



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: REF3484

Admission Authority: The Governing Board of Archbishop
Blanch School, Liverpool

Date of decision: 30 October 2018

Determination

I have considered the admission arrangements for September 2019 for Archbishop Blanch School, Liverpool, in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that there are 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 by 28 February 2019.

The referral

1. Under section 88I(5) of the School Standards and Framework Act 1998, (the Act) the admission arrangements (the arrangements) for Archbishop Blanch School (the school), for which the governing board is the admission authority, have come to the attention of the adjudicator.
2. In May 2018, the governing board referred a proposal for a variation to the arrangements for September 2019 to the Office of the Schools Adjudicator (OSA) for approval. The reason for the proposed variation was that the arrangements that had been determined erroneously provided for more than 10 per cent of the total admissions intake to be allocated on the basis of aptitude. This is contrary to paragraph 1.24 of the School Admissions Code (the Code). The variation that was proposed rectified this mistake by reducing the proportion of the intake selected by aptitude to 10 per cent.

3. In fact, it was not necessary for the governing board to refer a proposal for a variation to the adjudicator. Regulation 19 of The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 allows admission authorities to revise arrangements in order to give effect to a mandatory requirement of the Code or admissions law. However, on examining the arrangements in full, I considered that they might not conform with the requirements relating to admission arrangements in other ways. I have decided to use the power conferred under section 88I(5) of the Act to consider whether this is the case.
4. The local authority for the area in which the school is located is Liverpool City Council (the local authority). The body representing the religious denomination of the school is the Church of England Diocese of Liverpool (the diocese).

Jurisdiction

5. These arrangements were determined under section 88C of the Act by the school's governing board, which is the admission authority for the school. I am satisfied that it is within my jurisdiction under section 88I of the Act to consider them as they have come to my attention.

Procedure

6. In considering this matter I have had regard to all relevant legislation and the Code.
7. The documents I have considered in reaching my decision include:
 - a. a copy of the determined arrangements;
 - b. the diocese's policy on admissions to voluntary aided schools;
 - c. responses made to my enquiries by the school's governing board;
 - d. a previous determination of the Schools Adjudicator concerning the school (ADA2557) that was issued in 2013; and
 - e. copies of the minutes of the meeting of the governing board at which the arrangements were determined.

I have also taken account of information received during a meeting that I convened on 17 October 2018 at the school (the meeting). I am grateful to the governing board for its constructive approach to ensuring that the arrangements meet the requirements of the Code and admissions law.

Background

8. The school is a voluntary aided Church of England secondary school for girls, with a co-educational sixth form. It has a PAN of 150 for admission to year 7 (Y7) and has been oversubscribed for several

years. The numbers of applicants naming the school as first preference for admission in September 2016, 2017 and 2018 were 181, 200 and 171 respectively.

9. The oversubscription criteria for admission to Y7 for September 2019 as varied in order to reduce the proportion of places for which priority was given on the basis of aptitude can be summarised as follows:

Category A1

- (i) Children with an Education, Health and Care (EHC) plan naming the school.
- (ii) Looked after children.
- (iii) Previously looked after children.

Category B1

Christian applications (124 places). These applications are ranked on the basis of points obtained according to the frequency, over time, of the child's and parental attendance at church.

Category B2

Non-Christian applications (up to 11 places).

- (i) Muslim (up to 8 places). These applications are ranked on the basis of points obtained according to the frequency over time of the parent's attendance at a mosque and the child's attendance at a madrassa.
- (ii) Other World Faith (up to 3 places). These applications are ranked on the basis of points obtained according to the frequency, over time, of the child's and parental attendance.

Category C

- (i) Applicants with an aptitude for music (up to 11 places).
- (ii) Applicants with an aptitude for art (up to 4 places).

Category D

Other applicants.

Different methods are used to prioritise applicants who obtain equal numbers of points, including distance from the school and random allocation.

10. In the section of the arrangements relating to admission to the sixth form, the academic entry requirements are set out, followed by the following statement:

"All students must meet the entrance criteria for their chosen courses and demonstrate their support for the ethos of the school.

Admission is by application form and then interview."

It is stated that the PAN for year 12 (Y12) in September 2019 is 140 and that internal students are given priority over students from other schools.

The matters of concern

11. The ways in which I considered that the arrangements might not comply with the requirements are listed below, grouped under broad headings, with references to the relevant paragraphs of the Code.

Children with an EHC plan, looked after children and previously looked after children

- All children with an EHC plan that names the school **must** be admitted and therefore such children should not appear within the oversubscription criteria (paragraph 1.6);
- looked after children and previously looked after children **must** have the highest priority in oversubscription criteria and should not appear in separate criteria from one another as this could suggest that looked after children have a higher priority than previously looked after children, which is not the case (paragraph 1.7);
- there is reference to “residence” orders in connection with previously looked after children, which does not reflect the introduction by the Children and Families Act 2014 of child arrangement orders, which replaced residence orders (paragraph 1.7); and
- it is not made clear how many places will be available in the other categories after places have been allocated to children with an EHC plan and looked after and previously looked after children (paragraph 14).

Faith-based oversubscription criteria

- It is not made clear whether a child who could be allocated a place on both faith grounds and aptitude for music or art will be counted towards the total of allocations on faith grounds or aptitude (paragraph 14);
- it is not clear whether the term “*spiritual parent*”, used in connection with Christian applications, is restricted to grandparents (paragraphs 14 and 1.37);
- the arrangements recognise that no madrassas are available in Liverpool for Shia Muslims but it is not made clear how this will be taken into account in assessing applications (paragraph 1.37);
- attendance at a madrasa appears to be a “*religious activity*” and therefore in order to be taken into account needs to be laid out as such by the person representing the school’s religious denomination. This does not appear to have been done (paragraph 1.9 (i)); and

- it is not clear what is meant by the term “*Other World Faith*” (paragraph 14).

Selection by aptitude

- It appears to be unfair that an application cannot be made on the basis of aptitude for both music and art (paragraph 14); and
- the performance element of the musical test appears to assess ability rather than aptitude (paragraph 1.32 (a)).

Applying for places in the Sixth Form

- The admission number for Y12 appears to relate to both internal and external applicants. It should only indicate the number of external applicants to be admitted (paragraphs 1.2 and 2.6) as girls moving from year 11 to Y12 at the same school are not being “admitted” to the school;
- the admission process for Y12 appears to include an interview which is prohibited by the Act and Code (paragraph 1.9 (m));
- support for the ethos of the school appears to be a condition of admission (paragraph 1.9 (a)); and
- there are no oversubscription criteria relating to the admission of external applicants for places in Y12 (paragraph 2.6).

Other Matters

- The process for requesting admission out of the normal age group is not made clear (paragraph 2.17); and
- the document headed “*Application Form*” is actually a Supplementary Information Form (SIF) and asks for information that does not have a direct bearing on decisions about oversubscription criteria and is therefore prohibited (paragraph 2.4).

Consideration of Case

12. To its credit, in its written response to the referral and at the meeting, the governing board acknowledged that the arrangements do not meet the requirements of the Code in all of the respects listed above, apart from the testing of musical aptitude. It undertook to amend its arrangements accordingly.

Children with an EHC plan, looked after children and previously looked after children

13. The governing board recognised that the part of the arrangements relating to children with an EHC plan and looked after children and previously looked after children does not comply with the Code. It undertook to remove the oversubscription criterion relating to children

with an EHC plan and to make reference to such children in a preliminary sentence. It also agreed that the priority for both looked after children and previously looked after children should be made clear as a single, first oversubscription criterion and that the definition of previously looked after children would be updated in order to conform with paragraph 1.7 of the Code.

14. At the meeting it was explained to me that the number of applicants admitted under category B1 (Christian applications) is 124, less those allocated places because they have an EHC plan naming the school and looked after children and previously looked after children. In other words, the total of places allocated under categories A and B1 is 124. I consider that this is not made sufficiently clear in the arrangements, which can be read as meaning that 124 places will be allocated under category B1, irrespective of other allocations. This part of the arrangements therefore breaches paragraph 14 of the Code, which states that,

*“admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair [and] clear.”*

The governing board undertook to amend the arrangements in this respect.

Faith-based oversubscription criteria

15. I turn now to the faith-based oversubscription criteria. As a preliminary comment, I drew attention at the meeting to the following sentence that appears in the arrangements,

“Parents may apply for a place for their daughter under more than one main category if they choose. However they may only apply for one sub-category within each category.”

The structure of the oversubscription criteria as a series of apparently discrete ‘*categories*’ does not, in my view, make sufficiently clear that the criteria are applied in order. At the meeting, the governing board confirmed that a child who scores amongst the highest 11 applicants for aptitude in music (category C), but who also has obtained sufficient points to be allocated a place under category B1 (Christian applications) will be included in the allocations for category B1. The governing body agreed to alter the wording of the arrangements in order to meet the requirement for clarity in paragraph 14 of the Code.

16. In relation to parental attendance at church, for which points can be obtained to support “Christian applications”, the arrangements state that,

“The term ‘parent’ in this context is considered to be a parent, grandparent/spiritual parent or carer/legal guardian of the girl in question.”

There is no definition of the term “*spiritual parent*” in the arrangements.

It was not clear to me whether this term refers only to grandparents. I was concerned that this statement might not meet the Code's requirement in paragraph 1.37 that,

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

In fact, prior to the meeting the governing board informed me that it intended to remove reference to “*spiritual parent*” from the arrangements.

17. Within the section of the arrangements described as “Muslim applications”, for which points can be obtained in respect of the parental attendance at a mosque and the child’s attendance at a madrassa, the following statement appears,

“The governors recognise that for Shia Muslims no Madrassas are available in Liverpool. Parents must provide a written letter to this effect from the leader of the Mosque.”

It was not clear to me what the consequence, in terms of points obtained, would be for applications from Shia Muslims, who provided such a letter. At the meeting, it was clarified that such applications would receive full points for madrassa attendance. As the arrangements do not make this clear, they do not comply with paragraphs 14 and 1.37 of the Code.

18. I was also concerned that attendance at a madrassa constitutes a “religious activity.” Paragraph 1.9 (i) of the Code makes clear that schools designated as having a religious character may only take account of religious activities in their oversubscription criteria if they have been,

“laid out by the body or person representing the religion or religious denomination.”

At the meeting, representatives of the governing body suggested that attendance at a madrassa was, in fact, the way in which a girl would demonstrate her practice of the faith. If this is the case, the inclusion of such attendance within oversubscription criteria requires the admission authority to,

“consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated.” (Paragraph 1.38 of the Code).

19. The governing board understands that there has been some guidance provided by representatives of the Muslim faith in the past but the diocesan representatives confirmed at the meeting that the diocese had not been asked to provide guidance on this matter. For the avoidance of doubt, the requirement to consult the “*body or person representing the religion or religious denomination*” means the body or

person representing the religion or religious denomination of the school and not bodies or persons representing other faiths or denominations. That said, there is no prohibition on an admission authority also consulting other faith bodies should it wish to do so and provided it has consulted the body or person representing its own religion or religious denomination. In this case, the diocesan document entitled, "*Policy on admissions to voluntary aided schools*" is general in nature. It does not provide guidance on how membership and practice of the Muslim faith is to be decided, nor does it lay out any religious activities that can be taken into account by admission authorities.

20. I am left in considerable doubt as to whether the construction of this aspect of the faith-based oversubscription criteria has been undertaken in compliance with the requirements of the Code. At the meeting, the governing board agreed to review this criterion, in partnership with the diocese, and to take advice from representatives of the Muslim faith, as appropriate. The diocese undertook to review the guidance it provides. I am satisfied that this is an appropriate way of proceeding.
21. My final concern in this part of the arrangements was that the term "Other World Faith", for which places are allocated on the basis of "*attendance*" by the parent and child, is not defined. No list of faiths that would qualify under this criterion appears in the arrangements. For example, it is not clear whether certain denominations that would describe themselves as "Christian" but do not have "*full sympathy*" with a "*Trinitarian stance*" (as required by the arrangements if attendance is to be considered under the "Christian applications" criterion) would be included in this category. Again, I considered that the requirements in the Code for clarity (paragraph 14) and ease of parental understanding (paragraph 1.37) have not been met. At the meeting, the governing body agreed that it would amend this aspect of the arrangements, by providing a list of the faiths it covers.

Selection by aptitude

22. In paragraph 15 above, I referred to a statement in the arrangements that appears to allow applicants to seek to be prioritised for place on the basis of aptitude for either music or art, but not for both. I could see no reason for this restriction and considered that it might not be fair, as paragraph 14 of the Code requires admissions practices to be. Prior to the meeting, the governing board indicated that it would remove this statement.
23. I was also concerned that the test used by the school to select applicants on the basis of aptitude for music is, to some extent, a test of musical ability. Paragraph 1.32 (a) of the Code makes clear that, "*Admission authorities **must** ensure that tests for aptitude in a particular subject are designed to test only for aptitude in the subject concerned, and not for ability.*"

24. The test is in two parts, entitled “*Performance*” (for which up to 40 marks are allocated) and “*Listening*” (up to 15 marks). The listening test assesses such matters as the ability to identify rhythms and the relative pitches of notes; it appears to be a test at which a child with no previous specialist musical training could succeed and therefore tests aptitude rather than ability. The performance test, on the other hand, requires the applicant to perform a piece of music. Applicants complete a form, indicating on which “*instrument*” they propose to perform. The assessment proforma indicates that assessors should look at “*the music*” in order to judge the “*accuracy*” of the performance. Marks are also given for “*interpretation*.”
25. It appeared to me, from both the form applicants complete to request to take the test and the assessment proforma, that the ability both to play a musical instrument and to read formal musical notation was required in order to take part in the performance element of the test. I consider that such a requirement would go well beyond what is acceptable in a test for musical aptitude, rather than ability. At the meeting, representatives of the school argued that this is not, in fact, the case. It was explained that applicants could, for example, choose to sing a song they have learned. I was assured that their performances can be assessed for aptitude in music on the same basis as an applicant who has been taught how to play a musical instrument. The ability to play an instrument or to read music confers no advantage, of itself, in the assessment of performance. I was told that applicants who have not had the benefit of any previous specialist musical tuition have been allocated places on the basis of their aptitude for music.
26. I accept the school’s explanation, but I consider that the information provided on the form for applicants does not make the nature of the test sufficiently clear. A parent or child is, in my view, likely to conclude from the form that it is necessary to be able to play a musical instrument in order to take part in the test. It is not made clear that singing is a possibility or that it is not necessary to be able to read music. It may be that this is explained in other places, for example at meetings for prospective parents. However, it is necessary that the admission arrangements themselves (which include the form that applicants complete to request to take the test) are clear. In this respect, they do not comply with paragraph 14 of the Code. At the meeting, the governing board agreed, in liaison with another school that uses the same testing arrangements, to amend the information provided for parents.

Applying for places in the Sixth Form

27. At the meeting, the school confirmed that what it calls the PAN for Y12 in its arrangements refers to the total of students, both those continuing from year 11 (internal applicants) and those admitted to the school for the first time (external applicants), that it intends to comprise the cohort. This is a breach of paragraph 2.6 of the Code, which states that sixth form admission arrangements (of which the PAN is part)

relate to external applicants. The PAN should only indicate the number of external applicants that the school is prepared to admit. It is disappointing that this error appears in the arrangements, as this matter was covered in the previous determination relating to the school (ADA2557) issued in 2013.

28. In the extract from the part of the arrangements relating to admission into the sixth form that I set out in paragraph 10 above, it appears that an interview plays a part in the admission process. This is contrary to paragraph 1.9 (m) of the Code, which states that admission authorities,

*“**must not** interview children or parents. In the case of sixth form applications, a meeting may be held to discuss options and academic entry requirements for particular courses, but this meeting cannot form part of the decision making process on whether to offer a place.”*

In fact, it was clarified at the meeting I held at the school that the “*interview*” was precisely the type of meeting described as permissible in paragraph 1.9 (m). Therefore, in order to comply with the Code, it should be made clear that such a meeting plays no part in decisions as to admission. The governing body agreed to do so.

29. The arrangements also say that,

“All students must...demonstrate their support for the ethos of the school.”

This statement appears to breach paragraph 1.9 (a) of the Code, which states that admission authorities,

*“**must not** place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements.”*

30. However, the reality is that the arrangements do not contain any sixth form oversubscription criteria, other than a statement that internal students “*are given priority over students from other schools.*” This statement is itself misleading, as students continuing at the school who meet the academic criteria for the sixth form are not subject to any oversubscription criteria. They are, in fact, entitled to remain at the school if they choose to do so having met the academic criteria. Admission arrangements apply only to external applicants.
31. Therefore, if it wishes to offer places to external applicants, in order to comply with the Code the governing board must determine a PAN and a set of oversubscription criteria that relate only to those applying who are not already at the school. At the meeting, the board indicated that this is what it intends to do.

Other matters

32. In paragraph 2.17, the Code states that,

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

No such statement appears in the arrangements. Prior to the meeting, the governing board suggested a form of words that might be included in order to meet this requirement. Although I was told that such requests are very rarely made, in my view the wording proposed gave insufficient information about the process that would be followed.

33. The arrangements require all applicants to complete a document that is headed *“Application Form”*. This form asks parents to provide information such as their home address, their child’s present school and whether the child is looked after or previously looked after. In addition, there is a suite of forms on which evidence can be provided to show how the applicant obtains points in relation to the faith-based oversubscription criteria.

34. This form is, in fact, a SIF. The Code states, in paragraph 2.4, that admission authorities,

“must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria.”

Only those applicants wishing to be considered under oversubscription criteria for which the local authority’s Common Application Form (CAF) does not provide the required information need to complete a SIF.

35. In fact, the only information that the governing board will require that is not contained in the CAF is that which is needed to apply the faith-based oversubscription criteria. It agreed to re-design the form so that it is clear that this is its sole purpose. Applicants not wishing to be considered under the faith-based criteria should not be required to complete a SIF.

Timescale for revision

36. The governing board’s readiness to revise promptly the arrangements in every respect in which I have found that they do not conform with the requirements relating to admissions is extremely commendable. Some matters can be amended immediately. Others, such as those relating to Muslim applications and other world faiths, will require the taking of advice, followed by consultation on the revised arrangements, in accordance with the requirements of paragraphs 1.42 – 1.45 of the Code.

37. In order to give sufficient time to complete this process, I determine that the required revisions must be made by 28 February 2019, which is the deadline for determining arrangements for admission in September 2020.

Summary of Findings

38. The arrangements do not comply with the Code and admissions law in all of the respects listed in paragraph 11 above, with the exception of the test for selection by aptitude in music, which itself meets the requirements, although the information provided for applicants does not. The governing board has agreed to amend its arrangements in every respect.

Determination

39. I have considered the admission arrangements for September 2019 for Archbishop Blanch School, Liverpool, in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that there are matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

40. 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 by 28 February 2019.

Dated: 30 October 2018

Signed:

Schools Adjudicator: Peter Goringe