



DETERMINATION

Case reference: REF3488

Admission Authority: The governing board for St Aloysius Catholic Primary School, Camden

Date of decision: 31 October 2018

Determination

I have considered the admission arrangements for September 2019 for St Aloysius Catholic Primary School, Camden in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the arrangements do not conform with the requirements 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 this determination.

The referral

1. On 14 May 2018 the governing board of St Aloysius Catholic Primary School (the school) applied to the adjudicator for a variation to the admission arrangements which it had set. From the application it was not clear whether the governing board was asking for a variation to the admission arrangements for September 2018 or 2019 and whether the correct processes had been followed before applying for the variation. Following correspondence with the school the application for a variation was withdrawn on 11 October 2018.
2. The admission arrangements had, however, been brought to my attention and it appeared to me that they did not, or may not, conform with requirements. I have therefore decided to use the power conferred under section 88I(5) of the School Standards and Framework Act 1998 (the Act) to consider whether the arrangements conform with the requirements relating to admission arrangements. I am only considering the arrangements for September 2019 (the arrangements) because children have already been admitted in September 2018 and any decisions which I reach will not be relevant to them.
3. The matters which I am considering concern: the supplementary information form (SIF), the clarity of the arrangements including the delineation of the parishes referred to in them, the priority given to

siblings of children attending the school's nursery and the definition of looked after Catholic children.

4. The parties to the case are the governing board of the school, Camden Council (the local authority) and the Archdiocese of Westminster which is the body representing the religious denomination of the school.

Jurisdiction

5. The arrangements were determined under section 88C of the Act by the school's governing board, which is the admission authority for the school, on 30 April 2018. This is two months after 28 February 2018 when the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) and the School Admissions Code (the Code) require that admission authorities determine arrangements for September 2019. I am, however, satisfied that the arrangements were determined by the governing board and are within my jurisdiction.

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. copies of the minutes of the meeting of the governing board at which the arrangements were determined;
 - b. a copy of the determined arrangements;
 - c. the responses from the Archdiocese of Westminster to my enquiries; and
 - d. confirmation from the school that it had nothing to add to the comments from the Archdiocese.

The local authority was also invited to comment on the arrangements but has not done so.

Background

8. The school is a voluntary aided Catholic primary school for children aged 3 to 11. It is situated near the British Library between Euston and St Pancras railway stations. For September 2019 the governing board set a published admissions number (PAN) of 30, previously the PAN had been 60. The school has not been fully subscribed since 2015. The oversubscription criteria can be summarised as:
 1. Catholic looked after and previously looked after children
 2. Catholic children of Catholic staff

3. Catholic children living in the parish of St Aloysius and the parish formerly known as St Anne's with siblings at the school
 4. Catholic children living in the two parishes
 5. Catholic children living in other parishes
 6. Other looked after children and previously looked after children
 7. Children of non-Catholic staff
 8. Children who have siblings at the school
 9. Christian children of other denominations
 10. Children of other faiths
 11. Other children.
9. The arrangements say "*Children with siblings at St Aloysius School and Nursery will be given priority within each criterion.*" Distance and random allocation are used as further tie-breakers.

Consideration of Case

10. On 16 October 2018 I wrote to the school and the other parties to this case. In that letter I identified six ways in which I considered that the arrangements did not, or may not comply with requirements.
11. In responding to my letter the Archdiocese of Westminster said that after discussing the matters raised with the school it had advised the school to amend the arrangements to address them.
12. I address these matters in the order in which they appear in the arrangements.

Requirement to complete a supplementary information form

13. The third paragraph on the first page of the arrangements says "*You should also complete the School's Supplementary Information Form (SIF). The information on the SIF enables the Governing Body to assess your application fully against the School's criteria in the event of oversubscription. Please return the SIF (in person or by post) to school (Aldenharn Street, NW1 1PS) together with all other relevant paperwork required for your application. If you do not complete both of the forms described above and return them by 15th January 2019, the Governing Body will be unable to consider your application fully and it is unlikely that your child will be offered a place.*"
14. This implies that it is necessary for all parents to submit a supplementary information form (SIF) so that the governing body can consider the application "*fully*". This is not the case. The only form which it is necessary for parents to complete for their child to be

considered for a place at a school is the local authority's common application form (CAF). As explained in Section 2 of the Code, if the school is undersubscribed then, (as the school is not a designated grammar school) every child who applies must be offered a place. If the school is oversubscribed, then information from the SIF may be required to establish whether a child meets some of the oversubscription criteria, but not all of them. In this case, the absence of a SIF would not prevent the governing board giving, for example, a non-Catholic looked after child or a child with no faith the correct priority as all the necessary details will have been collected on the CAF.

15. I find that the arrangements do not make it clear that any applications made on the CAF, but without a SIF, will be considered fully by the governing board.

Clarity of terms in the arrangements

16. In the first paragraph on the second page the arrangements say "*Within this policy applicant refers to the person making an application on behalf of a child; candidate refers to the child on whose behalf the application is being made.*" 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.*"
17. Having defined the terms "*applicant*" and "*candidate*", the arrangements rarely use them with the much clearer terms "*parent*" and "*child*" being used instead. However, where these terms are used, for example in the eleventh oversubscription criterion "*Any other applicant*", the use is not always consistent with the definition. Another example is in the section about the tie break, where the arrangements refer to the "*applicants' distance measurements*". In both cases it is children that are being referred to, not their parent or carers and so "*candidate*" would be the appropriate term.
18. I find that in this respect the arrangements are unclear and do not conform with paragraph 14 of the Code.

Maps of parishes

19. The third and fourth oversubscription criteria refer to "*children living in the parish of St. Aloysius, and the parish formerly known as St. Anne's*" and the fourth criterion says that maps of the parishes are available from the school.
20. Paragraph 1.47 of the Code says that admission authorities "**must** *publish a copy of the determined arrangements on their website displaying them for the whole offer year*". Elsewhere, in footnote 4, the Code defines admission arrangements as "*the overall procedure,*

practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered.” It follows that a map, or other clear description of the parishes (such as a list of those roads falling within them) must be available on the school’s website to comply with paragraph 1.47 of the Code.

21. Without a map or other clear description of the parish boundaries, the arrangements cannot be considered to be clear as required by paragraph 14 of the Code and parents will not “*be able to look at a set of arrangements and understand easily how places for that school will be allocated.*”
22. I find that the arrangements do not conform with the Code in these respects.

Priority of siblings

23. The arrangements say that “*Children with siblings at St Aloysius School and Nursery will be given priority within each criterion.*” This appears to be an unnecessary statement so far as those with siblings at the school are concerned because the third and eighth criteria are specifically for siblings. Thus a child who meets, say criterion 4 or 5 will already have been assigned priority against criterion 3 if they have a sibling at the school. My concern is that this priority extends to siblings of children attending the school’s nursery.
24. The third criterion, for Catholic siblings, states that the sibling must be attending the school at the time of admission. So far as a sibling expected to be in Year 1 or a higher year group is concerned this is not unusual. However, it is not possible to know at the time when places are offered to children in April, whether or not they will have a younger sibling in the nursery the following September. As it is not possible to know in advance if a child will meet this criterion, it is not objective so far as it relates to nursery children and so does not conform with paragraph 14 quoted above or paragraph 1.8 of the Code which says “*Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.*”
25. The eighth criterion, for non-Catholic siblings, does not include the explicit requirement for the sibling to be attending the school at the time of admission, although the definition of siblings given later in the arrangements does say that “*A sibling relationship does not apply when the older child will leave before the younger one starts.*” This does not cover the situation where the sibling may be in the nursery and is younger than the child due to start in the reception class.
26. The first reason that it may be unfair to give priority to siblings of children attending the nursery over other children is that admission to nursery classes is not subject to the Code. This means that a child may have been given a place at the nursery on grounds that would not

comply with the Code and consequently their sibling would gain priority for a school place on grounds which did not comply with the Code.

27. The only information on the school's website concerning admission to the nursery is for September 2018 which links to a policy for admission in 2017. Even if I was able to ascertain that admission to the nursery in September 2019 would be compliant with the Code (if it was required to be so) there is another reason why priority for siblings of children attending it is unfair.
28. Attendance at a nursery school is not compulsory. Parents are free to choose a pre-school placement for their children or not. Enhancing priority for a school place for an elder child if a parent makes a specific choice of pre-school care fetters parents' freedom to make that decision and this is in my view not fair.
29. Paragraph 1.39B of the Code says "*Admission authorities may give priority in their oversubscription criteria to children eligible for the early years pupil premium, the pupil premium or the service premium who: a) are in a nursery class which is part of the school; or b) attend a nursery that is established and run by the school.*" To give priority on the basis of a sibling attending the nursery goes beyond this permission which is limited to children eligible for a pupil premium who themselves have attended the nursery.
30. For these reasons I find that giving any priority for places at the school to children whose siblings may attend the nursery is not objective or fair and does not conform with the Code.

The definition of Catholic looked after children

31. Paragraph 1.37 of the Code 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.*"
32. The governing board has chosen the second approach permitted by paragraph 1.37 of the Code to giving priority to looked after and previously looked after children. The first oversubscription criterion gives priority to "*Catholic 'looked after' children and Catholic children who have been adopted or made subject to child arrangements orders or special guardianship orders immediately after being 'looked after'.*" This is followed by other criteria for Catholic children and the sixth criterion is "*Other 'looked after' children and children who have been adopted or made subject to child arrangements orders or special guardianship orders immediately following being 'looked after'.*" This is followed by other criteria for non-Catholic children.

33. Taken together with the defining of a looked after child later in the arrangements this would appear to meet the requirements of the Code. However, the definition of Catholic in the arrangements says *“For the purposes of this Policy this [being a Catholic] includes a looked-after child who is part of a Catholic family where a priest’s letter demonstrates that the child would have been baptised or received if it were not for their status as a looked-after child (e.g. a looked-after child in the process of adoption by a Catholic family).”*
34. Firstly, this statement is not clear as it does not define a *“Catholic family”*, secondly, different priests may take a different view of whether or not a child *“would have been baptised or received if it were not for their status as a looked-after child”* in the same circumstances and so it is not objective. The statement also means that some looked after children who are not Catholic get higher priority than other non-Catholic looked after children and non-Catholic previously looked after children.
35. I find that defining some non-Catholic looked after children as being Catholic looked after children does not conform with the Code.

The content of the supplementary information form

36. Paragraph 2.4 of the Code says *“In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. They **must not** ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for: a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates); b) the first language of parents or the child; c) details about parents’ or a child’s disabilities, special educational needs or medical conditions; d) parents to agree to support the ethos of the school in a practical way; e) both parents to sign the form, or for the child to complete the form.”*
37. The SIF used by the school asks for the child’s name, date of birth and address. This is clearly necessary to match the SIF to the CAF. It then asks for the name of the parent or carer and their address if different from the child’s. The SIF also asks for the name and address of an alternative contact before questions concerning the child’s faith and enquires about the child’s looked after status.
38. The arrangements clearly state how the child’s address is decided if they live at more than one address and it is the child’s address that is used to determine priority for places. A parent having a different address to the child has no bearing on any decision about oversubscription criteria and provides personal details about the family which is prohibited by the Code. Alternative contact details are also not required to assess the application and information about a child’s

looked after status is collected with the CAF so should not be a matter for the SIF to establish.

39. In its response to my enquiries the Archdiocese said it had discussed these issues with the school and *“we advised to delete the reference to ‘alternative contact details’. However, it was pointed out by the school that they have a considerable number of children who live with family members other than their parents. These parents still retain parental responsibility and are the main point of contact for the child. This is especially important for in-year admissions which are managed by the school. For this reason our advice to the school was to retain the box for the parent(s)’ contact details.”*
40. What information the school collects for in-year admissions is not a matter for me. During the main admissions round, the arrangements for which fall within my jurisdiction, the application is through the local authority and the CAF collects the details of the person with parental responsibility for the child. This is the person who makes the decision about which schools to apply for, and whether or not to accept the offer of a place. That offer of a school place is also made through the local authority. There is no need for the school to contact the parent or carer during the process of allocating places and I find that requesting this information contravenes the Code.

Summary of Findings

41. For the reasons set out above I find that the arrangements do not conform with requirements relating to admissions in the six ways identified in this determination.

Determination

42. I have considered the admission arrangements for September 2019 for St Aloysius Catholic Primary School, Camden in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the arrangements do not conform with the requirements in the ways set out in this determination.
43. 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 this determination.

Dated: 31 October 2018

Signed:

Schools Adjudicator: Phil Whiffing