



## Determination

<b>Case reference:</b>	<b>ADA4114</b>
<b>Objector:</b>	<b>An individual</b>
<b>Admission authority:</b>	<b>The Sacred Heart High School Academy Trust for Sacred Heart High School, London Borough of Hammersmith and Fulham</b>
<b>Date of decision:</b>	<b>16 August 2023</b>

## 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 2024 determined by the governing board of the Sacred Heart High School Academy Trust for the Sacred Heart High School in the London Borough of Hammersmith and Fulham.**

## 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) about the admission arrangements (the arrangements) for September 2024 for Sacred Heart High School (the school), an academy school for girls aged 11 to 18. The school is designated as having a Roman Catholic (Catholic) religious character. The objection is to the omission of Catholic schools in the London Borough of Westminster (Westminster) from the school's list of feeder schools. It is said that this omission is unreasonable given that many of the Catholic schools in Westminster are situated nearer to the school than many of the named feeder schools.
2. The local authority for the area in which the school is located is the London Borough of Hammersmith and Fulham (the local authority). The local authority is a party to this objection, as is Westminster. Other parties to the objection are the objector, the governing

board for the school (the school) and the Roman Catholic Diocese of Westminster (the faith body).

## Jurisdiction

3. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing board, which is the admission authority for the school, on that basis. The objector submitted their objection to these determined arrangements on 17 March 2023. 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.

4. I note that the way in which the school uses feeder schools within its oversubscription criteria has been considered by adjudicators previously (ADA 2778, relating to the school's arrangements for 2015, and dated 23 February 2015, and ADA 3504 and ADA 3654, relating to the school's arrangements for 2020, and dated 16 September 2019). As more than two years have elapsed since the date of each of these determinations, they do not create a procedural bar to me considering the matter raised.

5. It is perhaps worth stating at the outset that the determinations of the previous adjudicators do not bind me. I will be considering a different set of admission arrangements – those for September 2024 – and will be considering the current circumstances, which may be different from those that applied in 2015 and 2020.

## Procedure

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

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

- a. the objector's form of objection dated 17 March 2023;
- b. a copy of the minutes of the meeting of the governing board on 29 March 2023 at which the arrangements were determined;
- c. a copy of the determined arrangements;
- d. the comments of and/or information provided by the school, the local authority, the faith body and Westminster, along with supporting documents;
- e. maps of the area identifying relevant schools;
- f. a copy of the guidance on admissions provided to the school by the faith body;
- g. information taken from the websites of the school, the local authority, Westminster, Ofsted and the Department for Education (including 'Get Information About Schools');

- h. the cases *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* (1948) 1 KB 223 and *R (on the application of London Oratory School Governors) v the Schools Adjudicator* [2015] EWHC 1012 (Admin); and
- i. previous determinations made in relation to the school: ADA 2778 (dated 23 February 2015); and ADA 3504 and ADA 3564 (dated 16 September 2019).

## The Objection

8. The objection is to the omission of Catholic schools in Westminster from the school's list of feeder schools set out in the arrangements. The objector has asserted that the omission is unreasonable given that many of the Catholic schools in Westminster are situated nearer to the school than many of the named feeder schools. The objector has explained that the result of the omission of Catholic schools in Westminster from the list of feeder schools is that there are Catholic girls who live close to the school and may also attend a Catholic primary or junior school close to the school, who are afforded a lower priority in the oversubscription criteria than Catholic girls that live much further away from the school but attend one of the named feeder schools.

9. The objector did not explicitly state which aspects of the law or the Code they considered were breached by the arrangements. However, they specifically referenced reasonableness. It appeared to me that the following aspects of the Code may be relevant and so my consideration of the objection has focused on these two areas:

- a. Paragraph 1.15 of the Code permits admission authorities to name primary or middle schools as feeder schools but requires that "the selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds" (my emphasis); and
- b. Paragraph 1.38 of the Code provides that admission authorities 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" (my emphasis).

## Background

10. The school is a Catholic, non-selective academy school for girls aged 11 to 18, situated in Hammersmith, London. It was founded by the Society of the Sacred Heart in 1893, and the arrangements state that it seeks to "promote the education of women and academic excellence". The school became an academy on 1 March 2012. It was last inspected by Ofsted in October 2017 and was found to be Outstanding in all categories.

11. The school has a PAN of 198 for Year 7 (Y7) and is oversubscribed.

12. The school operates a banding system whereby all applicants take an ability test and are then allocated to one of three ability bands, with 49 places allocated to the girls who come in the above average ability range, 100 places allocated to the girls who come in the

average ability range and 49 places allocated to the girls who come in the below average ability range. Within each ability band, the school employs oversubscription criteria.

13. The oversubscription criteria can be summarised as follows:

1. Catholic looked after and previously looked after girls;
2. Catholic girls with a Certificate of Catholic Practice:
  - a. Those with an exceptional medical or social need;
  - b. Those with a sister currently or previously on roll at the school;
  - c. Those with a parent/carer who has been a member of staff for at least two years;
  - d. Those who attend a feeder school;
  - e. Others;
3. Catholic girls without a Certificate of Catholic Practice:
  - a. Those with an exceptional medical or social need;
  - b. Those with a sister currently or previously on roll at the school;
  - c. Others;
4. Other looked after and previously looked after girls;
5. Members of the Catechumenate of a Catholic Church and Members of Eastern Christian Churches;
6. Other girls.

14. If there are more applicants in any oversubscription criterion group than places available, the school allocates places on the basis of random allocation within each ability band. That random allocation is carried out by an organisation independent of the school.

15. The list of feeder schools used in relation to oversubscription criterion 2.d. is set out at Appendix A to the arrangements. The list comprises all of the state funded Catholic primary and junior schools in the London Boroughs of Brent, Hammersmith and Fulham, Kensington and Chelsea, Wandsworth, Ealing, Hounslow and Richmond upon Thames – 53 schools in total.

16. Although the school has made some changes to its arrangements for 2024 as compared to the previous year's arrangements, oversubscription criterion 2.d. and the associated Appendix A (the feeder school oversubscription criterion) has remained unchanged since the admission arrangements for 2017.

17. The arrangements include a supplementary information form which includes the question “Does the candidate attend a Catholic Primary School ‘Feeder School’ listed in Appendix A – please see Admissions Policy. If yes, please name the feeder school”.

## Consideration of Case

### Has the selection of feeder schools been made on reasonable grounds?

18. The relevant paragraph of the Code (paragraph 1.15) requires that the school’s selection of feeder schools as an oversubscription criterion be transparent and that it is made on reasonable grounds. There is no question that the selection of feeder schools in this case is transparent. Attendance at a feeder school is oversubscription criterion 2.d. and the list of feeder schools set out at Appendix A to the arrangements details every feeder school, providing its full name, postcode and the London borough within which it is situated. The issue for me to consider is whether the selection of the feeders schools listed at Appendix A to the arrangements has been made on reasonable grounds.

Information provided by the school

19. I asked the school for the rationale for their selection of feeder schools, including the reason for the omission of any of the Catholic primary or junior schools in Westminster. The school has provided me with a detailed response which included the following statements:

“We are an oversubscribed Catholic school that gives precedence to Catholic applicants, but we do not have the capacity to take all the Catholic applicants and must therefore set a process to prioritise section within this group. It is not a process that the school relishes at all, and someone somewhere will always feel that it is unfair. The issue at hand is whether the policy is reasonable. The objector notes that our named feeder schools are all the Catholic primary schools in our own borough (Hammersmith and Fulham) and its adjoining boroughs, which are Brent, Kensington & Chelsea, Wandsworth, Ealing, Hounslow and Richmond.”

“It is fair to say that the issue of distance and delineation of feeder schools in our current admissions policy was considered extremely carefully by governors at the time that our feeder schools were selected and random allocation was introduced. The possible impact on an individual as cited in the objector’s example, was fully recognised. The policy was seen to be the most reasonable and defensible, given the aims and values of the school. No one was under any illusion that it was fair for everyone. A line needed to be drawn somewhere and it was drawn in the most objective and unambiguous way possible.”

20. The school has described how its approach to feeder schools has developed in response to concerns raised and determinations of adjudicators in recent years. In summary, its description of the development is as follows:

- a. For approximately 18 years up to 2016, the list of feeder schools included all Catholic primary schools in the Catholic Dioceses of both Westminster and Southwark. This amounted to hundreds of schools.
- b. Following a determination that this was too many feeder schools (ADA 2778, dated 23 February 2015), for its admission arrangements for the following year, 2016, the school reduced its list of feeder schools to 11 named schools from the London boroughs of Ealing, Kensington and Chelsea, Wandsworth, Hammersmith and Fulham and Hounslow.
- c. Following that move in response to a determination of an adjudicator, the school consulted on this new, reduced list of feeder schools. Taking into account feedback received during the consultation, for its admission arrangements for 2017, the school decided to reduce the list of feeder schools as compared to the historic longer list, but to encompass a broader list of schools than that employed for the 2016 admission arrangements. The school decided to select a list of feeder schools that included all of the Catholic primary schools in its own local authority area of Hammersmith and Fulham, plus all of the London boroughs immediately adjoining that local authority area. The school noted that the list was smaller than the feeder school list employed prior to 2016, but it represented the London boroughs from which the school had historically drawn 76-95 per cent of its intake. The school believed this selection of feeder schools to be appropriate when considering its history of serving parishes across West London, the uniqueness of the school and the good accessibility of the school via local transport infrastructure.
- d. In 2019 an objection raised concerns about a number of aspects of the school's admission arrangements for 2020, including the selection of feeder schools. In response to the question of why Catholic schools in Westminster had been excluded from the list of feeder schools, the school told the relevant adjudicator that "Westminster was excluded at the recommendation of the Tri-borough who felt that there needed to be a simple and unambiguous approach of all Catholic schools in [the local authority area] and its adjoining boroughs. The simplicity of [the local authority area] and surrounding boroughs was seen as an advantage [...]. If we included Westminster, then why not Lambeth and Southwark (Vauxhall for example is in Lambeth and easily accessible to the school)? [...] Westminster was only excluded as a result of the Tri-borough's preferred approach to creating a simple and easily understood approach to naming feeder schools".
- e. The relevant determination (ADA 3504 and ADA 3564) found that the selection of feeder schools was transparent and reasonable. The adjudicator on that occasion also found that it was not unreasonable to have a list of feeder schools that was so large that the receiving school would not be able to accommodate all of the potential applicants, and that it was not unreasonable to select only Catholic schools in the local authority and adjoining local authority areas in order to have a clear cut-off which could be easily understood by parents.

21. The school confirmed that its current list of feeder schools has not changed since the list introduced in 2017. I note from paragraph 81 of the determination ADA 3504 and ADA 3564 that this may not be strictly correct, in that the arrangements for 2017 employed a list of 56 feeder schools which included three infant schools but that those infant schools were correctly removed later on the basis that they would not be a school that could or would transfer pupils to the school at Year 7.

22. The school has confirmed that the current list of feeder schools does not include Catholic primary schools from any local authority area that does not adjoin the local authority. That is, Westminster is not alone but, rather, has been treated in the same way as all local authorities other than the local authority itself and those that directly adjoin it. The school has asserted that its aim has been to keep the selection of feeder schools objective, rather than subjective.

Information provided by the local authority

23. The local authority declined to provide any comment on the objection itself but did, at my request, provide relevant admissions data.

24. The local authority provided a list of each of the school's feeder schools and their distance (straight line, in miles) from the school. That data shows that, across all of the named feeder schools, the spread of distances from the school is between 0.25 miles (Larmenier and Sacred Heart Catholic Primary School, in the local authority area) and 8.68 (St Lawrence Catholic Primary School, in the London Borough of Hounslow):

<b>London Borough</b>	<b>Closest feeder school (straight line distance in miles)</b>	<b>Furthest feeder school (straight line distance in miles)</b>
Brent	St Mary's Catholic Primary School, NW6 5ST (3.09)	St Robert Southwell Catholic Primary School, NW9 8YD (6.39)
Ealing	St Vincent's Catholic Primary School, W3 9JR (2.52)	St Raphael's Catholic Primary School, UB5 6NL (8.26)
Hammersmith and Fulham (the local authority)	Larmenier and Sacred Heart Catholic Primary School, W6 8QE (0.25)	Holy Cross Catholic Primary School, SW6 4BL (1.61)
Hounslow	St Mary's Catholic Primary School, W4 2DF (1.52)	St Lawrence Catholic Primary School, TW13 4AF (8.68)
Kensington and Chelsea	St Francis of Assisi Catholic Primary School, W11 4BJ (1.32)	St Joseph's Catholic Primary School, SW3 2QT (2.64)
Richmond upon Thames	St Osmund's Catholic Primary School, SW13 9HQ (1.64)	St James's Catholic Primary School, TW2 5NP (6.58)
Wandsworth	Our Lady of Victories Catholic Primary School, SW15 1AW (2.07)	St Boniface Catholic Primary School, SW17 8PP (5.23)

25. Admissions data for the school for the past three years indicates that the school has been oversubscribed. In each of 2021, 2022 and 2023, the last of the 198 Year 7 places allocated has fallen within oversubscription criterion 2.d., with the vast majority of places in each year having been allocated from within that category:

<b>Oversubscription criterion</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
1. Catholic looked after and previously looked after girls	0	2	3
2.a. Catholic girls with a Certificate of Catholic Practice (CPP) and exceptional medical or social need	4	2	3
2.b. Catholic girls with a CPP and a sibling	39	41	45
2.c. Catholic girls with a CPP and a staff member as a parent	0	0	0
2.d. Catholic girls with a CPP and attending a feeder school	149	151	147
2.e. Catholic girls with a CPP	0	0	0
3.a. Catholic girls without a CPP and with an exceptional medical or social need	0	0	0
3.b. Catholic girls without a CPP and with a sibling	0	0	0
3.c. Catholic girls without a CPP	0	0	0
4. Other looked after and previously looked after girls	0	0	0
5. Members of the Catechumenate of a Catholic Church / Eastern Christian Church	0	0	0
6 Other girls	0	0	0
Girls with an Education, Health and Care Plan	6	2	0
<b>Total</b>	<b>198</b>	<b>198</b>	<b>198</b>

26. Of those admitted to the school under oversubscription criterion 2.d., the furthest home to school distance in each of the last three years was: 7.5 miles in 2021, 7.3 miles in 2022 and 9 miles in 2023. All three of these were applicants with a home address in the London Borough of Hounslow.

27. The London borough with the highest number of applicants admitted in each of the last three years was the London Borough of Hammersmith and Fulham, the local authority, with: 50 places in 2021, 44 places in 2022 and 52 places in 2023. Second place in each of the three years was the London Borough of Ealing, with: 23 places in 2021, 32 places in 2022 and 27 places in 2023. And third place in each of the three years was: the London Borough of Kensington and Chelsea with 22 places in 2021 and 23 places in 2022, and the London Borough of Brent with 16 places in 2023.

28. The local authority provided a list of all secondary schools within a seven-mile radius of the school that admit girls. That list indicated that there are 145 secondary schools that are girls-only or co-educational within a seven-mile radius of the school.

29. Within that seven-mile radius, there are 17 Catholic schools (in addition to the school) that admit girls, as follows:



<b>School</b>	<b>London borough</b>	<b>Co-educational or girls</b>
St Claudine's Catholic School for Girls	Brent	Girls
Maria Fidelis Catholic School	Camden	Co-educational
La Sainte Union Catholic Secondary School	Camden	Girls
The Cardinal Wiseman Catholic School	Ealing	Co-educational
Gumley House Roman Catholic Convent School	Hounslow	Girls
St Mark's Catholic School	Hounslow	Co-educational
Saint Thomas More Language College	Kensington and Chelsea	Co-educational
The Holy Cross School	Kingston upon Thames	Girls
La Retraite Roman Catholic Girls' School	Lambeth	Girls
Bishop Thomas Grant Catholic Secondary School	Lambeth	Co-educational
Ursuline High School Wimbledon	Merton	Girls
St Richard Reynolds Catholic High School	Richmond upon Thames	Co-educational
Sacred Heart Catholic School	Southwark	Co-educational
St Michael's Catholic College	Southwark	Co-educational
Notre Dame Roman Catholic Girls' School	Southwark	Girls
Saint John Bosco College	Wandsworth	Co-educational
St George's Catholic School	Westminster	Co-educational

30. Within the local authority area, the other secondary schools that admit girls are as follows:

<b>School</b>	<b>Religious designation (if any)</b>	<b>Co-educational or girls</b>	<b>Distance from the school (straight line, miles)</b>	<b>Year 7 PAN</b>	<b>Admitted less than PAN in all of the last three years?</b>
Ark Burlington Danes Academy	No	Co-educational	1.57	180	Yes
Fulham Cross Academy	No	Co-educational	1.15	120	Yes
Fulham Cross Girls' School	No	Girls	0.933	135	Yes
Hammersmith Academy	No	Co-educational	0.78	140	Yes
Hurlingham Academy	No	Co-educational	2.12	150	No
Lady Margaret School	Yes – Church of England	Girls	1.7	120	Yes
Phoenix Academy	No	Co-educational	1.49	150	Yes
West London Free School	No	Co-educational	0.63	130	Yes

31. This data shows that, within the local authority area in the past three years, there are seven secondary schools that admit girls that have had places available. All eight of them are located are within two miles of the school.

32. I asked the local authority to comment on the availability of secondary school places in the local authority area, including with reference to those with a designated Catholic religious character. The local authority stated:

“There are two secondary schools of a Catholic character in [the local authority area] – Sacred Heart High School and London Oratory School. Both of these schools, though local to the borough residents, they are not ‘localised’ in their admissions policies, and this is reflected in the number of local children admitted to their schools. In the last 3 years, less than a third of admissions to Sacred Heart are to residents of [the local authority area] though the school is in the centre of the borough. The impact of this on the first preference satisfaction level for the borough is significant as the borough lags behind most London boroughs in this, year after year. Having said this, the borough has sufficiency of places to meet the needs of its residents, albeit not necessarily in the schools of many parents’ top preferences”.

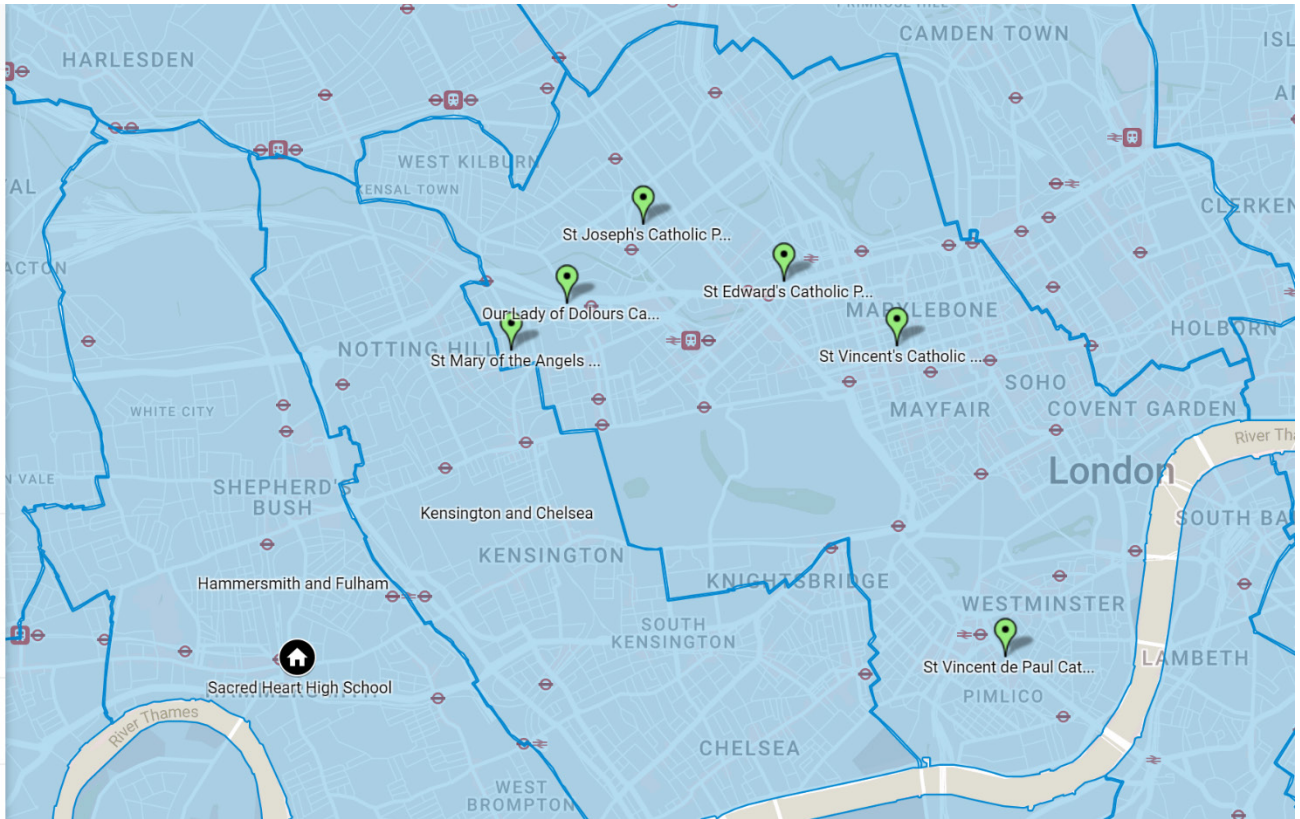
Information provided by Westminster

33. Westminster has provided a list of all of the Catholic primary and junior schools in that borough and their respective distances from the school:

<b>School</b>	<b>Distance from the school (straight line, miles)</b>
St Mary of the Angels Catholic Primary School	2.02
Our Lady of Dolours Catholic Primary School	2.36
St Joseph’s Catholic Primary School	2.96
St Edward’s Catholic Primary School	3.21
St Vincent’s Catholic Primary School	3.51
St Vincent de Paul Catholic Primary School	3.58

34. The table shows that the closest of the six primary schools is St Mary of the Angels Catholic Primary School at just over two miles from the school, and the furthest away is St Vincent de Paul Catholic Primary School at just over three and a half miles from the school.

35. Westminster has also provided a map showing all of those schools and their location in relation to the school:



36. The map shows that Westminster is bordered to its west by the London Borough of Kensington and Chelsea, and that the London Borough of Hammersmith and Fulham, the local authority, is located further to the west.

37. I asked Westminster where applicants attending a Catholic primary or junior school in Westminster, whose first preference was the school but were unable to obtain a place at the school, were allocated Year 7 places in the last three years. The data provided indicates that this circumstance applied to six applicants in 2021, seven applicants in 2022 and eight applicants in 2023 – so, although the numbers are small, there has been a slight upward trend in the last three years.

38. The relevant anonymised data indicates the following for the eight applicants in 2023:

<b>Year 6 School</b>	<b>Home address distance to the school (miles)</b>	<b>Offered school (religious character; co-educational or girls)</b>	<b>Home address distance to the offered school (miles)</b>
Our Lady of Dolours RC Primary School	2.63	All Saints Catholic College (Catholic; co-educational)	0.95
St Joseph's Catholic Primary School	3.06	La Sainte Union Catholic Secondary School (Catholic; girls)	2.56
St Vincent de Paul RC Primary School	3.49	Grey Coat Hospital CofE School (Church of England; girls)	0.37

<b>Year 6 School</b>	<b>Home address distance to the school (miles)</b>	<b>Offered school (religious character; co-educational or girls)</b>	<b>Home address distance to the offered school (miles)</b>
St Mary of the Angels Catholic Primary School	2.80	St Augustine's CofE High School (Church of England; co-educational)	0.41
St Mary of the Angels Catholic Primary School	2.41	St George's Catholic School (Catholic; co-educational)	0.75
St Vincent's Catholic Primary School	3.57	St Marylebone CofE School (Church of England; girls)	0.09
Our Lady of Dolours RC Primary School	2.46	All Saints Catholic College (Catholic; co-educational)	0.66
Our Lady of Dolours RC Primary School	2.29	All Saints Catholic College (Catholic; co-educational)	0.85

39. This data shows that five of the applicants were allocated a place at a Catholic school and the remaining three were allocated a place at a Church of England school. It also shows that three of the applicants were allocated a place at a girls school and the remaining five were allocated a place at a co-educational school. Only one of the applicants was allocated a place at a Catholic girls school – La Sainte Union Catholic Secondary School in the London Borough of Camden.

40. In terms of distances, the data indicates that:

- a. all eight of the applicants in question lived more than two miles away from the school;
- b. seven of the applicants in question were allocated a Year 7 place at a secondary school that is located within one mile of their home address (and is therefore closer to their home address than the school); and
- c. the one applicant from the group that was allocated a Year 7 place at a secondary school that is located more than one mile from their home address, was offered a Year 7 place at a girls Catholic secondary school that is closer to their home address (2.56 miles) than the school (3.06 miles).

41. Westminster has provided a list of all secondary schools in that borough, together with relevant admissions data for each:

School	Religious Character	Type	PAN	2023 Applications	Final Offer Distance (Miles)	2022 Applications	Final Offer Distance (Miles)	2021 Applications	Final Offer Distance (Miles)
The Grey Coat Hospital	Church of England	Girls	167	903	3.19 - other Christian Open – siblings only	889	3.57 -other Christian Open – 0.71	1087	1.32 – other Christian Open – 1.05
Harris Academy St John's Wood	None	Mixed	210	592	4.122	631	1.43	521	2.83
Marylebone Boys' School	Christian	Boys	150	281	All applicants offered	275	All applicants offered	347	All applicants offered
Paddington Academy	None	Mixed	180	670	0.63	777	0.58	841	0.52
Pimlico Academy	None	Mixed	210	475	2.09	498	1.97	627	1.64
St Augustine's CE High School	Church of England	Mixed	180	429	All applicants offered	461	1.99	490	2.98
St George's Catholic School	Roman Catholic	Mixed	180	570	0.83 - any other applicants	656	2.57 – other Christian	673	0.42 – other Christian
St Marylebone School	Church of England	Girls	168	848	7.91 – CofE 0.88 – Open	918	4.39 - CofE 0.89 – Open	928	4.21 – CofE 0.99 – Open
Westminster Academy	None	Mixed	210	622	3.58	712	1.21	722	1.64
Westminster City School	Christian	Boys	150	269	All applicants offered	284	All applicants offered	214	All applicants offered

42. This data indicates that there is only one Catholic secondary school in Westminster – St George’s Catholic School – which is a co-educational school. St George’s has a PAN of 180 and has been oversubscribed in the last three years, with the last place offered on National Offer Day being:

- a. In 2021, within the ‘Other Christian’ oversubscription criterion and with a cut-off distance of 0.42 miles;
- b. In 2022, within the ‘Other Christian’ oversubscription criterion and with a cut-off distance of 2.57 miles; and
- c. In 2023, within the ‘Any other applicant’ oversubscription criterion and with a cut-off distance of 0.83 miles.

43. The data also indicates that all of the other secondary schools are oversubscribed, apart from Marylebone Boys School (where all applicants were offered a place in each of the last three years), St Augustine’s CE High School (where all applicants were offered a place in 2023), and Westminster City School (where all applicants were offered a place in each of the last three years). I note, therefore, that the only undersubscribed school in Westminster that admits girls is St Augustine’s CE High School, and although this school was undersubscribed in 2023, it was actually oversubscribed in 2021 and 2022.

44. In terms of the availability of Catholic secondary schools in the Westminster local authority area, Westminster commented:

“There is a varied range of secondary schools in Westminster – mixed, boys, girls and religious schools. However, at the end of the transition process we will generally have girls unplaced with no local school options to allocate. This is not always because there isn’t a sufficiency of places for girls, as it is often the case the parent has not applied to schools that they would have been offered (non-religious). It would be good to have the same opportunity to be considered for Sacred Heart as a feeder school applicant as this would provide Catholic girl residents with a realistic option for a place at a Catholic girls only school. Westminster only have a mixed Catholic school in Westminster (St George’s).”

Information provided by the faith body

45. The faith body has confirmed that it has not provided any specific guidance to the school in relation to the selection of its feeder schools and that the general guidance that the faith body has provided to all of the schools within the Diocese would not preclude the inclusion of the Catholic primary and junior schools in Westminster in the list of feeder schools for the school.

46. In terms of the availability of Catholic secondary schools in the local authority area and in Westminster, the faith body commented:

“Across [the local authority area] and Westminster, there is access to a mix of provision at secondary transfer for those seeking a place in a Catholic School: [the school] (Girls), The London Oratory (Boys) and St George’s (Mixed).”

## Analysis

47. Whilst I am not bound by the determination of any previous adjudicator, it is worth me setting out what I understand previous adjudicators to have found in relation to the list of feeder schools employed by the school.

48. The adjudicator’s decision in determination ADA 2778 (23 February 2015) found that the list of feeder schools at that time – all of the Catholic primary and junior schools in the two Roman Catholic Dioceses of Westminster and Southwark – to be “extensive” and “a list of a type of schools” rather than a list of “normal feeder schools”. They considered that “normal feeder schools” would be schools that have “strong links with the secondary school, where most of the pupils are likely to transfer to the secondary school and where there are arrangements that will help the children to make a successful transition from one school to the next”. The adjudicator found that there was no evidence that the feeder schools selected had such links with the school, and that the school’s rationale for its selection instead related to ensuring a Catholic education for applicants. As such, the adjudicator did not consider that the feeder schools had been selected on reasonable grounds.

49. I note that there is no definition of a “feeder school” in any statute, nor in the Code. However, the Code does refer to the naming of a “primary or middle school” as a feeder school. I therefore consider that a reasonable inference can be drawn that a feeder school will be a school from an earlier phase of education and will be a “feeder” by reference to a school of a later phase of education. The implication must be that the “feeder” relationship relates to the transfer of pupils from the feeder to the ‘receiving’ school. Furthermore, because the reference to feeder schools in the Code falls within the broader sub-heading of ‘Oversubscription criteria’, it must also be reasonable to infer that feeder schools are a means of prioritising places at a school that is oversubscribed. Beyond this, I do not think that there is a requirement in law or in the Code that feeder schools must be of a particular character. For that reason, what might amount to reasonable grounds for the selection of a feeder school will be fact-specific, and may or may not meet the description set out in ADA 2778, which was specific to the particular facts and circumstances at that time.

50. The adjudicator’s decision in determination ADA 3504 and ADA 3564 found that the list of feeder schools at that time – all of the Catholic primary and junior schools in the local authority and the adjoining local authority areas (and the same list as in the arrangements for 2024), 53 in total – to be reasonable and to have been selected on reasonable grounds. In particular, they referenced the stated objective of the school to offer priority to all Catholic girls attending school in the local authority area and the adjoining local authority areas, which they found to be objectively reasonable in the context of the school.

51. I note that neither the objector, nor any of the other parties, has asserted that the factual circumstances or context within which the school is operating have changed materially in the four years since determination ADA 3504 and ADA 3564. I also note that

the updated admissions data that I have received, in relation to the school itself, and in relation to other schools in the local authority area and Westminster, do not present a picture which appears to be materially different. In broad terms, I understand the relevant factual context to be as follows:

- a. The school continues to be a popular, oversubscribed school;
- b. Part of the school's popularity appears to be related to the fact that the school is one of only a small number of a Catholic, girls-only schools in west London;
- c. The school's stated mission remains to promote the education of women and academic excellence;
- d. The school's current approach to its selection of feeder schools – that is, including all Catholic primary and junior schools in the local authority area and immediately adjoining local authority areas – has been in place since its arrangements for 2017. The precise list of feeder schools was changed between 2017 and 2020 in order to remove three (infant) schools that appear to have been included on the list in error;
- e. The current list of feeder schools has remained unchanged since at least the arrangements for 2020; and
- f. The school has stated that its rationale for its selection of feeder schools remains the same as it stated in its response to the adjudicator considering the objections in ADA 3504 and ADA 3564 – in summary, that it is attempting to strike a balance between including too many and too few feeder schools in the list (whilst aiming to serve a wide area of west London) and that it has prioritised simplicity and clarity for parents and applicants.

52. The legal test for reasonableness is the one set out in the case of *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* (1948) 1 KB 223 and it is that standard that I am applying in this case. Applied to this context, the test is whether the school's selection of feeder schools is so unreasonable that no reasonable admission authority could have made that selection.

53. I find that the school's selection has been made on reasonable grounds for the following reasons:

- a. The school has explained its rationale for selecting this list of feeder schools. Acknowledging a challenging contextual circumstance - the heavy oversubscription of the school, its relatively unique offering given the scarcity of Catholic girls schools in west London, and its desire to maintain an intake that is diverse and inclusive both in terms of socio-economic and cultural factors, and also in terms of ability – the school considers that the current selection of feeder schools strikes a reasonable balance between providing access to Catholic girls across the London boroughs from whom the school has historically drawn most of



its pupils, not “drawing the line” too wide such that it could be vulnerable to similar criticism as that levelled at the school in ADA2778 and the importance of simplicity and clarity for parents and applicants. That position is rational, in that it makes logical sense given the factual context.

- b. There is nothing obviously unlawful or impermissible about the list of feeder schools chosen, in that the Code places no upper limit on the number of feeder schools that may be included, nor does it place any other restriction on the type, character or relationship that the school must have with the named feeder schools.
- c. I have considered whether the school has taken into account all of the relevant factors that it ought have taken into account and given them appropriate weight. Having carefully examined the evidence before me, I am satisfied that the school has acted properly in this regard. It is clear that the school has taken into account its legal obligations (particularly in terms of compliance with the Code and with earlier determinations of adjudicators), it has sought the views of relevant interested parties (including the faith body and parents), has placed appropriate weight on the importance of constructing a list of feeder schools that is clear and easy for parents to understand, and has looked for ways to ensure that the feeder list does not unfairly limit access to the school on the basis of socio-economic wealth (for example, by a bias towards more affluent geographical areas).
- d. I am satisfied that the school is aware of the issue raised by the objector – the disadvantage in priority faced by Catholic girls attending primary and junior schools in Westminster as compared to Catholic girls attending a named feeder school – and has appropriately considered it. I note that the school acknowledges that there will always be some applicants that have lower priority in any oversubscription criteria, that it has been a difficult process to decide where to “draw the line”, but that in this case the school has prioritised clarity and simplicity. I consider that to be a reasonable position to take in the circumstances.
- e. I am satisfied that the school has not overlooked any relevant data that would point to an unreasonable effect caused by the list of feeder schools. I have looked at the admissions data for the local authority area and for Westminster. What that data shows is that for the Catholic girls that attend a primary or junior school in Westminster whose first preference is a Year 7 place at the school but who have been unsuccessful in obtaining a place at the school, suitable alternative secondary school places are available. Westminster has confirmed that, whilst demand for Catholic girls secondary school places outstrips supply in that there is no Catholic girls secondary school in Westminster, the borough offers a varied range of secondary schools, including schools with a religious character. Furthermore, I note that for 2023 entry – the most recent application round - all girls in that position were able to obtain a place at a secondary school that is within an acceptable travelling distance from their home address (indeed, the majority were within one mile). I accept that not all of the girls in that position

were able to obtain a place at a Catholic girls school, but note that there is no entitlement under the law or the Code to a place at a school of a particular type or religious designation. Furthermore, the data indicates that Catholic girls living in Westminster have a high chance of obtaining a place at a Catholic secondary school, albeit a co-educational one, in that St George's Catholic School, which is located in Westminster, has made its last offers in the last three years within the oversubscription criteria that come after those criteria prioritising Catholic applicants. I also note that for girls that attend a Westminster Catholic primary school but live close to the school, the secondary school options available within the local authority area are likely to be within an acceptable travelling distance of their home. The data provided by the local authority shows that there is a good supply of secondary school places available for girls across the local authority area.

- f. I note that the school has not placed any importance upon whether it has strong links with the named feeder schools or whether it offers enhanced transitional arrangements for Year 7 pupils transferring from feeder schools. I consider this to be appropriate in the circumstances of a school that is seeking to offer a relatively unique schooling option to Catholic girls living across a relatively wide geographical area. In that context, whether there are strong ties between the school and the named feeder schools is irrelevant.
- g. Having carefully reviewed the response from the school and the other information available to me, I am satisfied that the school has not taken into account any irrelevant factors when selecting its list of feeder schools.

54. Taking each of these matters into account, I am satisfied that the school's selection of feeder schools falls within the range of selections that a reasonable admission authority could reasonably make given the factual circumstances. Therefore, I do not uphold this part of the objection.

**In constructing the list of feeder schools, has the school had regard to guidance from the faith body?**

55. The relevant paragraph of the Code (paragraph 1.38) provides that admission authorities 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". Oversubscription criterion 2.d. of the arrangements for the school for 2024 sits within the broader oversubscription criterion of 'Catholic girls with a Certificate of Catholic Practice'. Therefore, it forms part of the faith-based admission arrangements employed by the school. This means that the school must have regard to any relevant guidance from the faith body when making its selection of feeder schools.

Information provided by the school

56. The school has stated that the faith-based elements of the arrangements for 2024 are “to all intents and purposes” the same as they were in 2019. Furthermore, the feeder school oversubscription criterion and the selection of feeder schools, has not changed since 2017. The school has explained that, at the relevant times, “we had regard to the September 2018 Diocesan Admissions Guidance” and “continue to abide by the Diocesan Admissions Guidance”, which was updated in 2021.

57. The school has drawn my attention to a relevant paragraph from the 2018 faith body guidance document which stated “The selection of feeder schools must be made on reasonable grounds. To ensure this the governing body must consult the diocese, which will be able to advise the school about how the selection of the feeder schools fits with the admission arrangements of other Catholic schools in the area. In this way, the governing body should be able to demonstrate that the selection is reasonable and avoid inadvertent disadvantage of Catholic children not attending the feeder schools”. The school has stated that it did consult with the faith body when drawing up the current list of feeder schools for the 2017 admission arrangements and that “they raised no concerns regarding the identification of these feeder schools”.

Information provided by the faith body

58. The faith body has confirmed that the relevant current guidance document, for Catholic schools in the Roman Catholic Diocese of Westminster, is the ‘Diocesan Guidance on Admissions to Schools’, dated September 2021. It has provided me with a copy and there is a section about feeder schools at page 15 which reads as follows

“Attendance at one or more Catholic feeder primary schools is a legitimate criterion. However, in areas where the demand for Catholic primary education exceeds the supply of places, care must be taken not to disadvantage Catholic children who have not been able to obtain a place in a Catholic primary school.”

59. The selection of feeder schools must be made on reasonable grounds. To ensure this the governing body must consult the diocese, which will be able to advise the school about how the selection of the feeder schools fit with the admission arrangements of other Catholic schools in the area. In this way, the governing body should be able to demonstrate that the selection is reasonable and avoid inadvertent disadvantage of Catholic children not attending the feeder schools”.

60. I note that the second paragraph is identical to the equivalent paragraph in the earlier, 2018, version of the faith body’s guidance. That is, the guidance in relation to the selection of feeder schools has continued to be that the relevant governing body must consult the faith body.

61. The faith body has confirmed that no “direct guidance or advice” was sought by the school from the person who holds the Governance, Policy and Admissions Support role for the faith body since they started in that role in October 2021.

62. I note from determination ADA 3504 and ADA 3564 that the school did seek the prior approval of the faith body to changes to its arrangements for 2020 (primarily the change from using distance as a tie-breaker within oversubscription criteria, to the use of random allocation instead) and that the faith body responded. Included in that response was the statement: “The diocese will alert schools if it is believed that the admission arrangements are not compliant with law and Government guidance. This does not extend to a consideration of whether or not lawful procedures are most appropriate in the given context. It is the governing body that best knows the area and opportunities for local children, based on the school’s history and the changing population [...] The number of feeder schools is not unlawful and it is up to the school to persuade the adjudicator that the list is reasonable”. That response gives the impression that unless the faith body informs a school that it has a concern that its arrangements are non-compliant with the law or government guidance, it is content to leave the remaining judgments about how to construct the arrangements to the school because they will be best placed to understand the school’s particular context. The response further confirms the faith body’s view that the list of feeder schools contained within the school’s arrangements for 2020 – which are identical to the list of feeder schools contained within the school’s arrangements for 2024 – were lawful. Although the faith body did not offer a view on whether or not the list was reasonable, neither did it flag any concern or objection.

#### Analysis

63. My focus is on whether, in relation to its selection of feeder schools, the school has complied with the Code requirement to have regard to any guidance provided by its faith body. The faith body has confirmed that no “direct or specific” guidance was sought or provided in relation to the arrangements for 2024, but that the faith body’s guidance document on admissions for all Catholic schools within the Diocese (that dated September 2021) applies to the school and those arrangements.

64. Having carefully examined the relevant guidance document, I am satisfied that the relevant guidance offered in relation to the selection of feeder schools is an expectation that the school consult the faith body when selecting feeder schools in order to ensure that the admission arrangements of other Catholic schools in the area are taken into account.

65. The school’s assertion that it consulted the faith body when it originally selected the current list of feeder schools (in 2017), and that the faith body did not raise any concerns, has not been challenged by the faith body, and I accept it. I also note that the list of feeder schools has remained unchanged since that time, and my interpretation of the faith body’s guidance is that, as a result, there has been no expectation that the school seeks the faith body’s guidance on that matter again. This is because it has not made a fresh selection of feeder schools but has maintained the same list that the faith body had no concerns about.

66. If I am wrong about that, and there is an expectation that the school must consult the faith body for each year that it employs a feeder school oversubscription criterion, then there are two pieces of information that I must weigh up. First, the faith body’s comment that no “direct guidance or advice” had been sought by the school in relation to the school’s

arrangements for 2024. Second, the school's explanation that a consultation on the school's arrangements for 2024 was held between 9 December 2022 and 27 January 2023 and that "no objections were received". On balance, I consider that as a formal consultation process has been held on the school's arrangements for 2024 (including its list of feeder schools), the faith body has had an opportunity to provide feedback and chosen not to provide any. I also note that, when invited to comment on the objection now raised with me about the list of feeder schools, the faith body has provided no comments other than to confirm that its guidance would not preclude the inclusion of the Catholic primary and junior schools in Westminster in the school's list of feeder schools, and to list the three Catholic secondary schools in Westminster. This would appear to suggest that, had the school sought "direct guidance or advice" from the faith body on its list of feeder schools for 2024, rather than simply opening itself up to receiving feedback from the faith body as part of its formal consultation on its arrangements for 2024, it would not in any case have received any comments from the faith body. Such an argument is strengthened by reference to the faith body's feedback provided to the school on its arrangements for 2020, which included an identical list of feeder schools to that for the arrangements for 2024, when it provided no comment on the reasonableness of the selection of feeder schools except to say that the number then employed – 53 – was not unlawful.

67. Taking all of the evidence into account, I am satisfied the school had regard to the faith body's guidance that it should consult the faith body when selecting its list of feeder schools, in that it held a formal consultation on its arrangements for 2017, when the current list of feeder schools was first selected, and held another formal consultation in relation to its arrangements for 2024. The faith body was consulted on both of those occasions in the sense that it was open to the faith body to respond to the school's formal consultation, although I note that the faith body did not raise any concerns on either occasion.

68. In coming to this conclusion, I have had regard to the test set out by Cobb J at paragraph 58 of his judgment in the case *R (on the application of London Oratory School Governors) v the Schools Adjudicator* [2015] EWHC 1012 (Admin) for what it means for an admission authority to have regard to the guidance of the relevant faith body when constructing faith-based admission arrangements – that is, "it needs to demonstrate that it has considered and engaged with the Guidance, not ignored it, or merely paid lip-service to it [...] The Governing Body must further have a proper evidential basis for its decision to depart from the Diocesan Guidance". From the evidence before me, I am satisfied that the school has noted the guidance from the faith body and has not ignored it or paid lip-service to it. Rather, the school has engaged with the expectation that the faith body will be consulted on its selection of feeder schools by holding formal consultations, seeking specific feedback from the faith body in relation to the 2017 arrangements and being open to receiving feedback from the faith body in relation to the 2024 arrangements. There is no evidence that the school has departed from or sought to depart from the guidance of the faith body and therefore it has not been necessary for me to consider whether there were adequate reasons and evidence to support the reasons for any departure from the guidance.

69. For the reasons set out above, I do not uphold this part of the objection.

## Determination

70. 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 2024 determined by the governing board of the Sacred Heart High School Academy Trust for the Sacred Heart High School in the London Borough of Hammersmith and Fulham.

Dated: 16 August 2023

Signed:

Schools Adjudicator: Jane Kilgannon