority for places. At the meeting the local authority representative told me that there are sufficient primary school places in Chelmsford for all local children. I conclude that a child unable to get a place at the school would be able to find a school place close to their home although not necessarily at a Catholic school. I also think it likely that a school could be found where all of the siblings could attend together.
45. The objector has argued *"If the new policy had been in place when their first child was originally offered a place at the school then parents may not have accepted the offer, or indeed applied to the school at all, if there was significant doubt about subsequent siblings securing a place at the school"*.
46. The admission arrangements for all schools must be determined every year. This means that parents cannot expect them to remain the same forever and there is the possibility that the admission authority may change oversubscription criteria affecting the priority for siblings within the seven years that a child is usually at primary school. Any such change should follow careful consultation with parents so all foreseeable consequences of changes affecting siblings can be considered. In this case there was no consultation with parents and I can understand why parents who fear that younger children will not be able to join older siblings may be angry. However, lack of consultation does not mean that the determined arrangements are not fair.
47. The objection concerned siblings of children attending the school who did not live in the named parishes. I have identified that some siblings who live outside of the named parishes now have lower priority than some other children without siblings over whom they previously had

priority. I think it is reasonable for priority to be given to children resident in parishes associated with the school. The former arrangements could not guarantee that all siblings living outside the named parishes would be admitted to the school and there are alternative schools in the area where children could be educated with their siblings. I therefore do not think that the arrangements are unfair to siblings of children attending the school who do not live in the named parishes and I do not uphold this part of the objection.

### Other matters

48. When I raised the seven other matters listed above with the school it quickly agreed to revise its arrangements in those respects and sent me a revised version of the arrangements.
49. The copy of the arrangements sent to me and the one published on the school's website were dated December 2017. I find this to be unclear; the revised version of the arrangements clearly state that they apply for the academic year 2019/20.
50. The sixth paragraph in the introduction to the arrangements said "*The planned admission number for Year 3 is 32*". Paragraph 1.2 of the Code says "*As part of determining their admission arrangements, all admission authorities **must** set an admission number for each 'relevant age group'.*" This statement, therefore, implies that Year 3 is a relevant age group and up to 32 additional children are admitted into it, taking the year group up to 62. The school only admits two new pupils to Year 3 and so I find that this part of the arrangements is unclear. The revised version of the arrangements does make it clear that just two new pupils are admitted into Year 3.
51. The first oversubscription criterion gave priority to "*Catholic looked after and previously looked after children*". Note 3 defines Catholic children and extended this to include "*a looked after child who is part of a Catholic family*". I do not consider this to be clear as there is no definition of "*Catholic family*". Furthermore I have considered if this complies with paragraph 1.37 of the Code which says "*Admission authorities for schools designated with a religious character may give priority to all looked after children and previously looked after children whether or not of the faith, but they **must** give priority to looked after children and previously looked after children of the faith before other children of the faith. Where any element of priority is given in relation to children not of the faith they **must** give priority to looked after children and previously looked after children not of the faith above other children not of the faith.*"
52. In the proposed revised arrangements the school removed the reference to "*Catholic family*". However, the arrangements continue to say that "*For the purposes of this policy, [Catholic] includes a looked after child where a letter from a priest demonstrates that the child would have been baptised or received if it were not for their status as a looked after child*". Diocesan guidance makes it clear that if a child is

not baptised or received as Catholic, then they are not a Catholic, schools cannot deem a child as Catholic on any other basis. Paragraph 1.37 prohibits giving first priority to looked after or previously looked after children who are not Catholic unless all such children are given first priority. I find this part of the arrangements does not comply with the Code and would not comply in the revised form.

53. The section "*Tie Break*" refers to the distance of the school from the home address, but did not appear to meet the requirements of paragraph 1.13 of the Code which says "*Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the 'home' address will be determined and the point in the school from which all distances are measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*" The arrangements did not comply because there was no indication as to how the home address would be determined if a child lived at more than one address.
54. When I raised this matter with the school it responded by proposing to add the following phrase to the arrangements "*This includes provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*" This is a direct quote from the Code, but it does not meet the requirement to say how the decision will be made about which address the measurement will be taken from, for example by reference to the address used for the purpose of child benefit. I find this aspect of the arrangements does not comply with the Code and nor would the proposed revision.
55. Paragraph 2.14 of the Code sets out the requirements for waiting lists. The part of the arrangements about waiting lists did not meet those requirements because it did not state "*that each added child will require the list to be ranked again in line with the published oversubscription criteria*" as required by that paragraph. The proposed revision of the arrangements would meet this requirement.
56. Note 9 in the arrangements refers to "*exceptional social, medical or pastoral need*". As there is no priority in the oversubscription criteria for such factors, the purpose of Note 9 is unclear. This note has been removed in the proposed revision of the arrangements.
57. Paragraph 2.4 of the Code says that admission authorities "*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.*" The SIF asks about membership of other Christian faiths, or other faiths. This information is not necessary to make decisions about oversubscription criteria and so the SIF does not comply with the Code. These questions have been removed from the proposed revised version of the SIF which would bring it in line with requirements.

## Summary of Findings

58. For the reasons set out above I uphold the part of the objection concerning consultation and the part of the objection concerning the “*catchment area*” map. I do not uphold the part of the objection concerning fairness to siblings who do not live in the “*catchment area*”.

59. I also find that the arrangements do not comply with the Code in the seven other ways listed above. I note the school has quickly proposed some variations to the arrangements to address these issues; however, not all of the proposed variations would lead to the arrangements complying with the Code.

## Determination

60. 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 2019 determined by Our Lady Immaculate Catholic Primary School, Chelmsford, Essex.

61. 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.

62. 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: 9 May 2018

Signed: Phil Whiffing

Schools Adjudicator