



Determination

Case reference: ADA3890

Objector: A parent

Admission authority: Avanti Schools Trust for Avanti House School, Harrow

Date of decision: 4 January 2022

Determination

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 2022 determined by Avanti Schools Trust for Avanti House School, Harrow.

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 parent (the objector), about the admission arrangements for September 2022 (the arrangements) for Avanti House School (the school), a free school with a Hindu religious character for children aged 11 to 18. The objection is to the faith-based oversubscription criterion.

2. The local authority (the LA) for the area in which the school is located is the London Borough of Harrow. The LA is a party to this objection. Other parties to the objection are Avanti Schools Trust (the trust), the objector and the ISKCON Foundation, previously known as the Hindu Education Authority, which is the school's religious authority.

Jurisdiction

3. The terms of the academy agreement between the multi-academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 14 May 2021. The objector has asked to have his identity kept

from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of his name and address to me. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and the parts of it that I am considering are within my jurisdiction.

4. At the time of the determination of the school's admissions arrangements and at the time the objection was made, the School Admissions Code 2014 (the 2014 Code) was in force. A revised School Admissions Code (the Code) came into force on 1 September 2021, which means that the 2014 Code no longer has any effect. I shall therefore use references to the new Code throughout this determination as it is that Code which is now in force. The arrangements for the school as set out in this determination were determined on 25 February 2021. At that date 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 me its varied arrangements. 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

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

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

- a. a copy of the minutes of the meeting of the trust at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 14 May 2021 and subsequent correspondence;
- d. the trust's response to the objection, including information about the allocation of places for admission in September 2021;
- e. information about the allocation of places published on the local authority's website; and

- f. a determination of the adjudicator in relation to the school dated 2 November 2021 (case reference: ADA3837).

I did not receive any response to the objection from the LA or the ISKCON Foundation.

Background

7. The school has a Published Admission Number (PAN) for admission to year 7 (Y7) in September 2022 of 180. The school is popular and was oversubscribed for admission in September 2021. After the allocation of six places to children with Education, Health and Care Plans naming the school, the remaining 174 places were allocated in accordance with the oversubscription criteria as summarised in Table One below.

Table One: Allocation of places for admission in September 2021

Oversubscription criterion	Places allocated
1. Looked after children and previously looked after children	0
2. Children with a sibling attending the school	56
3. Children who attend Avanti House Primary School or Krishna Avanti Primary School	80
4. Children of staff	1
5. Up to 10 places for Hindu children with a practising Hindu parent who worships at the ISKCON Bhaktivedanta Manor temple	9
6. Other children	28
TOTAL	174

Places under the final criterion are prioritised on the basis of distance from the pupil's home to the school. According to information on the local authority's website, the pupil allocated the final place under this criterion lived 0.387 miles from the school.

The Objection

8. The objector believes that insufficient places are allocated on the basis of faith. He says that there is "a shortage of the Hindu faith based school places" and a demand for such places from "local Hindu parents." The number of places, he says, should be increased from 10 to "at least 25."

9. The objector also argues that the arrangements should give priority to children of parents practising "other forms of Hinduism...apart from ISKCON faith." He gives some examples of forms of Hinduism that he believes should be included under such an oversubscription criterion, suggesting that "at least 40 places" (in addition to the 25 mentioned above) should be allocated in this way.

10. The objector does not cite which part or parts of the Code he believes may be breached by the arrangements. I propose, therefore, to consider whether the arrangements comply with the following requirements of the Code:

- “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. They must also 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)
- “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.” (Paragraph 1.8)
- “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.” (Paragraph 14).

Consideration of Case

11. In full, the fifth oversubscription criterion reads as follows:

“5 Up to 10 places to Hindu children with a practising Hindu parent who worships at the ISKCON Bhaktivedanta Manor temple (located at Hilfield lane, Aldenham, Near Watford, Hertfordshire, WD25 8EZ) in the following order of priority:

5.1 Hindu children with a practising Hindu parent who has taken initiation (diksha) and attends Sanga;

5.2 Hindu children with a practising Hindu parent who attends Sanga.”

A ‘practising Hindu parent’ is defined as one who has worshipped ‘at a Hindu temple at least monthly for at least one year at the closing date for applications.’ Diksha and Sanga (“regular congregational spiritual development meetings usually held at least once every month”) are also defined.

12. In response to my enquiring, the trust told me that its religious authority provided the following statement with regard to this faith-based oversubscription criterion, which was included for the first time for admission in September 2021:

“The insertion of the faith criteria at Avanti House Secondary school will be supportive to the Hindu faith community. Given that there are already faith places at an Avanti feeder school, we feel that 10 faith places will be sufficient initially. This can be reviewed in September 2021.”

13. It is clear from this statement that the trust consulted its religious authority about this oversubscription criterion and that the religious authority was supportive of 10 places being allocated on the basis of faith. I am satisfied that the requirements of paragraph 1.38 of the Code have been met as it is self-evident that the faith body was both consulted and that the school had regard to its guidance on the matter concerned.

14. The ISKCON Bhaktivedanta Manor temple, at which parents must worship, is located about six miles from the site of the school. Only nine places were allocated under this criterion for admission in September 2021. This evidence, albeit limited, suggests to me that there is not a strong argument for increasing the number of places available for children who worship at this temple, and certainly not to 25 places, as the objector appears to suggest in the first part of the objection.

15. The second part of the objection relates to parents who practise forms of Hinduism “apart from ISKCON faith.” There is no priority in the arrangements for children of such parents and the objector believes there should be. I have considered whether such a state of affairs breaches paragraph 1.8 of the Code, which stipulates that oversubscription criteria must comply with equalities legislation and arrangements must not disadvantage unfairly a child from a particular social or racial group.

16. The Equality Act 2010 prohibits discrimination on the grounds of religion or belief, but there is a limited exception for schools designated as having a religious character. The admission authorities for such schools can make decisions about admissions on the basis of religion or belief. The school is designated as having a Hindu religious character and its religious body is the ISKCON Foundation. ISKCON is a branch of Hinduism. The trust, with the support of its religious authority, has decided that children of parents who worship at a particular ISKCON temple, should have priority under its faith-based oversubscription criterion. The trust says,

“The admission authority and the school has adopted a faith-based oversubscription criterion because the faith-based oversubscription criteria reflects the relationship with the Avanti Schools Trust faith partner and religious authority, ISKCON Foundation.”

17. The trust is entitled to include such a criterion in its arrangements for the school under the limited exception in the Equality Act. Admissions law requires the arrangements give first priority to all looked after children and previously looked after children (including those previously in state care abroad) of the Hindu faith. In fact, all looked after and previously looked after children are accorded the first priority, irrespective of faith, so this requirement is satisfied.

18. I accept that it is the case that families that practise other forms of Hinduism appear to be disadvantaged by the arrangements, in comparison to those who attend the ISKCON Bhaktivedanta Manor temple, as they have no priority for places on the basis of religion. However, the religious body, in its statement above, makes reference to the fact that one of the two feeder schools (Krishna Avanti Primary School), which is also part of the trust, gives priority for places to Hindu children of practising Hindu parents, with no requirement to attend a particular temple.

19. The arrangements for Krishna Avanti Primary School provide for up to 15 places to be allocated to children whose parents attend the ISKCON Bhaktivedanta Manor temple and, at a lower priority, up to 30 places for other Hindu children of practising Hindu parents. This will mean that there could be up to 30 children whose families practise other forms of Hinduism who obtain places at the school through the feeder school criterion, and possibly more if siblings are included. As the trust says,

“The faith-based oversubscription criterion is placed at position 5 in line with all other Avanti Schools. The position of it comes after siblings, and feeder school places since this allows families with multiple children to all attend the school and families that have been with Avanti from a young age to join the Secondary school.”

20. Actually, I am far from certain that families that practise other forms of Hinduism could be said to comprise a “social group” within the meaning of paragraph 1.8 of the Code. Even if they do, I do not consider that they have been disadvantaged unfairly. It is a concern to me that the ISKCON Bhaktivedanta Manor temple is located a considerable distance from the school. This may disadvantage families without the means to travel to this temple (or conversely if they live near and worship at the temple without the means to travel to the school) but, given the small number of places allocated under the faith-based criterion, I do not regard such disadvantage as unfair.

21. Finally, I should comment on whether the faith-based criteria are clear, a requirement of both paragraphs 1.8 and 14 of the Code. There are two matters that concern me a little. First, a ‘practising Hindu parent’ is defined in the footnote to the fifth oversubscription criterion as one who has attended ‘a Hindu temple’ (my emphasis) for a specified period and frequency. In fact, it is only parents who have attended the ISKCON Bhaktivedanta Manor temple whose children have priority under this criterion. While it could be argued that this is clear from the context, it would be better if the footnote were to match the criterion. Second, it is not made explicit what frequency and period of attendance at Sanga is required. Again, the context would suggest monthly attendance over at least a year is necessary, but this should be made crystal clear.

22. I note that the trust is consulting on a proposal to increase the number of faith-based places in the arrangements to 30.

Summary of Findings

23. The school is designated with a religious character. Its trust gives priority to children of parents who attend a particular temple that practises a form of Hinduism overseen by its religious authority. The religious authority has endorsed this approach and agrees that the number of faith-based places is appropriate. The trust is under no obligation, either under the requirements relating to admissions or equalities legislation, to give priority for places to children of parents who practise other forms of Hinduism and it is not unfair that it does not do so. I do not uphold the objection.

Determination

24. 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 2022 determined by Avanti Schools Trust for Avanti House School, Harrow.

Dated: 4 January 2022

Signed:

Schools Adjudicator: Peter Goringe