



Office of  
the Schools  
Adjudicator

## Determinations

**Case references: ADA3715 and VAR1063**

### **Determination in relation to ADA3715 (the objection)**

**Objector: A member of the public**

**Admission authority: the Governing Board of St Mary Redcliffe and Temple School**

**Date of decision: 10 August 2020**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2021 determined by the Governing Board of St Mary Redcliffe and Temple School for St Mary Redcliffe and Temple School, Bristol.**

**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 member of the public (the objector) on her own behalf and on behalf of two local councillors and the Redcliffe Residents Action Group and Neighbourhood Forum, about the admission arrangements for St Mary Redcliffe and Temple School (the school), a voluntary aided Church of England secondary school for pupils aged 11 to 18 for September 2021.

2. The local authority (LA) for the area in which the school is located is Bristol City Council. The LA is a party to this objection. Other parties to the objection are the objector, the Governing Board of St Mary Redcliffe and Temple School and the Diocese of Bristol.

## Jurisdiction

3. These arrangements were determined under section 88C of the Act by the school's governing board which is the admission authority for the school. The objector submitted the objection to these determined arrangements on 11 May 2020. 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

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

5. The documents I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;
- b. a copy of the determined arrangements for Year 7, which include the Supplementary Information Form;
- c. a copy of the determined arrangements for the 6<sup>th</sup> Form and the 6<sup>th</sup> Form application form;
- d. the objector's form of objection dated 11 May 2020 and supporting documents;
- e. the Diocese of Bristol's response to the objection and the other matters raised and supporting documents; and
- f. the admission authority's response to the objection and the other matters raised and supporting documents.

## Background

6. The school is a popular secondary school located centrally in Bristol. It has published admission numbers of 216 for Year 7 and 100 for the 6<sup>th</sup> Form (which applies only to external applicants). The school has been heavily oversubscribed in recent years. The school's oversubscription criteria determined for 2021 were changed from those of previous years, following consultation, to simplify the provision for looked after and previously looked after children.

## The admission arrangements

7. Relevant sections of the school's determined admission arrangements for 2021 are set out in Appendix 1 (Year 7) and Appendix 2 (6<sup>th</sup> Form).

## The Objection and Consideration of Case

8. The following matters were raised in the objection and my findings and determination in respect of each is set out below:

### Year 7

9. **Whether the Supplementary Information Form (SIF), which forms part of the school's admission arrangements, has not been published, contrary to paragraph 1.47 of the School Admissions Code (the Code).** The SIF is available on the school's website at the time of writing. The school have provided me with an email chain regarding putting the admissions arrangements, including the SIF, online. This finishes with an email dated 28 February 2020 confirming that the documents are on the school's website. I find that the SIF was published on the school's website on 28 February 2020 and consequently the objection is not upheld on this point.

10. **Whether priority is given in the school's oversubscription criteria on the basis of their "parents' past or current hobbies or activities" contrary to paragraph 1.9 i) of the Code.**

11. Paragraph 1.9 I of the Code reads:

*"It is for admission authorities to formulate their admission arrangements, but they must not:...*

*i) 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 or person representing the religion or religious denomination);"*

12. I find that the school has taken account of "*religious activities, as laid out by the body or person representing the religion or religious denomination*". The school has not departed from the Diocesan definition of religious activities, being worship at a defined place of worship.

13. I am satisfied that the school has been designated as having a religious character and so the admission arrangements may take account of religious activities. Consequently, the objection is not upheld on this point.

14. **Whether the school have complied with paragraph 1.38 of the Code, which reads:**

*"Admission authorities for schools designated as having a religious character must have regard to any guidance from the body or 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 guidelines of this Code".*

15. The general position is that, subject to the provisions of the Code and the law relating to admissions, “*It is for admission authorities to formulate their admission arrangements*” (Code paragraph 1.9) and “*It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances*” (Code paragraph 1.10).

16. Oversubscription criteria apply when there are more applicants than there are places available at a school. In such circumstances it is inevitable that some applicants will not be offered a place. The oversubscription criteria define the process for deciding who is offered a place and who is not. The Code provides for designated faith schools to choose to give a higher priority by reference to faith. Many such schools give priority to applicants whose families can demonstrate a higher commitment to the faith (usually by a higher frequency of attendance at a place of worship) than to those who can demonstrate a lower commitment to the faith (usually those whose attendance at a place of worship is less frequent over a given period). This is permitted by the Code.

17. The school and the Diocese agree that the school took account of the guidance provided by the Diocese. The school has provided copies of correspondence with the Diocese in which its faith criteria were discussed. The requirement to take account of guidance does not mean that guidance must be followed in every particular. I also find that the correspondence demonstrates that the school consulted with the diocese as required by paragraph 1.38 of the Code.

18. I find that the school have complied with the requirements of paragraph 1.38 of the Code and consequently the objection is not upheld on these points.

**19. Whether the school’s faith-based oversubscription criteria are compliant with the provisions of the Code.**

20. The school has clearly defined three groups of worshippers and set out the order of priority which applies. These do not mirror those set out in the sample admissions policy contained in the Diocesan guidance but that is not required. They set out the period of time over which the prescribed frequency of worship is required. I find the school’s criteria meet the requirement of paragraph 1.37 of the Code “*Admission authorities must ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied*”. The school’s criteria require a higher frequency of worship than is set out in the sample admissions policy provided by the Diocese. However, nothing in the Code prohibits this. If many of the places available are filled by applicants whose families meet the highest of the three faith criteria that is not a breach of the Code but rather a reflection of the popularity of the school and the high number of applicants who are able to meet that criterion. In all respects I find that the school’s faith-based criteria comply with paragraphs 1.36 to 1.38 of the Code. Consequently, the objection is not upheld on this point.

**Year 12**

**21. Whether the application form, which it appears is referred to by the objector as a SIF, has not been published, contrary to paragraph 1.47 of the Code.**

22. The 6<sup>th</sup> Form application form is available on the school's website at the time of writing. The school have provided me with an email chain regarding putting the admissions arrangements, including the 6<sup>th</sup> Form application form, online. This finishes with an email dated 28 February 2020 confirming that the documents are on the school's website. I find that the 6<sup>th</sup> Form application form was published on the school's website on 28 February 2020 and consequently the objection is not upheld on this point.

**23. Whether the information requested in the application form for Year 12 is complaint with paragraph 1.9 and/or paragraph 2.4 of the Code.**

24. The 6<sup>th</sup> Form admission arrangements do not require a supplementary information form (SIF) and consequently no SIF is published by the school. It follows that paragraph 2.4 of the Code (which deals with SIFs) does not apply.

25. The 6<sup>th</sup> Form application form is not a SIF. The Code states that parents may use the common application form to apply for 6<sup>th</sup> Form places (paragraph 2.6) but this is not mandatory and in practice schools tend to produce their own application forms. The Code does not prescribe any particular content for such forms. I will nevertheless deal with the points raised by the objector below.

- a. The names of two parents. The name of a second parent is optional. I am satisfied that this is reasonable and that the school does not take account of whether one or two names are given in applying the oversubscription criteria.
- b. The request for the gender of the applicant. This is not information required in order to apply the oversubscription criteria. However, I accept that the school require this for administrative purposes only and that it is not taken into account in applying the oversubscription criteria.
- c. The request for permission to contact the applicant's previous school and for contact details to facilitate this. It is clearly stated that this contact will take place after an offer has been made and so will not form part of the decision to offer a place. Applicants have the option not to provide consent for this. Where consent is provided, I accept that this will facilitate the school's preparation for the future admission of an applicant. I am satisfied that information from the previous school is not taken into account in applying the oversubscription criteria.
- d. It is necessary for the school to know whether an applicant is looked after or previously looked after in order to apply the oversubscription criteria.
- e. It is reasonable for the school to provide space on the form so that parents can add further information if they so wish. I am satisfied that such information will not be taken into account in applying the oversubscription criteria unless it is relevant.

26. I do not uphold the objection on this point.

## Other Matters and Consideration of Case

27. The following matters were raised by me under Section 88I of the Act.

### Year 7

- a) **The arrangements for 2021/2022 state in the first line: “*The arrangements and criteria listed below apply only for applications in 2020/21*”. This appears to be an error. Nevertheless, it appears to be unclear and so may not be compliant with paragraph 14 of the Code.** I accept that this is intended to refer to applications made in 2020/21 for places in 2021/22. I find however that it is not clear and so does not comply with the provisions of the Code mentioned above. It is up to the school how it wishes to clarify this but the wording suggested in the school’s response “*The arrangements and criteria listed below apply only for applications made in 2020/21 for the academic year starting in September 2021*” would appear to provide sufficient clarity.
- b) **The arrangements state in the second paragraph: “*your application cannot be considered against our published faith criteria (see pages 3 and 4) unless you have completed two on-line forms*”. However, in the paragraph dealing with the “*Supplementary Form*” it is stated: “*This form only needs to be completed if you are applying under the faith oversubscription criteria*”. The two statements appear to be contradictory. This appears to be unclear and so may not be compliant with paragraphs 14 and 1.8 of the Code.** I accept that these statements are not contradictory and are compliant with the Code’s requirement for clarity. The school have suggested amended wording, which would helpfully clarify the position.
- c) **It may be unclear what the phrase “*applications on the supplementary form*” in the definitions section means and whether it is intended in some way to be distinct from applications on the common application form (CAF).** The school do not address this point in their response. I find that without further explanation this is unclear and so is not compliant with the provisions of paragraphs 14 and 1.8 of the Code.
- d) **It is not clear why “*on time*” and “*late*” supplementary applications are defined when those phrases do not appear elsewhere in the arrangements. This may not be compliant with paragraphs 14 and 1.8 of the Code.** The school accept that these terms do not require definition as they are not used in the admission arrangements. I find that this is not clear and welcome the school’s acknowledgement that these definitions can be removed.
- e) **The phrase “*save in the definition of Home*” used in the definition of “*Parent/Carer*” may be unclear without further explanation. This may not be compliant with paragraphs 14 and 1.8 of the Code.** I find that the inclusion of this phrase is not clear. I welcome the school’s acknowledgement that it should be removed.
- f) **The use of the phrase “*(for the Main school)*” in the definition of “*In-year application*” may be unclear. This may not be compliant with paragraphs 14 and 1.8 of the Code.** I find that the inclusion of this phrase is not clear. I welcome the school’s acknowledgement that it should be removed.

- g) **The Code, at paragraph 1.8 states “Admission arrangements must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated”. The arrangements do not appear to contain any such tie-breaker and so may not be compliant with paragraph 1.8 of the Code.** I accept that where the school will admit all applicants where it cannot otherwise decide between two candidates then a further tie-breaker is not required. However, the point set out in the paragraph below remains an issue.
- h) **The section headed “Tie-breakers” appears not to set out a tie-breaker, but rather sets out how applicants are to be ranked in each category A to E.** The school have stated that it will amend this paragraph to make it clear that it refers to the ranking of applicants within each category. However, it is not clear how this will operate in practice. For example, if 195 applicants are to be admitted under category B (church applicants, up to 196) and the next two cannot be separated on distance the school will presumably admit a total of 197 applicants under category B. It is not clear how this would impact on the numbers to be admitted in categories C to D. That is, whether the numbers admitted in those categories will be reduced or whether, if the number of places stated for each of those categories is filled, applicants will be admitted over the school’s PAN. Consequently, I find that the arrangements are unclear on this point and are not compliant with the Code’s requirements for clarity.
- i) **The paragraph under the heading “Waiting List” states waiting lists will be kept until 31 December and also that waiting lists will be terminated on 31 July. This may require further explanation in order to be clear and so may not be compliant with paragraphs 14 and 1.8 of the Code.** The school have accepted that this requires clarification. I find that it is not clear as currently set out and consequently is not compliant with the Code’s requirements for clarity.
- j) **The paragraph dealing with responses to places offered may be unclear in that the first sentence deals only with refusing offers and the second, presumably, with accepting or refusing offers, although this is not explicit. This may not be compliant with paragraphs 14 and 1.8 of the Code.** The school have accepted that this requires clarification. I find that it is not clear as currently set out and consequently is not compliant with the Code’s requirements for clarity.
- k) **The SIF for entry to Year 7 states: “This form only needs to be filled in if you are applying as a church or other faith applicant i.e. you are applying under the Oversubscription Criteria A, B or E”. These do not appear to be the relevant oversubscription criteria for the SIF and so may not be clear contrary to paragraph 1.8 of the Code.** In relation to this the school have helpfully responded:

*“This is an error. It did not get updated when other changes were made. It should read: “This form only needs to be filled in if you are applying as a church or other faith applicant i.e. you are applying under the Oversubscription Criteria B or C”. This explains [the objector’s] concern that the policy asks LAC applicants to complete the SIF. It should not have included criterion A (LAC) as this was part of this error. [Name of objector] is also correct that the paragraph following criterion E should read: “If any of the places available under criteria A and B combined (up to 196) or criterion C (up to 4) or criterion D (up to 16) are not filled, these places will be reallocated in criterion order (B to E)” rather than “...in criterion order (A to E)” as all applicants under criterion A (LAC) will have already been allocated”.*

I agree that these corrections are appropriate as the statement is not clear as currently set out and consequently is not compliant with the Code's requirements for clarity.

## Determination

28. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2021 determined by the Governing Board of St Mary Redcliffe and Temple School (the admission authority) for St Mary Redcliffe and Temple School (the school), Bristol.

29. 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.

30. 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.

## Determination in relation to VAR1063 (the proposed variation)

**Case reference: VAR1063**

**Admission authority: The Governing Board of St Mary Redcliffe and Temple School for St Mary Redcliffe and Temple School, Bristol.**

**Date of decision: 10 August 2020**

**In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the Governing Board of St Mary Redcliffe and Temple School for St Mary Redcliffe and Temple School , Bristol for September 2021.**

**I determine that for admission in September 2021 the faith-based oversubscription criteria will be as set out in Appendix 3 and approved in this determination.**

## The referral

1. The board of governors of St Mary Redcliffe and Temple School (the school) has referred a proposal for a variation to the admission arrangements for September 2021 for the school, to the Office of the Schools Adjudicator. The school is a voluntary aided school with a Church of England religious character.
2. The proposed variation makes changes to the faith-based oversubscription criteria and is made in the light of the Covid-19 pandemic. A copy of the relevant section of the school's oversubscription criteria with the proposed variation highlighted is



attached as Appendix 3. The same wording is proposed for the supplementary information form and the template reference letter.

## Jurisdiction

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that: *“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”*.
4. I have been informed that the required notification has taken place and I am satisfied that the proposed variation is within my jurisdiction.

## The proposed variation and consideration of the proposed variation

5. Where the school is oversubscribed priority may be given on the basis of faith. The school’s arrangements take account of attendance at places of worship. During the Covid-19 pandemic places of public worship have at some times been closed altogether and at other times not available for public worship or access to such worship has been restricted in the interests of public health. It is against this background that the request for a variation is made. Since the school’s oversubscription criteria include attendance at public worship over specified periods of time, parents and their children are unable to meet this criterion under the terms of the school’s current admissions arrangements. In consequence the proposed variation provides that attendance will only have been required at times when places of public worship are open for such public worship.
6. It is beyond question that the Covid-19 pandemic represents a major change of circumstances. I am satisfied that the proposed variation is a pragmatic and appropriate response. I approve the variation.

Dated: 10 August 2020

Signed:

Schools Adjudicator: Tom Brooke

## Appendix 1

### Extract from Admissions Policy for September 2021/2022 Other than for the Sixth Form

“The arrangements and criteria listed below apply only for applications in 2020/21 and will be reviewed annually by the Governing Body. They should not be regarded as binding for future years.

Please note that your application cannot be considered against our published faith criteria (see pages 3 and 4) unless you have completed **two** on-line forms as follows:

- The Common Application Form which must be returned to your home Local Authority.  
That is, the Local Authority area which serves the child’s home address and where Council Tax is paid.
- The Supplementary Form should be completed and submitted directly to St Mary Redcliffe and Temple School. This form provides information which enables the governors to allocate places in accordance with the oversubscription criteria in this Policy. This form only needs to be completed if you are applying under the faith oversubscription criteria (criteria A, B and E as shown on page 3).

### **Oversubscription Criteria**

In the case of oversubscription, after the allocation of places to children with Education, Health and Care Plans, the remaining places will be allocated in the following order:

#### **A Looked After\* Children or previously Looked After\* Children**

#### **B Church Applicants in order of priority** (up to 196, including applicants allocated under A above)

Applicants under this criterion will be grouped as in Note 1 overleaf and so must complete the Supplementary Form.

#### **C Faiths Other than Christian** (up to 4 places)

Applicants under this criterion need to be practising adherents of Buddhism, Hinduism, Islam, Judaism or Sikhism.

Applicants under this criterion will be grouped as in Note 1 overleaf and so must complete the Supplementary Form.

## **D Additional Local Applicants** (up to 16 places)

Applicants who live within 500 metres of the school who are not already included in previous categories.

Applicants under this criterion need not complete the Supplementary Form. However, they are advised to do so, if they also wish to be considered as **Church\*** applicants or **Other Faith\*** applicants.

## **E Other Applicants**

If any of the places available under criteria A and B (up to 196) or criterion C (up to 4) or criterion D (up to 16) are not filled, these places will be reallocated in criterion order (A to E).

### **Tie-breakers**

- First priority will be given to applicants with siblings\* already at the school who will still be attending the school on the date of proposed admission. These applications will be ordered by distance
- Second priority will then be given to children living closest to the school – see Note 2 overleaf. Applications with equal distance will not be split.

The above priority order also applies to each of the groups in Note 1 overleaf.

### **Notes**

1. **Church Applicants and Other Faith Applicants** will be considered by the Governors and placed in Groups on the basis of information provided on the Supplementary Form as confirmed by Church/Place of Worship\* representatives, as follows:

Group 1: The child is a member of Group 1 if the Parent/Carer\* and/or the child are very regular worshippers. This means normal attendance for worship at a Church/Place of Worship\* is three or more times a month for a minimum of the last three years.

Group 2: The child is a member of Group 2 if the Parent/Carer\* and/or the child are regular worshippers. This means normal attendance for worship at a Church/Place of Worship\* is two or more times a month for a minimum of the last two years.

Group 3: The child is a member of Group 3 if the Parent/Carer\* and/or the child are occasional worshippers. This means normal attendance for worship at a Church/Place of Worship\* is a minimum of four times in the past year.

‘Worship’ in the above includes Sunday services, weekday services, Sunday School or other faith development groups on a Sunday or any other day. It does not include worship during normal school activities.

‘Minimum of years’: Parents/Carers\* should calculate the minimum number of years’ attendance as including the period up to the day before the specified closing date for submission of the Supplementary Form.”

## Appendix 2

### Extract from Admissions Policy for Sixth Form

1. “[]
2. []
3. []
4. []
5. Students wishing to transfer to St Mary Redcliffe and Temple School Sixth Form from other educational institutions must complete the on-line application form and submit this to the school by the published deadline\*.
6. The Published Admission Number (PAN) for students from other educational institutions for September 2021 is 100. If fewer students than the PAN apply from other educational institutions, then all of these students will be admitted, provided they meet the published admissions threshold.
7. After the admission of students with an Education, Health and Care Plan (EHCP), if there are more applications from students from other educational institutions by the application deadline than places available, then each application received on time will be ranked against the following oversubscription criteria in determining the awarding of offers:
  - A. Students who are currently Looked After\* or have previously been Looked After\*;
  - B. Students who currently have siblings\* in Years 7 to 12 of St Mary Redcliffe and Temple School;
  - C. Distance from the student’s home to the centre point of the Sixth Form Centre in a straight line, as at the published deadline\* for applications, as used by the Local Authority computerised mapping system.
8. Where it has not been necessary to apply these criteria on the published deadline\*, then places will continue to be awarded in the order that they are received until places available have been filled.
9. Students who are unsuccessful in securing a place will be entered on a waiting list. Should places become available before the start of the academic year, these will be offered to those who still wish to be admitted in accordance with the over-subscription criteria.
10. Admission to the Sixth Form does not guarantee a place on all courses.”

## Appendix 3

Extract from arrangements as proposed to be varied.

“1. **Church Applicants and Other Faith Applicants** will be considered by the Governors and placed in Groups on the basis of information provided on the Supplementary Form as confirmed by Church/Place of Worship\* representatives, as follows:

Group 1: The child is a member of Group 1 if the Parent/Carer\* and/or the child are very regular worshippers. This means normal attendance for worship at a Church/Place of Worship\* is three or more times a month for a minimum of the last three years.

Group 2: The child is a member of Group 2 if the Parent/Carer\* and/or the child are regular worshippers. This means normal attendance for worship at a Church/Place of Worship\* is two or more times a month for a minimum of the last two years.

Group 3: The child is a member of Group 3 if the Parent/Carer\* and/or the child are occasional worshippers. This means normal attendance for worship at a Church/Place of Worship\* is a minimum of four times in the past year.

‘Worship’ in the above includes Sunday services, weekday services, Sunday School or other faith development groups on a Sunday or any other day. It does not include worship during normal school activities.

‘Minimum of years’: Parents/Carers\* should calculate the minimum number of years’ attendance as including the period up to the day before the specified closing date for submission of the Supplementary Form.

***In the event that during the period specified for attendance at worship the church, or, in relation to those of other faiths, relevant place of worship, has been closed for public worship and has not provided alternative premises for that worship, the requirements of these admissions arrangements in relation to attendance will only apply to the period when the church or, in relation to those of other faiths, relevant place of worship or alternative premises have been available for public worship”***