



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3460

Objector: Leeds City Council

Admission Authority: Abbey Multi-Academy Trust for Abbey Grange Church of England Academy, Leeds.

Date of decision: 29 August 2018

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by the local governing board on behalf of Abbey Multi Academy Trust for Abbey Grange Church of England Academy, Leeds.

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 unless an alternative timescale is specified by the adjudicator. In this case, I determine that the arrangements must be revised as soon as possible and by, at the latest, 30 September 2018.

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 Leeds City Council (the local authority) (the objector), about the admission arrangements (the arrangements) for Abbey Grange Church of England Academy (the school), an 11-18 mixed academy school. It is designated as having a Church of England character and is in the Diocese of Leeds. The objection is to the complexity of the arrangements and their non-compliance with the Code.**

2. The local authority for the area in which the school is located is Leeds City Council which is the objector in this case. Other parties to the objection are the school and the Diocese of Leeds.

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 academy trust which is the admission authority for the school, on that basis. The objector submitted its objection to these determined arrangements on 8 May 2018.
4. Part of the objection concerned the application of the arrangements by the admission authority to applicants and, in particular, that the arrangements had not been correctly applied. My jurisdiction is limited in this case to considering whether or not the determined arrangements conform with the requirements relating to admissions. I have no jurisdiction in relation to the application of arrangements to those seeking places at the school. I have not therefore considered this issue further. I am satisfied that in other respects 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 8 May 2018, supporting documents and subsequent correspondence;
 - b. the admission authority's response to the objection, supporting documents and subsequent correspondence;
 - c. the comments from the Diocese of Leeds which is the religious authority for the school and its Diocesan guidance;
 - d. case R (Governing Body of London Oratory School) v Schools Adjudicator [2015] EWHC 1012 (Admin);
 - e. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2018;
 - f. a map of the area identifying the school and the deanery areas;
 - g. confirmation of when consultation on the arrangements last took place;

- h. copies of the minutes of the meeting at which the local governing board (LGB) on behalf of the multi-academy trust determined the arrangements; and
- i. a copy of the determined arrangements.

I have also taken account of information received during a meeting I convened on 10 July 2018 at the school. Present at the meeting were the Principal of the Academy representing the MAT, the admissions officer from the school, two representatives from the local authority and a representative from the Diocese of Leeds.

The Objection

7. The objector states that the arrangements do not conform with two paragraphs of the Code; 1.8 and 1.37. Paragraph 1.8 states that *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.... Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated”*

Paragraph 1.37 states that *“Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.”*

8. The objector says that any parent looking at the admission criteria would not understand which band (by which is meant which oversubscription criteria category) their child will fall into and what chance they have of a successful application. There are three specific elements to the objection;
 - the arrangements are too complex and difficult to understand;
 - the tie break is not clear, effective or fair;
 - the tie break refers to ‘Church of England Primary School’ and this is also not clear.

Other Matters

9. I have looked at the admission arrangements as a whole and at the meeting on the 10 July I explained a number of issues which may be in breach of the requirements relating to admissions. These related to the following aspects of the arrangements:
 - Priority given to looked after and previously looked after children.
 - The school’s use of its supplementary information form (SIF).
 - The use of a worship verification form.

- The faith criteria used.
- The regard had to Diocesan guidance.
- The arrangements for admission to the school at Year 12.

Background

10. The school is an oversubscribed 11-18 academy situated in West Leeds. As a designated Church of England school, it serves the whole Leeds Episcopal Area. Currently there are 1440 students on roll. Consultation on the arrangements took place between December 2015 and January 2016 and the LGB, on behalf of the Trust, determined the arrangements for admission in September 2017 at a meeting on 19 January 2016. The arrangements have remained largely unchanged since that time and the LGB determined the arrangements for admission in September 2019 at a meeting on 8 November 2017.
11. The arrangements have a published admission number (PAN) of 240. For admission in 2018 the school has agreed, following a request from the local authority, to take a further 30 students. It is too early to say if this request will be repeated for admissions in 2019. There were 379 first preference applications for the school in 2018.
12. There are ten main oversubscription criteria categories in the arrangements as originally determined which can be summarised as follows;
 - 1) Children of faith families in care or previously in care
 - 2) Up to 152 places to members of the Church of England living in the five areas of Leeds Episcopal Area (by proportion to the number of applications), in the following order; i. children whose immediate family is at the heart of the church, ii children whose immediate family is attached to the church, iii children whose immediate family is known to the church.
 - 3) Up to 58 places to members of churches which are affiliated to Churches Together in England or are in full sympathy with its Trinitarian stance living in the five areas of Leeds Episcopal Area (by proportion to the number of applications), in the following order; i. children whose immediate family is at the heart of the church, ii children whose immediate family is attached to the church, iii children whose immediate family is known to the church
 - 4) Up to 12 places to children of another religious faith as long as the appropriate religious leader confirms that the children and their parents or carers practice the faith and attend worship, living in the five areas of Leeds (by proportion to the number of applications), in the following order; i. children whose immediate family is at the heart of the church, ii children whose immediate family is attached

to the church, iii children whose immediate family is known to the church.

- 5) Any remaining applications in excess of 152 who meet the criteria under category 2. The places will be offered in accordance with the order specified in category 2.
- 6) Any remaining applications in excess of 58 who meet the criteria under category 3. The places will be offered in accordance with the order specified in category 3.
- 7) Any remaining applications in excess of 12 who meet the criteria under category 4. The places will be offered in accordance with the order specified in category 4.
- 8) Other looked after children
- 9) Any other children who have completed a SIF who do not meet the criteria for categories 1-8 above.
- 10) Any children who have not made a valid application (i.e. those who have not completed both common preference form and a SIF.)

In the event of there being more applications than available places within points 1 to 10 above priority would be given to those children who have a brother or sister who will be attending Abbey Grange in years 8-11 in September 2019.

13. The tie break is as follows; in all cases, where two or more children have equal priority a place will be given to the child using up to two tie breaks which will be applied in the following order;
 - 1) To the child who attends a Church of England primary school
 - 2) To the child who lives nearest to the school.
14. Six of the oversubscription criteria divide the applicants into five deaneries and each is divided further into three levels of faith; this produces fifteen sub groups in each of these criteria. The siblings rule is also applied to many of these sub groups and this raises the potential number of sub groups within each of these criteria to 30. (The 15 sub groups either with or without a sibling). With the addition of the four criteria which do not have sub-groups, this is a possible 184 sub-groups of applications across the whole of the arrangements.

Consideration of Case

15. The main element of the objection suggests that the oversubscription criteria are too complex and therefore non-compliant with paragraphs 1.8 and 1.37 of the Code. The local authority reports that during the allocation of places for September 2018 an error occurred in their electronic system which resulted in 31 offers of places being made in

error at the beginning of March. Within a few days the error had been identified, the 31 places withdrawn and the 31 successful applicants informed. The local authority suggests that this error was “*directly linked*” to the complexity of the policy. The local authority goes on to say that they do not believe the school applies the policy according to the stated priorities, that the tie break is not used as it should be but is used as a subcategory of each priority and it questions the compliance of the tie breaker with the Code.

16. I should say at the outset that the Code does not say anything about complexity of arrangements and there is no requirement that arrangements be “simple” or “not too complicated”. The Code does require at paragraph 14 that admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective and that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated. Paragraph 1.8 of the Code also requires that the oversubscription criteria **must** be reasonable, clear, objective, procedurally fair and comply with all relevant legislation. I have accordingly tested the school’s arrangements against these provisions of the Code and against paragraph 1.37 which requires that admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied. While I am not, as noted above, considering the application of the arrangements to those who have applied for places and whether or not this was done properly, I have (as I set out below) asked for and been given information about the process the school follows in applying its arrangements to applicants. I have done this solely in order to ensure that I understand what the arrangements provide. I make no judgment about the application of the arrangements.
17. The school and the diocese expressed concern at the error and both believe that the objection has been made as a direct result of this error. They cite the smooth process used in previous years with the same oversubscription criteria and both expressed concern that the local authority had not contacted them prior to submitting the objection.
18. The school, in its responses, refutes all the objections citing the fact that they have been in place for some years and there has never been an objection before. The Diocese of Leeds’s response is very similar; it explains that the school serves the whole city of Leeds and although the oversubscription criteria are complex, the school has operated these successfully and without error or complaint for many years.
19. At the meeting, the local authority explained how the error in allocation had occurred. For each of the possible categories of admission the local authority allocates a band in priority order and an inputting error did not correctly allocate the numbers available in each of the bands. As noted above, oversubscription criteria two provides for 152 places to be allocated to members of the Church of England living in Leeds. As it happened exactly 152 applications were received from children satisfying these criteria. However, 21 of those applications were

withdrawn leaving only 131 applicants for consideration; the local authority suggested that this might have been the cause of this inputting error.

20. At the meeting, I asked the admission officer to explain exactly how the oversubscription criteria worked. She explained that for each criterion firstly the applications are divided into the three faith groups (at the heart of, attached or known). Each of these groups are then divided into the five areas (four deanery areas and other parishes). The proportions of applicants within these areas are then calculated and the number which should be allocated to the criteria according to this calculation is identified. The admissions officer then implements the sibling criterion to these groups and if necessary the tie breaker to arrive at the rank order list.

21. Figures supplied by the school, for the last three years against the oversubscription criteria are as follows;

| Oversubscription Criteria (by faith criteria) | 2016 | 2017 | 2018 |
|---|---|--|--|
| 1 | 2 | 0 | 0 |
| 2 | 58 (heart) 32(attached) 37(known) | 52(heart) 31(attached) 33(known) | 54(heart) 37(attached) 40(known) |
| 3 | 48(heart) | 49(heart) | 50(heart) |
| 4 | 12(heart) | 11(heart) | 12(heart) |
| 5 | | | |
| 6 | 40(heart) | 18(heart) 8(attached) 5(known) | 34(heart) 9(attached) 4(known) |
| 7 | 26(heart) 11(attached) 3(known) | 10(heart) 19(attached) 4(known) | |
| 8 | 2(heart) | | |
| 9 | | | |

| | | | |
|----|--|--|--|
| 10 | | | |
|----|--|--|--|

22. I have studied the detail of the allocations in each of these three years and, while I can understand how the applicants are allocated to bands and how the numbers within each band are categorised in line with the three criteria for faith, there is confusion about how the priority criteria are met in terms of the geography of the applications and the sibling rule. I have been provided with a governors' report about the proportions of applicants from the different geographical area and their allocation for admission in 2018. As there were fewer applicants satisfying criterion two than places available, I have therefore, in order to understand the criteria, analysed the information I have received on the implementation of the criteria under the title Churches Together in England (categories three and six). The report from the governing board states *"There were 125 applications with SIFs in respect of Churches Together in England families. Under the admission criteria, up to 58 places can be allocated in this category under category three and the remaining applications placed into category six. Places are allocated on a Deanery basis in proportion to the number of applicants from each Leeds Deanery and from neighbouring dioceses where the child lives in the Leeds Metropolitan District. On the basis of the proportion of the applications received, the committee agreed to allocated [sic] 58 places to applicants in category three and 18 places to applicants in category six:-*

| Deanery | Places offered in category 3 | Places offered in category 6 |
|------------------------------|-------------------------------------|-------------------------------------|
| Allerton | 23 | 1 |
| Armley | 13 | 6 |
| Headingley | 15 | 11 |
| Whitkirk | 5 | 0 |
| Outside Leeds diocese | 2 | 0 |
| TOTAL | 58 | 18 |

22 of the 76 applicants were offered places at higher preference schools (8 in category three and 14 in category six); therefore the remaining applicants in categories 6i, 6ii and four in 6iii were offered places. As all 240 places were accepted by applicants in higher categories we were unable to offer places to the six applicants in category 6iii."

23. Figures from the same document agree that 125 applications were received for criteria three and six and that 22 applications were withdrawn. The governors' statement indicates that six applications were unsuccessful making a total of 28 applicants not allocated a place. This means that there should have been 97 allocations (125 minus 28) in these two categories. The governors' report indicates 76 allocations but the table earlier in the document indicates the accurate number of 97.

24. This analysis of the documents from the school and from the governing board begs three major questions; firstly have the proportions of applicants in the five areas been taken into account for the missing 19 candidates? The school provided me with the proportions of applicants in the five areas and the number allocated in the two categories as follows;

| <u>APPLICATIONS</u> | Allerton | Armley | Headingley | Other | Whitkirk | Total |
|---------------------|----------|--------|------------|-------|----------|-------|
| Number | 41 | 33 | 36 | 2 | 13 | 125 |
| Proportion % | 33 | 26 | 29 | 2 | 10 | 100 |
| | | | | | | |
| <u>OFFERS</u> | Allerton | Armley | Headingley | Other | Whitkirk | Total |
| Number | 33 | 27 | 24 | 2 | 11 | 97 |
| Proportion % | 34 | 28 | 25 | 2 | 11 | 100 |
| | | | | | | |

25. This table reassures me that all 97 applicants were included in this element of the allocation. However, the school states that they allocated these proportions to within three per cent of the application proportions. The figures show that for categories three and six there were 33 applicants from Armley (26 per cent of the applications) and 36 applicants from Headingley (29 per cent of the applications). I do not understand why in the final allocation there were more successful applicants from Armley (27, 28 percent) than from Headingley (24, 25 per cent). In my view, this demonstrates that to superimpose the proportions of applicants from the different areas onto the groups based on faith criteria is not only complex but also cannot necessarily fulfil the terms of the oversubscription criteria. In short, I consider that it is not possible to apply the oversubscription criteria to a group of children and produce a ranked list.

26. Secondly, how are the 50 (or 58 if the number in the governors' report is accurate), successful applicants who are placed in category three identified? There are 34 applicants who, like the 50, are in the highest faith category (at the heart of the church) but are allocated to category

six. Following my conversation at the meeting in July with the admission officer, I am led to believe that a sibling rule and then the tie breakers are implemented to rank order those applicants who fall into the same sub category. The use of siblings and tie breaks do not appear anywhere on the analysis of how applicants are allocated places. The use of the sibling priority is a footnote to the oversubscription criteria and does not specify at what stage this will be used to rank order the applicants. It was clear from my conversation with the admissions officer that the use of the sibling priority is still not sufficient to rank order all the applicants and in the absence of any further method of prioritisation she reverts to using the tie breaks. Tie breaks are used primarily for the separation of the last two remaining applicants when no other criteria remain; they are not intended to be used as a further selection method within the oversubscription criteria.

27. Thirdly how are the six unsuccessful candidates in category six identified? These applicants, together with the four successful applicants, are all classified as members of churches affiliated to Churches Together in England and all are classified in the third band of faith (known to the Church). I can only assume from my conversation with the admission officer that siblings and tie breaks are used to rank order. As above, the use of the sibling priority is not clear in the arrangements and the tie breakers are not designed to be a further method of rank ordering applicants.
28. Again, I emphasise that I have jurisdiction only for the determined arrangements. The determined arrangements contain no fewer than 184 possible sub-groups into which a child can be placed for consideration under the oversubscription criteria. I am satisfied that it is not possible to produce an accurate ranking of applicants by the use of the criteria and I have described what the school actually does in order to rank applicants in order to illustrate this point. I consider the fact that there are so many potential sub groups in the arrangements renders them unclear. I do not believe that the oversubscription criteria are reasonable, clear, objective or procedurally fair and I do not believe that parents can easily understand how the faith based criteria are satisfied. I therefore conclude that overall, the arrangements do not conform with paragraphs 14, 1.8 and 1.37 of the Code and I uphold the first element of this objection.
29. While this has not affected my consideration of the arrangements or the determination, I am of the view that the admission officer tries very hard to implement a set of arrangements which are too complex and have too many variables involved to provide a straightforward process of allocation. She therefore uses the siblings rule in the identification of rank orders within the various sub groups even though this is not explained in the arrangements. I am, therefore, of the view that the arrangements cannot effectively be implemented to provide the appropriate groups of applicants for admission and this renders the oversubscription criteria procedurally unfair and contrary to paragraph 1.8 of the Code.

30. The third element of the objection states that the tiebreaker is not clear, effective or fair. The admission officer explained that she uses the tie breakers as a further test when identifying rank orders of the various subgroups. The use of tie breakers in the Code is designed to separate the last two remaining applicants who cannot otherwise be separated and I therefore uphold this element of the objection; the tie break is not clear, effective or fair and is therefore non-compliant with paragraph 1.8 of the Code.
31. The final element of the objection draws my attention to the tie breaker which refers to 'Church of England Primary School'. Paragraph 1.9b of the Code states that *"Admission authorities **must not** take into account any previous schools attended, unless it is a named feeder school"*. Schools are not named as feeder schools in the tie breaker and therefore it is not compliant with this paragraph of the Code. I therefore uphold this element of the objection.

Other Matters

32. Looked after and previously looked after children. The published arrangements do not include the words 'looked after or previously looked after' in criterion one and the footnote definitions are not clear. In addition, criterion one identifies looked after children of the faith but other looked after children do not appear in the criteria until number eight; this is after children from churches and faiths which are not the designated faith of the school which is Church of England. This is contrary to paragraph 1.37 of the Code which states that *"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 and previously looked after children not of the faith above other children not of the faith"*.
33. I explained my concerns at the meeting and subsequently the school has provided me with an amended set of arrangements which places looked after children and previously looked after children at oversubscription criterion one without reference to faith.
34. Supplementary information form. (SIF) This is an integral part of the admission arrangements and as such subject to the requirements relating to consultation, determination and publication. At the time of the meeting, the SIF did not appear on the website and the arrangements state that it would be available from the Academy office from 1 August 2018. In addition, the arrangements give priority to applicants who complete a SIF whether they are applying for a place under a criterion which requires additional information or not. The SIF also requires the applicant to name his or her previous school.
35. Paragraph 1.47 of the Code states that *"Once admission authorities*

*have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year”*

36. Paragraph 2.4 of the Code states that *“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 which it has a direct bearing on decision about oversubscription criteria. They **must not** ask, or use supplementary forms that ask, for any information prohibited by paragraph 1.9....”* Paragraph 1.9 states that *“It is for admission authorities to formulate their admission arrangements, but they **must not** b) take into account any previous schools attended unless it is a named feeder school”*.
37. I explained my concerns at the meeting and subsequently the school has provided me with an amended set of arrangements including an amended SIF. The arrangements no longer give priority to children who have completed a SIF in cases where no information on the SIF is necessary to process the application. This will, for example, include all looked after and previously looked after children.
38. Worship verification form. I explained at the meeting that this form, like the SIF, is part of the admission arrangements and in order to be clear and transparent the form is required to be published as part of the arrangements. In addition, on the published form there is a section titled *“Comments”*. There are no criteria for what should appear in this box and no guidance for priests who are completing it. Paragraph 14 of the Code states that *“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and criteria used to decide the allocation of school places is fair, clear and objective.”* After the meeting, the school provided me with a form which does not contain the comments section.
39. Faith criteria. Four of the 10 published oversubscription criteria have associated categories of ‘faith’. The published arrangements have the following categories of faith;
- i. “children whose immediate family is at the heart of the church*
 - ii. children whose immediate family is attached to the church*
 - iii. children whose immediate family is known to the church.”*

The definitions of the categories are stated as;

‘At the heart of the church’ means some-one whose family worships twice a month or more. The worshipper might be the child or one or both parents. This must be for a period of at least two years prior to the date of applications.

‘Attached to the church’ means some-one who is a regular but not frequent worshipper, for example one or all of the family may attend monthly or church parade services or be regularly involved in a weekday church activity which includes an element of worship. This must be for a period of at least two years prior to the date of application.

‘Known to the church’ means some-one who is an occasional but not frequent worshipper, or some-one who is known through a family connection, or one or all of whose family may be involved in church activities such as uniformed organisation. This must be for a period of at least two years prior to the date of application.

‘Immediate family’ is defined as parents or carers or brothers or sisters of the child”

40. Paragraph 1.38 of the Code states that *“Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body of person representing the religion or religious denomination when constructing faith based admission arrangements, to the extent that the guidance complies with the mandatory provisions and guidance of this Code.”* The Diocese of Leeds has provided individual guidance to the school previously (in a letter date 20 January 2016). In addition, guidance is provided on the Diocesan website in the form of model admission policies. There are five of these policies. Those policies which use faith based criteria have two main categories; ‘at the heart of the church’ and ‘attached to the church’ with associated definitions. In addition, one model policy has a third faith based criterion which is ‘baptised, blessing or dedication within a Christian church.’ There is no guidance which covers the school’s category of *“attached to the church”*.
41. In addition, paragraph 1.9i of the Code states that *“Admission authorities **must not** prioritise children on the basis of their own or their parents’ past or current hobbies or activities (schools which have been designated as having a religious character may take account of religious activities as laid out by the body of person representing the religion or religious denomination”).* No such activities are laid out in the guidance by the diocese and I therefore conclude that the category of ‘known to the church’ which includes reference to *“some-one who is known through a family connection, or one or all of whose family may be involved in church activities such as uniformed organisation”* is non-compliant with the Code. I also consider that this definition is itself not clear, for example by referring to “may be involved” and “family connection” with no definition of what is meant and that it is not capable of objective assessment.
42. I have a further concern with the clarity of the faith criteria in relation to the element of priority given to those of a faith other than Christianity (that is categories four and seven). These also refer to families being *“at the heart of the church”, “attached to the church”* and *“known to the church”*.

Leeds is home to a number of faith communities, including Muslims who will worship at a mosque, Jews who will worship at a synagogue, Sikhs who will worship at a gurdwara and Hindus who will worship at a temple or mandir. The use of the term church is inappropriate in the context of faiths other than Christianity and makes the arrangements unclear.

43. Diocesan guidance. As noted above, there is a requirement for schools such as this to have regard to guidance from their religious authority. The Code gives no indication as to what is meant here by “have regard to”. However, there is relevant case law. In *R (Governing Body of London Oratory School) v Schools Adjudicator* [2015] EWHC 1012 (Admin) Cobb J dealt with this question saying “...*Governing Bodies must take the Diocesan guidance into account and if they decide to depart from it, they must have and give “clear reasons” for doing so....In considering whether a Governing Body has “had regard” to the Diocesan Guidance, it needs to demonstrate that it has considered and engaged with the Guidance, not ignored it, or merely paid lip service to it. ... The Governing Body must further have a proper evidential base for its decision to depart from the Diocesan Guidance....*” He went on to say that “*it would be more difficult for an admissions authority to demonstrate a clear and proper/legitimate reason for departing from diocesan guidance where the faith based criteria; lii) is substantially different in a material respect from the diocesan guidance*”. I shared this judgment with the meeting on the 10 July 2018. For ease of reference, I will refer to it as “*the Cobb judgment*”.
44. In its letter of guidance to the school dated 20 January 2016, the diocese recommended the following amendments to the arrangements;
- the inclusion of all looked after and previously looked after children in oversubscription criterion one;
 - review of criteria 2 to 4 because they are “*quite complex*”;
 - the inclusion of a proportion of community places alongside the CE places;
 - change in the tie breaker;
 - review of wording in the governors’ decision section;
 - specification of dates in the waiting list; and
 - review of post 16 criteria.
45. The school had chosen not to follow this guidance before determining its arrangements for 2017 or subsequent years. I have seen no evidence that it engaged with the guidance in the way contemplated in the Cobb judgment and it has not provided me with any evidence of a clear and legitimate reason for departing from the guidance. I am accordingly satisfied that the school has not met the requirement to have regard to

the guidance. After the meeting on 10 July 2018, the LGB met and subsequently provided me with an amended set of arrangements and an explanation about why they will continue to prioritise only children of faith with the exception of looked after and previously looked after children, all of whom will now have the highest priority irrespective of faith. I accept this as a clear reason for departing from the diocesan guidance in respect of the non-inclusion of community places but I remain of the view that I have not been provided with a clear and legitimate reason for departing from other elements of the diocesan guidance.

46. Post 16 arrangements. The arrangements as published do not explain the detail of the oversubscription criteria which relate to faith applications in line with the Code. In addition, mention is made in the arrangements of a post 16 partnership document. I have been unable to view this document but drew the attention of the school to paragraph 1.9i of the Code which states that “*Admission authorities **must not**... a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements.*”
47. I conclude that each of these issues is non-compliant with the Code and the law and require the school to take urgent action to amend them.

Timing of Changes

48. I have given very careful consideration to the deadline I should specify for changes to be made to the arrangements. The Code provides for changes to be made within two months of the date of the determination unless the adjudicator specifies an alternative timescale. In this case, I am conscious that my determination will require the admission authority to make significant and substantial further changes to its arrangements in addition to those it has already made. I have taken into account the scale of the breaches of the Code and the fact that there are model arrangements available on the Diocesan website to which the school could look for support in framing new arrangements. In the light of this, I do not consider that it would be acceptable for the existing arrangements to continue in existence and be applied to children who will be seeking places in 2019. I therefore determine that the arrangements must be revised by 30 September 2018 so that new arrangements will be in place in good time for applications to be made by the end of October 2018. I note that the admission authority will subsequently be able, if it chooses to do so, to consult on a different set of arrangements for 2020.

Summary of Findings

49. I have studied in detail the arrangements and how they are used to allocate places at the school both from the documents which I have been sent and through conversations with the school and the local authority. I conclude that the arrangements are so complex that it is extremely difficult to allocate places fairly without having to resort to elements of priority which are not clear in the arrangements themselves. I have shown that there are a possible 184 sub sets of

applications and separating and rank ordering these is very complicated. Because of the complexity of the arrangements, it is not possible to apply them to produce an effective rank order of applicants. I also conclude that the tie breaker is used inappropriately in the selection of successful applications and that the reference to Church of England primary schools in the tie breaker is non-compliant with the Code. I therefore uphold this objection.

50. In addition I have drawn to the attention of the school six major areas of the arrangements which are non compliant with the Code. These are; the definition and placement of looked after and previously looked after children, the SIF, the worship verification form, the faith criteria, diocesan guidance and post 16 arrangements. These elements also need urgent attention and amendment. Paragraph 3.6 of the Code states that admission authorities can revise their arrangements to give effect to a mandatory requirement of the Code, admission law or a determination of the Adjudicator. The arrangements require significant amendment before the process for the allocation of places begins for admission in September 2019 and therefore I have set a date of the end of September for the revisions.

Determination

51. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2019 determined by the local governing body on behalf of Abbey Multi Academy Trust for Abbey Grange Church of England Academy, Leeds.

52. 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.

53. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised as soon as possible and by, at the latest, 30 September 2018.

Dated: 29 August 2018

Signed:

Schools Adjudicator: Ann Talboys