



Office of
the Schools
Adjudicator

Determination

Case reference: REF4219 - REF4220

Referrers: Two members of the public and one parent

Admission authority: The academy trust for St Mark's Church of England Primary School, Bournemouth

Date of decision: 2 November 2023

Determination

I have considered the admission arrangements for September 2024 for St Mark's Church of England Primary School, Bournemouth in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the requirement for admission arrangements to be published online by 15 March in the determination year was not complied with. I find that in relation to the oversubscription criteria the arrangements conform with the relevant requirements. 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.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), two objections were referred to the Office of the Schools Adjudicator (OSA) about the admission arrangements (the arrangements) for St Mark's Church of England Primary School (the school), for September 2024. The first objection was

from a parent of children currently attending the school; the second objection was from two members of the public supporting the first objection.

2. The objections relate to two matters: to consultation on and publication of the arrangements; and to the oversubscription criteria contained in the arrangements. As I explain later, the objections were made after the statutory deadline for objections but I have exercised my power to consider the arrangements under section 88I of the Act as they were brought to my attention. However, as I also explain, my jurisdiction under section 88I does not allow me to consider the consultation but only the arrangements themselves.

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 under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing board for the school, which is the admission authority for the school, on 1 December 2022 on that basis.

4. Paragraph 3.5 of the School Admissions Code (the Code) states that objections to admission arrangements must be referred to the Schools Adjudicator by 15 May in the determination year. As the objections were received after this date, I have concluded that I do not have jurisdiction to consider them under section 88H(4) of the Act. However, having had sight of the school's arrangements it appeared to me that the matters raised might not conform with the requirements relating to admissions. I have accordingly used my power under section 88I(5) of the Act to consider the arrangements for the school. As this case is being considered under section 88I of the Act, I use the terminology "the referral" and "the referrers". My jurisdiction under section 88I is limited to the content of the arrangements and does not extend to any consultation that was required to take place before the arrangements were determined. In this way, the jurisdiction is more limited than the jurisdiction under section 88H which does allow the consideration of consultation. It follows that I have not considered consultation in this determination.

5. When I considered the arrangements I identified some matters, including but not limited to the matters raised by the referrers, which it appeared to me did not or may not meet the requirements relating to admission arrangements. I set out my findings in regard to those matters not raised by the referrer in the section in this determination which is entitled 'Other Matters'.

6. The parties to this case are: the referrers; the academy trust for St Mark's Church of England Primary School (the school), which is the school's admission authority; Bournemouth, Christchurch and Poole Council (the local authority) which is the local authority for the area in which the school is located; and The Diocese of Salisbury, which is the faith body for the school (the diocese).

Procedure

7. In considering the school's admission arrangements, I have had regard to all relevant legislation and the Code.

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

- a. the referrers' forms of objection dated 13 June 2023 and 14 June 2023;
- b. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;
- c. a copy of the determined arrangements;
- d. copies of the arrangements for 2022 and 2023;
- e. further information provided by the parties at my request or invitation;
- f. information about the most recent consultation on the arrangements; and
- g. information available on the websites of the school, the local authority and the Department for Education (DfE).

The Referral

9. The referral asserted that:

- a. The arrangements were not published online by the date required by the Code.
- b. There was no opportunity for parents to object to the arrangements.
- c. Parents of pupils currently attending the school should have been able to reasonably expect that younger siblings of those pupils would gain a place at the school.
- d. The oversubscription criteria disadvantage siblings on the grounds of where they live.

10. I have determined that the following parts of the Code are applicable in this case:

Paragraph 14: “In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated. “

Paragraph 1.8: “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, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child. Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.”

Paragraph 1.11: “Admission authorities **must** state clearly in their arrangements what they mean by ‘sibling’ (e.g. whether this includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address or siblings who are former pupils of the school). If an admission authority wishes to give some priority to siblings of former pupils, it **must** set out a clear and simple definition of such former pupils and how their siblings will be treated in the oversubscription criteria.”

Paragraph 1.50: “Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on the school’s website or their own website (in the case of a local authority) by **15 March** in the determination year and continue displaying them for the whole offer year (the school year in which offers for places are made). Admission authorities **must** also send a copy of their full, determined arrangements to the local authority as soon as possible before **15 March** in the determination year. Admission authorities for schools designated with a religious character **must** also send a copy of their arrangements to the body or person representing their religion or religious denomination.”

Background

11. The school is located in the urban area of Talbot Village, Bournemouth, Dorset. It is a single academy trust, co-educational school for children aged four to eleven with a published admission number of 60. The school has a Church of England religious character. Ofsted judged the school to be Good in its inspection report of March 2018, the first time that the school had been inspected.

12. Prior to 2023 the oversubscription criteria in the arrangements afforded higher priority to all siblings of children attending the school at the time of the applicant's admission than to children living within the catchment area of the school where no other prioritising factors applied. This sibling priority included those residing outside the catchment area.

13. The arrangements were changed significantly for 2023 and afforded higher priority to all children within the catchment area than to children with siblings at the school who do not live within the catchment area. There has been no change to the arrangements from 2023 to 2024.

14. In the event of oversubscription, after the admission of pupils with an Education, Health and Care Plan which names the school (EHCP), priority for places at the school is determined by application of the following criteria (in summary):

1. Looked after and previously looked after children.
2. Siblings of children attending the school at the time of admission and who reside in the school's catchment area.
3. Other children residing in the school's catchment area.
4. Siblings of children attending the school at the time of admission and who reside outside of the school's catchment area.
5. Children living outside the school's catchment area who meet the faith criterion for the school.
6. All other children, with priority given to those living closest to the school.

Consideration of Case

15. There are three parts to the referral which I must consider: that the arrangements were not published online by the date required by the Code; that parents of pupils attending the school should have been able to reasonably expect that younger siblings would gain a place at the school; and that the oversubscription criteria disadvantage siblings of current pupils on the grounds of where they live. I will consider each of these matters in turn.

The arrangements were not published online by the date required by the Code

16. Paragraph 1.50 of the Code requires that admission authorities publish their determined arrangements by 15 March in the determination year. The determination year is the academic year beginning two years before the year to which the

arrangements relate. There was therefore a statutory requirement for the arrangements for entry into the school in 2024 to be published by 15 March 2023.

17. The referrer stated on 13 June 2023, “As I am writing the 2024-25 policy is not yet been put live on the website for the general public to view or has it been emailed out to parents whose children already reside at the school. Objecting to this before May 15th has therefore been impossible as has not been available to us.”

18. I asked the school for confirmation of the date on which the 2024 arrangements were published on the school website and an explanation of any delay. The school responded: “Policy was sent to LA 3/3/2022... Policy was published on school website on 13/6/2023 administrative error due to high workload and staff changes in team.”

19. It is clear that the arrangements were not published by the statutory deadline and this fact is not in dispute. This failure prevented parents or other interested parties or bodies from raising objections to the schools adjudicator by the deadline specified in the Code.

20. I find that the school did not act in accordance with the Code regarding the requirement to publish the arrangements by the required deadline of 15 March 2023.

Parents of pupils attending the school should have been able to reasonably expect that younger siblings would gain a place at the school

21. The referrer stated: “It is not unreasonable for parents [of children already at St Mark’s] to believe their own children (siblings) will be accepted for a place at St. Mark’s school given the evidence available to them at the time of application” and that “There should also be a lead in time to allow, say, previous admissions criteria to run its course before any new important changes are then implemented, rather than a brutal immediate change giving little or no time for proper consultation.” As I have explained I cannot consider consultation. At the heart of this point is the view that all siblings of existing pupils should have the same high level of priority, irrespective of whether or not they live in catchment. This was in fact the case until the arrangements were changed for 2023.

22. In 2023, for the first time, some siblings of current pupils were refused entry to the school on national offer day. This is because the 2023 arrangements, and the current arrangements, afford higher priority to all in-catchment children than to non-catchment siblings. As the school was oversubscribed some out of catchment siblings did not secure places.

23. The referrer believes that parents of all pupils currently attending the school, including those residing outside of the catchment area, should have been able to

reasonably expect that siblings of those pupils would be afforded high priority for admission and thus gain a place at the school. The referrer's argument for this expectation being reasonable is that this had been the case previously. To put it another way, the school has changed its admission arrangements and parents were counting on them to remain the same.

24. The Code requires that arrangements are determined annually and, subject to the requirements for consultation being met, allows admission authorities to change their arrangements on an annual basis. For this reason, I am unable to consider any claim of reasonable expectation. The school must determine its arrangements each year and may change them every time if it so chooses providing that the requirements for consultation are met. There is therefore no reason under the Act or the Code for parents or any other person or body to assume or expect that arrangements will remain unchanged.

25. For the reasons above I do not find that parents of pupils attending the school should have been able to reasonably expect that the oversubscription criteria would remain unchanged or that younger siblings would be prioritised for a place at the school.

The oversubscription criteria disadvantage siblings of current pupils on the grounds of where they live

26. In relation to this aspect of the referral the referrer asserted, in summary, that:

- a. The arrangements do not reflect the arrangements of other local schools, which puts younger siblings at a disadvantage when applying to those schools resulting in "less chance of been [sic] able to obtain a school place anywhere locally."
- b. The oversubscription criteria disadvantage siblings who reside outside the catchment area of the school.

27. I will first deal with the referrer's assertion that the arrangements do not reflect those of other schools in the area and that this may place younger siblings at risk of not gaining a school place locally.

28. The arrangements for each school are a matter for the admission authorities of those schools providing that they adhere to the Code; there is no reason why schools that are geographically close must have the same or even similar admission arrangements to each other. I will consider whether siblings of children currently attending the school are unlikely to be able to secure a place at another school within the area.

29. According to the DfE website “Get Information About Schools” (GIAS), the postcode of the family represented in the referral who have a child due to start school in 2024 has five other schools which admit children to the reception year (Year R) within one mile. Three of these schools are closer to the centre of the postcode than is the school; the closest is the catchment school for the address represented by the centre of the postcode. There are twenty-two schools other than the school which admit children to Year R within two miles of the family home. I note that the referrer has expressed their preference for their children to “be raised on Christian values”. Nine of these twenty-two schools have a religious character which is Christian, Church of England or Roman Catholic. I must be clear, however that there is no entitlement under the law or the Code for children to be able to secure a place at a faith school although that may be what their parents prefer.

30. The local authority has provided me with data which shows that whilst the school has been oversubscribed in recent years there are other schools within the planning area to which the school belongs which have been significantly undersubscribed. The local authority forecasts that there will be a surplus of thirty per cent of Year R places in the area in 2024. The data also shows that in each of 2021, 2022 and 2023 there were no children in the planning area who were unable to gain a place at their catchment school.

31. Although in 2023 there were out of catchment siblings who were refused a place at the school on national offer day, the local authority told me that these children were “redirected to their catchment school on National Offer Day (as there were spaces available at their catchment schools). They were subsequently offered places at St Mark’s [the school] later in the admissions process for the year.”

32. I am satisfied that any siblings who do not gain a place at the school are likely to be able to gain a place at another school which is local to them. I will now consider the referrer’s assertion that the oversubscription criteria disadvantage siblings who reside outside the catchment area.

33. Paragraphs 1.11 and 1.12 of the Code permit admission authorities to give priority to the siblings of current or former pupils; however, there is no requirement for admission authorities to do so. Across the country many admission authorities choose between prioritising siblings and prioritising children in a school’s catchment area; in most circumstances it would be fair and reasonable to adopt either order and I do not find that there is any reason to prefer one over the other in principle.

34. The annual report by the chief adjudicator for 2016 (paragraph 15) stated the following on the matter of sibling priority:

“It is common for priority to be given to some or all siblings. Arrangements were likely to be found to be reasonable and fair when they struck a balance between giving a high priority to siblings, especially in primary schools (where

it can be very difficult for parents to have to take children to different schools), and the needs of first born or only children to be able to attend a local school. This can be challenging for admission authorities. An approach which works well in many situations is to give priority to in catchment siblings, then other catchment children, then out of catchment siblings and finally other children. However, it will always be crucial for each admission authority to consider what approach is best in the circumstances of the school and area concerned.”

35. The first oversubscription criterion prioritises looked after and previously looked after children as required by paragraph 1.7 of the Code. The second criterion prioritises siblings of children attending the school at the time of admission who live within the catchment area; these children are afforded the highest priority possible under the Code and I do not need to give any consideration to their position.

36. The matter for consideration is the order of the third and fourth criteria. The school has chosen to prioritise children living within catchment who do not have a sibling at the school above siblings outside of the catchment area. The referrer believes this is unfair and has suggested it is remedied in one of two ways: either that siblings of children attending the school prior to 2023 are afforded the same priority as in-catchment siblings; or that the third and fourth criteria are in effect swapped round, so that out-of-catchment siblings are prioritised above children in the catchment area who do not have a sibling at the school.

37. For the reasons given above regarding the expectation of the referrers, I do not accept that siblings of children attending the school prior to 2023 should be afforded special protections under the arrangements. That is, I have found that it is not reasonable for parents to expect that arrangements will remain unchanged and therefore it is not reasonable that the arrangements must protect applicants from changes made to them. I consider the referrer’s second suggestion, that out-of-catchment siblings should be prioritised above children in the catchment area who do not have a sibling at the school, below.

38. All admission arrangements advantage some applicants over others. This is because all arrangements must contain oversubscription criteria which prioritise certain applicants in the event of oversubscription. The Code requires that oversubscription criteria are reasonable and fair; I will first consider whether the arrangements are reasonable. The Code uses the term ‘reasonable’ but does not define it. An everyday definition is of having sound judgement; being sensible and rational. It is the requirement of public bodies, including admission authorities, that they must act reasonably in adopting any policy or making any decision.

39. I asked the school for their rationale for the 2024 arrangements and the oversubscription criteria within those arrangements. Their response can be summarised as:

1. To be in line with the diocesan model policy.
2. To simplify the arrangements from previous years (that is, prior to 2023).
3. To prioritise those pupils living in the catchment area of the school as, “The school has a specific history which involves the legacy of the Talbot sisters who were local landowners and built Talbot Village. Their legacy was focussed on the locality and governors had heard from local residents that the criteria around church attendance had been a potential barrier for local residents applying for school places at St Mark’s. The shift in criteria was intended to address that and ensure the local provision was accessible for those within the catchment area – in line with the historic legacy.”

40. I note that in December 2021 the diocese wrote to the school regarding the consultation on the 2023 arrangements which was underway at that time stating, “I have read through the documentation you submitted and the changes that have been suggested to the Admissions Policy for 2023-24 meet with our approval. They are pragmatic and sensible alterations in our opinion and we support them entirely.”

41. I am satisfied that the school has a clear rationale for the oversubscription criteria contained within the arrangements. The oversubscription criteria are based on, and in line with, the overall aims of the school and as such I find them to be reasonable.

42. I will now consider whether the arrangements are fair. Fairness is a concept which, like that of reasonableness, is used in the Code but is not defined. Fairness can be described as a ‘protean concept’ in that it cannot be defined in universal terms; its requirements will depend on the circumstances. Fairness is focussed on the effect of the arrangements on any relevant group. I stress here that oversubscription criteria create advantage for some applicants and disadvantage to others; indeed, that is their purpose.

43. It is the view of the referrer that the arrangements are unfair as the prioritisation of applicants under the oversubscription criteria “disadvantages siblings ... on the grounds of where they live and does not take into consideration how a parent, like myself is expected to be in two places (schools) at the same time for school morning drop off and afternoon collection.”

44. In relation to admission arrangements, fairness is often best evaluated by undertaking a balancing exercise. I have weighed the advantage that would be afforded to siblings in the event that the oversubscription criteria were changed as the referrer wishes (to afford priority to out-of-catchment siblings above non-siblings in the catchment area) against the disadvantage that would be caused to those in-catchment children.

45. The arrangements disadvantage younger children of families with a child already at the school who live outside the catchment area. Hence, when the school is oversubscribed, a child living outside the catchment area with an older sibling at the school may be displaced by a child living within the catchment area who does not have an older sibling at the school.

46. If the arrangements prioritised siblings over children living in the catchment area this would disadvantage children living within the catchment area who do not have an older sibling at the school. If the school were oversubscribed then these applicants, usually first born or only children, may be displaced by a child living outside the catchment area who has a sibling at the school.

47. Some admission authorities choose to recognise 'displaced siblings' in their arrangements. This term is used to describe the situation where an older sibling could not gain a place at their catchment school at the normal point of entry and is admitted to another school and so the younger child, living outside the catchment area for the school their older sibling is attending, is given priority as if he or she were a sibling living in the catchment area.

48. One of the families who brought the referral is in the position described above. I understand that the referrer's position of having to apply for a place at the school for their youngest child on the same basis as any other parent living outside the school's catchment area is not the result of their own choice in that they were refused a place at their catchment school for their eldest child. I have sought to balance the disadvantage to families with a displaced sibling with the disadvantage to other applicants, specifically those without a sibling at the school who live in the catchment area.

49. An applicant who did not have an older sibling at the school may equally have one at another school or may have a younger brother or sister at home. If a family does not secure a place at the school despite living in the catchment area because of oversubscription criteria which give higher priority than currently to "displaced" siblings, then any younger siblings will be in the position of the objectors. That is, the older child would have to be admitted to a school for which they were out-of-catchment, their younger siblings may be afforded low priority for admission at that school, and all the issues which concern the referrer would apply to that family.

50. The referral asserted that the oversubscription criteria amount to “social discrimination” towards families who may have initially lived in the catchment area but have had to move out of it, stating “Current housing markets [coupled] with the cost of living crisis means that Families [sic] are also having to sell up and downsize or release equity (therefore pushing them out of the catchment area) due to the uncertain property market and rising interest rates. The catchment area is basically, Talbot Woods (one of the most sought after postcodes and therefore most expensive in Bournemouth). St.Mark’s C.E admission policy therefore discriminates families socially and economically favouring mainly the elect members of society who live in Talbot Woods.”

51. No evidence has been provided to me regarding the assertion of social discrimination. Perhaps more importantly, the rights of children to a school place apply to all children regardless of their financial circumstances. That is, a child who is from a wealthy family needs a school place and has as much right to secure one as a child from a less affluent family. I also note that the referrer expressed their “wish for a greener planet with less congestion on the roads”, an ambition which perhaps supports the school in its prioritisation of children living within its catchment area.

52. As I have said above, all schools must have oversubscription criteria which, by their very nature, disadvantage some applicants compared to others. In order for the arrangements to be unfair the disadvantage must also be unfair. I have weighed this case very carefully and find that the disadvantage which the arrangements cause to out-of-catchment siblings, including displaced siblings, is no greater than that which would be caused to in-catchment children without siblings at the school in the event that those children were given lower priority for admission. I find that the oversubscription criteria are reasonable and fair.

Other Matters

53. In looking at the arrangements, it would appear to me that the following matters do not conform with the relevant legal requirements. Paragraph 14 of the Code requires that arrangements must be clear for parents on how places are allocated. The issues listed below apply to that paragraph of the Code unless otherwise specified.

54. Section 1c of the arrangements states “Infant Class Size Regulations apply to the normal year of entry (and Year 1 and Year 2). These regulations require classes to be no bigger than 30 children although the PAN may be much lower than 30.” The statement regarding PAN being lower than 30 is likely to be confusing for parents and therefore contrary to the Code, given that the PAN for the school is 60 and applies only to Year R. It may, for example, be clearer for parents if information regarding

the PAN and that regarding the infant class size regulations were presented as separate points in the arrangements.

55. Paragraph 1.13 of the Code states: “Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the ‘home’ address will be determined and the point(s) in the school or nodal points from which all distances will be measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent. The selection of a nodal point must be clearly explained and made on reasonable grounds.” The arrangements do not comply with the Code in that:

- a. the “Tie Breaker” section on page 3 of the arrangements does not state the point in the school from which all distances will be measured; and
- b. the “Home address” section on page 3 of the arrangements does not include provision for cases where parents have shared responsibility for a child and that child spends an equal amount of time with each parent.

56. Paragraph 1.37 of the Code states that “Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.” Oversubscription criterion 5 is likely to be confusing for parents in that:

- a. It would seem that there are different copies of the supplementary information form (SIF) in use, with the one included in the main part of the arrangements (in the document “Admissions Policy 2024-2025”) differing from the one that was sent to me as a separate document and which appeared on the school website linked as “Supplementary [sic] Information Form (SIF) 2023-24”.
- b. In the section “Faith Criterion Requirements” on page 3 of the arrangements, point (i) refers to a “recognised church or religious group” but point (ii) refers to “St. Mark’s Church, Talbot Village, or other recognised church” with no mention of a religious group.
- c. The definition of “frequent worshippers” is unclear as both versions of the SIF state that frequent worshippers are those who attend a service “at least twice a month” whereas the faith criterion requirements in the arrangements state that “at least once a month” constitutes frequent worship.
- d. The SIF refers to “children whose parents are clerks in holy orders”, but this is not mentioned in the faith criterion requirements. Further, to include this in the criterion would be in breach of paragraph 1.9f of the Code which prevents admission authorities from giving priority to children according to

the occupational status of their parents.

- e. The faith criterion requirements state only that attendance must be at a family or church service, whereas the SIF requirement is to “attend a family or church service, which involves the crèche or Sunday club.” The use of the word “involves,” defined as that which has or includes something, would seem to imply that only attendance at services which do have the creche or the Sunday club are considered as part of the regular worship required for prioritisation under oversubscription criterion 5. This differs from the arrangements and may not be what the school intends.

57. Admission authorities set the PAN as part of determining their admission arrangements and, as stated in paragraph 3.6 of the Code, once arrangements have been determined for a particular year they cannot be revised except under specific circumstances. The section “Multiple Birth Applications” on page 5 of the arrangements states that “Where there are multiple birth applications the PAN will, provided it is practicable, be exceeded or increased at the point of allocation in order to ensure that multiple birth siblings can be allocated places at the School”. The reference to the PAN being increased is contrary to the Code; admission authorities may admit above PAN but a decision to do so does not constitute an increase to the PAN, as stated in paragraph 1.5 of the Code.

58. Paragraph 1.14 of the Code states, “Catchment areas **must** be designed so that they are reasonable and clearly defined.” The arrangements do not comply with the Code in that:

- a. The document “parish and catchment area list” on the school website differs from the catchment area list included in the “Admissions Policy 2024-2025”.
- b. The list of streets given (without postcodes or any other information) may be open to misinterpretation. For example, the arrangements list Wimborne Road is being within the school’s catchment area; there is a Wimborne Road in Bournemouth and one in Poole, both of which could be perceived by parents as forming part of the catchment area.
- c. Oversubscription criterion 4 prioritises “Siblings...residing outside the area served by the school.” It is not clear that, as the school has informed me, the term “the area served by the school” is the same as the catchment area.

59. Paragraph 2.4 of the code states that when SIFs are used, admission authorities “**must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria”. On the

SIF, parents are asked for their child's gender. This information does not have a direct bearing on the oversubscription criteria and therefore should not be requested.

60. Paragraph 2.17 of the Code states that: "Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that where they have offered a child a place at a school: a) that child is entitled to a full-time place in the September following their fourth birthday; b) the child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age."

61. The document "Policy for admission to a year group different to that determined by date of birth, including delayed admission for summer born children", which forms part of the arrangements, does not comply with the Code in that it states: "Parents can request that their child attends part-time until they reach compulsory school age, or that the date their child is admitted to school is deferred until later in the same academic year" and sets out a process for such requests. This implies that part-time attendance is something that may be requested, rather than a right as set out in the Code.

62. The cover page of the above document states that it will be reviewed in September 2024. The use of a review date is misleading as the arrangements for a particular school year, once determined, cannot be revised except in very specific circumstances, as stipulated in paragraph 3.6 of the Code.

Determination

63. I have considered the admission arrangements for September 2024 for St Mark's Church of England Primary School, Bournemouth in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the requirement for admission arrangements to be published online by 15 March in the determination year was not complied with. I find that in relation to the oversubscription criteria the arrangements conform with the relevant requirements. 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.

64. 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.

Dated: 2 November 2023

Signed:

Schools Adjudicator: Jennifer Gamble