



Office of
the Schools
Adjudicator

Determination

Case reference: REF3882

Referrer: A parent

Admission authority: The Governing Board of Blessed Thomas Holford Catholic College

Date of decision: 22 October 2021

Determination

I have considered the admission arrangements for September 2022 for Blessed Thomas Holford Catholic College in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the referral made on 26 June 2021, the arrangements do not conform with the requirements of the School Admissions Code. I have also found that 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 or other date specified by the adjudicator. In this case I determine that the arrangements must be revised as soon as possible and by 31 October 2021 at the latest.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of Schools Adjudicator (OSA) by an individual, (the referrer), about the admission arrangements (the arrangements) for Blessed Thomas Holford Catholic College (the school), for September 2022. The date of the objection was 26 June 2021.

2. The referral relates to the feeder schools.

3. When the arrangements were brought my attention, I considered that the following additional matters did not, or might not, conform with the requirements for admission arrangements.

- Looked after children and previously looked after children (whether of the Catholic faith or not) were not accorded the highest level of priority.
- Oversubscription criteria 1 – 7 were not listed under the heading ‘Oversubscription Criteria’. The text headed as ‘Oversubscription Criteria’ did not list the oversubscription criteria.
- There was no definition of ‘looked after’ or ‘previously looked after’ children.
- The arrangements were not clear about how children are ranked within and across the named and grouped feeder schools at oversubscription criterion 2.
- The second paragraph 2 said: “All applications will be considered at the same time and after the closing date for admissions”. It was unclear how a late application would be dealt with.
- The reference to “the closest Primary School in Trafford in the Shrewsbury Diocese” in the second paragraph 3 of the arrangements was not sufficiently clear
- The operation of the distance measurements set out the second paragraph 3 appeared to be unworkable.
- The meaning of “brother or sister” in oversubscription criterion 4 was unclear.
- In the second paragraph 4 of the arrangements, the meaning of “catchment area” was unclear.
- The second paragraph 4 of the arrangements only appeared to provide for the situation in which child-care arrangements are shared between two addresses in the catchment area.
- The method of establishing the home address of a child whose parents are separated arrived at an address which is not either of the addresses at which the child would actually be living at any time.
- The following provisions appeared to be missing from the admissions arrangements:
 - a. Arrangements for the admission of children outside of their normal age group (paragraph 2.17 of the Code).
 - b. Arrangements for children to be placed on a waiting list (paragraph 2.14 of the Code).
 - c. A Supplementary Information Form.

4. The parties to the case are the governing board, Trafford Metropolitan Borough Council (the local authority), the religious authority namely the Catholic Diocese of Shrewsbury (the diocese) and the referrer.

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. The referrer submitted an objection to these determined arrangements on 26 June 2021. The School Admissions Code requires objections to admission arrangements for 2022 to be made to the Office of the Schools Adjudicator by 15 May 2021. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements conform with the requirements relating to admission arrangements and I am treating the objection as a referral.

6. The referrer has asked to have his/her identity kept from the other parties and this request has been agreed by the Chief Adjudicator.

7. At the time of the determination of the school's admissions arrangements and at the time the objection was made, the Admissions Code 2014 (the 2014 Code) was in force. A revised Code came into force on 1 September 2021, which means that the 2014 Code no longer has any effect. Since the objection and the response to it were framed in terms of the 2014 Code, I shall use the references to it which have been made by the parties to the case but will indicate if the new Code differs in any respect. It is of course the revised version of the Code which is now in force.

8. When the arrangements for the school as set out in this determination were determined, the 2014 Code, which was then in force, provided that children previously looked after in England and then adopted or made subject to a child arrangements or special guardianship order should have equal highest priority with looked after children in school admission arrangements (subject to certain exemptions in schools with a religious character). The new Code which came into force on 1 September 2021 extended the same level of priority for looked after and previously looked after children to children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted. All admission authorities were required to vary their admission arrangements accordingly by 1 September 2021. There was no requirement for this variation to be approved by the Secretary of State and no reason for the school to send us its varied arrangements.

9. I have made my determination in this case on the basis that the admission authority will have varied its arrangements in order to comply with the new requirements set out above.

Procedure

10. In considering this matter I have had regard to all relevant legislation and the School Admissions Code 2021 (the Code).

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

- a) the referrer's form of objection dated 26 June 2021 and any subsequent correspondence;
- b) copies of the minutes of the meeting of the governing board at which the arrangements were determined;
- c) a copy of the determined arrangements;
- d) comments from the head teacher on behalf of the governing board on the matters raised and supporting documents;
- e) comments from the local authority on the matters raised, supporting documents and subsequent correspondence; and
- f) comments from the Catholic Diocese of Shrewsbury on the matters raised, supporting documents and subsequent correspondence.

Background

12. The school is a coeducational Voluntary Aided non-selective secondary school for pupils aged 11 – 18. It has been designated by the Secretary of State as having a religious character, namely Roman Catholic, and the faith body for the school is the Catholic Diocese of Shrewsbury. The school has been rated by Ofsted as Outstanding. It is located in Altrincham, Cheshire within the area of Trafford Council. The arrangements state that the school has a Published Admission Number (PAN) of 250, however the local authority has confirmed that the PAN is now 290.

13. I thought it would be helpful in this case to set out the school's admission arrangements before describing in detail the nature of the referral and the other matters I have considered. The arrangements are very short. They read exactly as follows:

"In line with our family ethos consideration will be given to children of staff at Blessed Thomas Holford Catholic College who have two years continuous service at the time of application and have been recruited to fill a post for which there is a national shortage of applicants.

Pupils will be admitted according to the following priority order:-

1. Baptised Catholic children designated as 'looked after' or 'previously looked after'

2. Baptised Catholic children attending a Catholic primary school in Trafford as follows. The schools are grouped according to distance from the school.

Group 1

- St Vincent's Catholic Primary School
- St Hugh's Catholic Primary School
- St Margaret Ward Catholic Primary School
- St Joseph's Catholic Primary School
- Holy Family Catholic Primary School
- All Saints Catholic Primary School

Group 2

- English Martyrs Catholic Primary School
- Our Lady of Lourdes Catholic Primary School
- St Monica's R.C. Primary School
- St Hugh of Lincoln Catholic Primary School
- St Ann's RC Primary School
- Our Lady of the Rosary RC Primary School
- St Teresa's RC Primary School
- St Alphonsus RC Primary School

3. Baptised catholic children with a brother or sister at the College at the time of application

4. Baptised Catholic children attending non Catholic primary schools in Trafford

5. Baptised Catholic children attending other Catholic primary schools

6. Other 'looked after' children

7. Other children

Oversubscription criteria

1. These criteria will be applied in the same way to all pupils in the event of over subscription.

2. All applications will be considered at the same time and after the closing date for admissions.

3. If there are more applicants than can be accommodated at the School in criteria 1 to 6 places will be offered to those children attending the closest Primary School in Trafford in the Shrewsbury Diocese and then whose place of residence is nearest to the School. Distance will be measured in a direct straight line from the primary school to the main entrance of the school and then the front door of the child's permanent place of residence to the main entrance of the school, using property coordinates provided through a combination of the Trafford Local Land and Property Gazetteer (BS7666) and Royal Mail Postal Address Information. In the case of a child living in a block of flats the distance will be measured from the communal entrance of the building.

4. In the case of parents who are separated and where child-care arrangements are shared between two addresses in the catchment area, the average of the distances of the two addresses from the school will be used for the purposes of determining priority for admission. You may be required to provide proof of residency. Failure to do so may result in the offer of a place being withdrawn".

The Referral

14. I should say, from the outset, that all parties have been cooperative and helpful throughout the process of determining this referral, and that the school has agreed to revise the arrangements. I am grateful to all parties and to the school in particular for their cooperation.

15. The referral was to oversubscription criteria 4 and 5 of the arrangements, which concerned feeder schools. No feeder schools were named in either of these oversubscription criteria. Oversubscription criterion 4 ("Baptised Catholic children attending non-Catholic primary schools in Trafford") and oversubscription criterion 5 ("Baptised Catholic children attending other Catholic primary schools") appeared not to comply with paragraph 1.9b) of the Code which requires that an admission authority must not take into account any previous school attended, unless it is a named feeder school. Neither did these oversubscription criteria comply with paragraph 1.15 of the Code which requires that feeder schools must be named.

16. Oversubscription criterion 5 appeared not to comply with paragraph 1.15 of the Code in a further respect because this paragraph also provides that all feeder schools must be selected on reasonable grounds. It appeared that this oversubscription criterion was intended to give priority to baptised Catholic children in every other Catholic primary school in the world.

Other Matters

17. In my jurisdiction and further information paper, which was sent to the parties on 2 August 2021, I drew the following other matters to the parties' attention and asked for comment.

- The arrangements said: "In line with our family ethos consideration will be given to children of staff at Blessed Thomas Holford Catholic College who have two years continuous service at the time of application and have been recruited to fill a post for which there is a national shortage of applicants". This text featured above the text listing the priority order, so it appears that applicants who fall within this definition have first priority. This is unlawful as paragraph 1.7 requires that highest priority must be given to looked after and previously looked after children. I asked the school why this was not listed as an oversubscription criterion, and where children of staff at the school were intended to fall within the order of priority.
- What appeared to be Oversubscription criteria 1 – 7 were not listed under the heading 'Oversubscription Criteria'. Therefore, my view was that the arrangements read confusingly and were insufficiently clear. The text headed as 'Oversubscription Criteria' did not actually list the oversubscription criteria. It appeared to describe the administration of those criteria without making clear what they were. Paragraphs 14 and 1.8 of the Code require that oversubscription criteria and the practices and procedures used to allocate places must be clear enough for parents to look at admission arrangements and understand the order of allocation.
- There was no definition of 'looked after' and 'previously looked after' children. This is unclear and does not comply with paragraph 14 of the Code.
- The arrangements were not clear about how children were ranked within and across the named and grouped feeder schools set out in oversubscription criterion 2. I could not understand the significance of a school being named in group 1 rather than group 2. I also could not understand what level of priority is given to the schools within each of the two groups; whether this is in the order listed or whether (say) all schools within Group 1 are given equal priority. This criterion as a whole appeared not to be sufficiently clear and therefore not to comply with either paragraph 1.8 or paragraph 14 of the Code.
- The second paragraph 2 says: "All applications will be considered at the same time and after the closing date for admissions". I asked about late applications.
- The reference to "the closest Primary School in Trafford in the Shrewsbury Diocese" in the second paragraph 3 of the arrangements is not sufficiently clear. I asked how easy it would be for a parent to ascertain which schools in Trafford would fall within the Shrewsbury Diocese, and whether it is obvious which of these schools would be the closest school. I asked whether it might be possible for the school to provide a list of schools within the arrangements for clarity. (Paragraphs 14 and 1.8 of the Code apply).
- The operation of the distance measurements set out in the second paragraph 3 appeared to be unworkable. The arrangements say that priority is determined first by attending the closest Primary School to Blessed Thomas Holford which is in Trafford in the Shrewsbury Diocese and second by proximity of home address to the school. The first method of determining priority could not have been applied to

most of the oversubscription criteria. Paragraph 14 of the Code requires that the procedure used for the allocation of places must be clear and reasonable (namely workable).

- The meaning of “brother or sister” in oversubscription criterion 4 was unclear. I was unsure as to whether the definition included step, foster and adopted brothers or sisters. This appeared not to comply with paragraph 14 of the Code or with paragraph 1.11 which requires in terms that “admission authorities **must** state clearly in their arrangements what they mean by ‘sibling’ (e.g. whether this includes step siblings, foster siblings, adopted siblings...”
- In the second paragraph 4 of the arrangements, I did not understand what was meant by the “catchment area” and how a parent would ascertain whether they live within it. The oversubscription criteria make no mention of a catchment area, which appeared not to comply with paragraph 1.14 of the Code. As mentioned above, this paragraph requires that catchment areas must be designed so that they are reasonable and clearly defined.
- The second paragraph 4 of the arrangements only appeared to provide for the situation in which “child-care arrangements are shared between two addresses in the catchment area”. It was unclear what would happen (for example) if a child spends part of the week with each parent, or where one parent lives within the catchment area and the other outside the catchment area, or where both parents live outside of the catchment area. This appeared not to comply with paragraph 14 of the Code.
- The method of establishing the home address of a child whose parents are separated arrives at an address which is not either of the addresses at which the child is actually living at any time. This appeared to be unreasonable and possibly unfair to these children, as other children are treated as living where they actually live, and therefore in breach of the requirement in paragraph 14 of the Code that the practices and criteria used to decide the allocation of school places must be fair, clear and objective.
- The following provisions appeared to be missing from the admissions arrangements:
 - a. Arrangements for the admission of children outside of their normal age group (paragraph 2.17 of the Code).
 - b. Arrangements for children to be placed on waiting lists (paragraph 2.14 of the Code).
 - c. I was unclear as to whether there was a Supplementary Information Form or whether applicants are simply supposed to supply a copy of their baptism certificate.

Consideration of Case

18. Upon receipt of the jurisdiction and further information paper, the diocese sent me a copy of its general guidance to schools together with a copy of a document which it had sent to the school setting out how the arrangements could be revised in line with diocesan policy and the general guidance. This was circulated to the local authority for comment who

responded quickly making clear that, if the draft arrangements suggested by the diocese were proposed to be adopted by the school, the local authority would object to such radical policy changes. The concern was that the revised policy suggested by the diocese removed the long-standing priority accorded to baptised Catholic children attending Catholic primary schools in Trafford which were not included in the new list of named feeder schools. The authority was concerned that certain Catholic primary schools within the Salford Diocese have been recognised as long-standing feeder schools, even though they had not been named as such in the arrangements. This appeared to me to be a legitimate concern, and my view was that it would be unreasonable to make such a change to the arrangements for 2022 at this stage of the admissions process and without any consultation. Parents will be applying for places for now and the closing date is fast approaching.

19. In response to the local authority's concerns, the school sent a new revised set of proposed arrangements. An email was sent to the school by the OSA case manager on my behalf on 20 September 2021. This said that I was grateful to the school for its cooperation in this matter; normally, the adjudicator would never tell an admission authority how to re-write its admission arrangements as the role of the adjudicator is restricted to determining whether any set of admission arrangements complies with the School Admissions Code; however, there remained certain aspects of the proposed new arrangements which still appeared not to comply with the Code. The local authority agreed with my continued concerns; the diocese was unhappy about the arrangements naming schools as feeder schools which were not within the diocese of Shrewsbury; the referrer indicated that his/her only concern was that the feeder schools be named, and that he/she no longer wished to receive any notifications about further proposed revisions.

20. On 30 September 2021, the case manager again wrote by email to the school on my behalf asking whether the school might be amenable to revising the oversubscription criteria to adopt those suggested by the local authority. The email explained that I was anxious that the school settle upon the necessary revisions to the admission arrangements as soon as possible given that the deadline for submission of applications for a place at the school was fast approaching. The email also said that it is important that parents who are considering making an application to the school are clear about the school's admission arrangements; and that it is also important that, whilst the arrangements undoubtedly need to be revised, there is no immediate major change to their effect as parents will have had no warning of any such change. The local authority had suggested a list of oversubscription criteria which would cause minimal change and would be easy for parents to understand, provided that the method of prioritising under each oversubscription criterion is set out clearly. The email indicated that, if the local authority's suggested revisions were acceptable to the school, I would proceed to write a short determination which reflected the school's cooperation in this matter. The email also made clear that it would be necessary for me to write a determination because admission authorities are generally not able to revise their admission arrangements once they have been determined, but they must do so where an adjudicator requires this.

Summary of Findings

21. I find that a number of the provisions in the school's admission arrangements do not comply with the Code. I have set these out above, and do not propose to repeat the list here. The school has accepted my concerns and has cooperated with the local authority and the diocese to come up with a proposed set of revised arrangements. The diocese was not content initially with the proposed revisions; however, I agree with the local authority that, if there has been a long-standing priority for admission accorded to Catholic children attending specific Catholic primary schools within the diocese of Salford, it would be unreasonable simply to remove such a long-standing priority at this stage in the admissions process without any consultation with those who would be affected. On 21 October 2021 the school confirmed that the diocese had contacted them requesting a meeting to discuss the admission arrangements but were in agreement with the revisions to the arrangements for September 2022 which had been suggested by the local authority. Therefore the school was also in agreement with these suggested revisions. I am grateful to the referrer for bringing the school's arrangements to my attention. I am heartened by the school's commitment to determining a set of arrangements which will comply to the Code, and I am grateful to the local authority and the diocese for assisting the school to achieve this outcome.

Determination

22. I have considered the admission arrangements for September 2022 for Board of Blessed Thomas Holford Catholic College in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the referral made on 26 June 2021, the arrangements do not conform with the requirements of the School Admissions Code. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

23. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

24. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination or other date specified by the adjudicator. In this case I determine that the arrangements must be revised as soon as possible and by 31 October 2021 at the latest.

Dated: 22 October 2021

Signed:

Schools Adjudicator: Marisa Vallely