



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4338

Objector: A member of the public

Admission authority: Governing body of the Independent Jewish Day School, Hendon

Date of decision: 28 October 2024

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by the governing body for the Independent Jewish Day School in the London Borough of Barnet.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by a member of the public (the objector), about the admission arrangements (the arrangements) for the Independent Jewish Day School (IJDS) (the school), a co-educational academy primary school catering for four to eleven year old children for September 2025. The school is designated as having a Jewish religious character. The school converted to an academy in February 2012.
2. The objection suggests that the admission arrangements are not clear, reasonable, objective or fair in line with the School Admissions Code; that they do not relate correctly to religious observance and that they do not follow the guidance of the religious authority.
3. The local authority for the area in which the school is located is the London Borough of Barnet. The local authority is a party to this objection. Other parties to the objection are

the objector and the governing body of the school (represented by Browne Jacobson - the school's legal team) and the Office of the Chief Rabbi (OCR) which is the designated religious authority for the school.

Jurisdiction

4. 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 Body, which is the admission authority for the school, on that basis. The objector submitted her objection to these determined arrangements on 12 May 2024. The objector has asked to have her identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of her name and address to me. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

Procedure

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

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

- a. a copy of the minutes of the meeting of the governing body on 13 August 2024 at which the arrangements were determined;
- b. a copy of the determined arrangements, including the supplementary information form (SIF);
- c. the objector's form of objection dated 12 May 2024 and subsequent correspondence;
- d. data on admissions from the local authority;
- e. the school's response to the objection through their solicitors; and
- f. the OCR's response to the objection and supporting documents.

The Objection

7. There are five elements to the objection:

- a) The objector says that the arrangements are unclear and therefore in contravention of paragraphs 1.8, 14 and 1.37 of the Code. These paragraphs state that:

“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 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 1.37 Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.”

The objector says that in the SIF there are many ‘open questions’ which require more than a yes/no answer but there is no explanation of what is or is not acceptable in the responses in order to fulfil the oversubscription criteria. For example, the SIF asks, ‘Please specify how you participate in Tefilla’. In addition, the SIF asks the Rabbi to complete questions about the family’s observance of the faith and yet allows a ‘not sure’ response. Again, there is no indication of the consequences of this response when considering a place within the oversubscription criteria.

The objector asks how the Rabbi can answer questions about some of the faith observance when he cannot witness some of the activities, for example, when the family are at home or on holiday. The objector maintains that this makes the arrangements unclear.

The SIF asks the Rabbi to specify how often families participate in Shabbat but there is no indication of the period of time over which this should be monitored.

The objector maintains that the IJDS dress code is vague and not sufficiently specific and this also makes the arrangements unclear.

b). The objector says that the arrangements are not objective and therefore in contravention of paragraph 1.8 (see above).

The objector cites terms from the SIF such as ‘dangerous’ (in the dress code) and ‘where possible’ in terms of women praying. The SIF asks the Rabbi to confirm some practices ‘to the best of his knowledge or belief’ when completing the SIF. The objector maintains that these phrases are not objective and therefore render the arrangements non-compliant with the Code.

c). The objector questions part of the arrangements which, she suggests, are not tests of religious observance and require parents to agree to certain school policies in contravention to 1.38 and 1.9a and 2.4 d of the Code. These paragraphs state:

“Paragraph 1.38 Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based admission arrangements, to the extent that the guidance complies with the mandatory provisions and guidelines of this Code. They **must** also consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated.

Paragraph 1.9a It is for admission authorities to formulate their admission arrangements, but they **must not**: a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements.

Paragraph 2.4 In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. Places **must** be allocated on the basis of the oversubscription criteria only. An applicant must not be given additional priority solely on the basis of having completed a supplementary form. Admission authorities **must not** ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for:... d) parents to agree to support the ethos of the school in a practical way.”

The SIF asks the parents to confirm that the immediate family identify with the ethos of the school. It also sets out the dress code and includes questions about future dress wear and that of employed members of the family now and in the future. The objector maintains that this is contrary to the Code.

d). The objector maintains that as the form asks for a second reference if the Rabbi has known the family for less than two years and she maintains that this is not procedurally fair as the family may have come from abroad where the Rabbi is unlikely to have fluent English or might have come from, what the objector describes as ‘an ultra-orthodox community’ which might not approve of the criteria used by the IJDS admission arrangements. This she considers not procedurally fair.

e). The objector says that the arrangements lack guidance from the religious authority in contravention to paragraph 1.9i of the Code.

“Paragraph 1.9i It is for admission authorities to formulate their admission arrangements, but they **must not** i) prioritise children on the basis of their own

or their parents' past or current hobbies or activities (schools which have been designated as having a religious character may take account of religious activities, as laid out by the body or person representing the religion or religious denomination).”

Background

8. IJDS is a mixed primary school for four to eleven year-old children situated in Hendon, London. It has 230 pupils on roll. It has a designated Jewish religious character and its religious authority is the OCR. The school has a published admission number (PAN) of 28 and has been oversubscribed in each of the last three admission years.

9. The determined arrangements have the following oversubscription criteria (in summary):

- I. Jewish Looked After (LAC) or Previously Looked After children (PLAC) with a Certificate of Religious Practice (CRP) from the school.
- II. Siblings with a CRP.
- III. Children of staff with a CRP.
- IV. Children of families who have received a CRP.
- V. Children of practising Jews.
- VI. LAC and PLAC of other faiths or none.
- VII. Children of other faiths or none.

10. Admission data can be found in the table below.

	2022	2023	2024
PAN	28	28	28
Children admitted under criterion I	0	0	0
Children admitted under criterion II	12	25	26
Children admitted under criterion III	0	0	0
Children admitted under criterion IV	17	4	3
Children admitted with an EHCP	0	0	1
Total admitted	29	29	30

11. It is interesting to note that only applicants from criteria II (siblings with a CRP) and criteria IV (Children of families who have received a CRP) have been admitted over the last three years which makes the CRP a critical factor.

12. In the arrangements the CRP is defined as follows:

“The Certificate of Religious Practice will be awarded to children of applicants who will support and reinforce at home the Torah values, religious observance and Ahavat Yisrael taught by the school. This will be demonstrated through the answers given in the Supplementary Information Form (SIF) and by a reference from a Rabbi, showing synagogue attendance, support of the Kodesh programme and its delivery in Ivrit, support of Torah values and observance of Jewish laws including being Shomrei Shabbat, observing the laws of Tzniut and Kashrut and support of the School’s religious ethos.”

13. The CRP is predicated on the completion of the SIF by families and the Rabbi confirming their commitment to and active engagement in five areas of religious observance; Kashrut, Shabbat and Yom Tov, Tefilla, Learning and Tzniut.

Consideration of Case

14. The school is situated in the London Borough of Barnet which is a party to the objection. The local authority provided the admission data for the school for the last three years but declined to make any comment on the objection.

15. The school’s religious authority is the OCR which is a party to the objection. The OCR responded to my request for details of the guidance provided for the school and any comments that it should wish to make by sending a short statement entitled ‘Jewish School Admission Criteria’ and making the following comment:

‘The admission arrangements of Independent Jewish Day School are inclusive in relation to the range of potential applicants of the school’s particular ethos. This ethos of Independent Jewish Day School, and its expression through the Oversubscription Criteria as set out by the school, is a legitimate expression of Orthodox Jewish ethos that fits within the parameters set out in the Office of the Chief Rabbi guidance to schools. As noted in the guidance, the compliance of these arrangements with the School Admissions Code is a matter for the school to seek its own advice on.’

16. The paragraph relevant to this objection in the guidance states

”The Chief Rabbi’s view is that, consistent with the ethos of each school, any religious criteria should be designed to be as inclusive as possible. They should reflect the rabbinic principle that “The world stands on three things: Torah (Jewish study and knowledge), Avodah (the life of religious observance and prayer) and Gemillut Chassadim (acts of kindness and social responsibility). Evidence of practice should normally be considered as positive evidence of religious commitment.

Otherwise, schools risk denying the opportunity for an orthodox Jewish religious education to many children who would greatly benefit from it.”

17. The school joined the state sector in 2012 and the admission arrangements which the Office of Schools Adjudicator (OSA) received were written and determined in 2019. After the objection was received it became clear that the governing body had not determined the arrangements annually after 2019. When prompted, the governing body met (in August 2024) and determined the admission arrangements for September 2025. This meant that the objection came under my jurisdiction. In correspondence, the governing body has been represented by a firm of solicitors. The letters which I have received from the solicitors (which have been copied to the other parties) have all been prompt and positive and show a clear indication that the governing body wishes to amend the arrangements so that they fully comply with the law and the Code, whilst maintaining priority for children whose families adhere to the religious observance which the governors require.

18. The two main elements of this objection refer to the CRP and the content of the SIF. I asked the school to explain how the CRP is awarded; what form did the certificate take and how were some of the responses in the SIF, for example ‘not sure’ or ‘no’, treated in terms of prioritising places in the oversubscription criteria.

19. Through its solicitors the school replied that

“Regarding the process for awarding the Certificate of Religious Practice (CRP), the admissions arrangements state that the required practice is demonstrated through the answers given in the SIF and by a reference from a Rabbi. The SIF states: “For a Certificate of Religious Practice to be issued, you must complete section 1, be able to answer each and every question in Section 2 and obtain a reference from your Rabbi (see section 3)”. Successful applicants are identified by the governing board once they have reviewed the completed SIFs. Successful applicants are not expressly notified that they have obtained a CRP (a certificate is not issued) but are then allocated priority admission in accordance with the relevant oversubscription criteria. Where the SIF contains a response of “no” or “not sure”, the applicant would not be awarded a CRP and their child’s admission to the school would not be prioritised in line with those oversubscription criteria which refer to the CRP. The school acknowledges that the arrangements relating to the CRP, including precisely what needs to be satisfied in order to secure a CRP and the process associated with this, could be clearer. The school intends to amend its admissions arrangements to ensure the criteria allowing priority with reference to faith, and how this is considered by the admissions authority, are clear and fair.”

20. This response is very helpful and sets out clearly that no certificate as such is awarded and that governors give priority to those applicants whose SIF satisfies all of the elements of the religious observance required. By not prioritising those applicants for whom responses such as ‘no’ or ‘not sure’ are recorded the school makes it clear that all the elements of religious observance identified in the SIF must be fulfilled before the applicant is given priority under the first four oversubscription criteria. Bearing in mind that all

admissions in the past three years have been in receipt of a CRP this is crucially important to the admission process for the school.

21. Currently the inclusion of 'who have received a Certificate of Religious Practice from IJDS' in its first four oversubscription criteria is unclear and difficult for parents to understand. This renders this statement contrary to paragraphs 1.8, 14 and 1.37 of the Code. It is clear from the school's response that the governing body wishes to give priority to those applicants who fully fulfil the elements of religious observance identified on the SIF and amendments to the arrangements which allow families to self-certify positive responses to these elements would render the arrangements clearer.

22. The SIF is made up of three sections. Section one asks the family to confirm that they identify with the ethos of the school, section two sets out the five elements of religious observance (named in paragraph 13 above) which require a positive response in order to merit priority for the application within the oversubscription criteria, section three is the Rabbi's reference.

23. There are a number of examples in the SIF which require responses from parents to 'open questions' without an explanation of what would constitute an acceptable response to that particular element of the religious observance. For example, "Please specify how you participate in Tefilla". I asked the school about the subjective nature of some of these sections of the SIF and the school responded that "The school accepts that the open-ended nature of this question means it could cause confusion about what constitutes an acceptable response and what response is required to enable award of the CRP. The school intends to amend its admissions arrangements in this regard to ensure that no open-ended questions are included within the SIF and the response required to qualify for any priority admission based on the faith is unambiguous." Currently these open questions render the arrangements non-compliant with the Code at paragraph 1.8 as they are not objective but the suggested amendments would remedy this situation.

24. In the section of the SIF for the Rabbi to complete there is mention of observation of Chagim. This is not one of the identified elements of religious observance identified for parents in the SIF and I asked the school about its significance. The school responded that it agreed that there is inconsistency here and commits to removing reference to Chagim from the SIF. The inclusion of Chagim in the SIF is contrary to paragraph 2.4 of the Code because it introduces additional information which does not have a direct bearing on the decisions about the oversubscription criteria. I welcome the school's response to this.

25. The objector questions the details of the SIF section on Tzniut or dress code as not clear and questions this as not a test of religious observance. The school responded that:

"The school considers that these criteria relating to dress can be easily understood and are a well-established form of religious practice and activity in the orthodox Jewish faith. The school notes the reference to the additional part of this section of the SIF which refers to adults being asked to leave the school premises where they do not dress in accordance with the school's ethos. The school proposes to remove this element."

26. The OCR said that

“This ethos of Independent Jewish Day School, and its expression through the Oversubscription Criteria as set out by the school, is a legitimate expression of Orthodox Jewish ethos that fits within the parameters set out in the Office of the Chief Rabbi guidance to schools.”

27. The SIF sets out the required dress code and asks parents to agree to comply with it both in school and in public generally. Parents will need to agree to this if the application is to be put forward as fully complete religious observance and lead to priority admission within the oversubscription criteria. I am of the view that this part of the SIF conforms to the Code and I do not uphold this element of the objection. Parents are also asked if they will “instruct anybody representing your family at the school to comply with the dress code” and again the parents will need to agree to this. Whilst I agree that Tzniut is a well-established form of religious practice for families I question whether the admission arrangements are the most suitable place to ask families to instruct others to adhere to the code or how this can be ‘policed’ and I therefore uphold this element of the objection. I agree with the school that the paragraph about asking people to leave the school premises is not commensurate with its inclusion in the admission arrangements.

28. A key element to the objection is the part which the Rabbi plays in the process of identifying which applicants fulfil the religious observance elements. The form asks the Rabbi to confirm the answers to the questions in the SIF provided by the parents and yet much of this religious observance is practised in private either at home or in the local community. I do not consider it objective or clear to parents that the Rabbi is asked to confirm some of the religious observance elements of the SIF when he is unable to see and experience them. This renders the arrangements contrary to paragraphs 1.8 and 14 of the Code. Through their solicitor the school responded that “The school notes that the Rabbi’s confirmation regarding the observance of Shabbat and Chagim will be limited to what is observable only when in public and in the particular community. The school would add that the form to be completed by the Rabbi specifies that it is signed “to the best of your knowledge”. However, to ensure objectivity, the school would propose to amend the Rabbi’s declaration so that the Rabbi is only limited observance to the extent that it is publicly observable in that community.” Again, this is helpful and by asking the Rabbi to confirm only those elements of the religious observance for which he has first-hand evidence then this will render the arrangements much clearer.

29. Paragraph 2.4 of the Code in the section relating to the SIF states that “Admission authorities must not ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for: d) parents to agree to support the ethos of the school in a practical way.” The section on the SIF which asks “please confirm that you and your immediate family identify with the ethos of the school: yes/no” is contrary to this section of the Code. The school indicates that they will remove this section.

30. The objector suggests that the arrangements are procedurally unfair and do not comply with paragraph 1.8 of the Code because if a family has been known to a Rabbi for

less than two years, they are asked to provide a reference from a second Rabbi. I do not uphold this element of the objection as families who have recently moved into an area will wish to include the Rabbi from their previous area. I find that this requirement will be met straightforwardly in the great majority of cases and do not consider that the examples given by the objector (moving from abroad and a different interpretation of Jewish practice) render this unfair.

31. The objector maintains that the arrangements do not conform to the religious authority's guidance and are very different from other schools which have the same authority. The OCR has confirmed that the school's admission arrangements conform to the OCR's guidance and that they approve of them. I therefore do not uphold this element of the objection.

Summary of Findings

32. a). The arrangements are unclear. There are parts of the arrangements which are unclear particularly those relating to the CRP and the Rabbi's reference as outlined above and I uphold this element of the objection. (Paragraphs 1.8, 1.37 and 14 of the Code)

b). The arrangements are not objective. There are open questions in the SIF and part of the Rabbi's reference which are clearly not objective as outlined above and I uphold this element of the objection. (Paragraph 1.8 of the Code)

c). The arrangements are not tests of religious observance. The objector cites the dress code and the requirement to agree with the school's ethos. I am of the view that the dress code or Tzniut can be easily understood and is a well-established form of religious observance for the orthodox Jewish faith and therefore do not uphold this element of the objection. However, the requirement to instruct others to observe the dress code is unreasonable and I uphold this element of the objection. In addition, the expectation that the parents will agree to the school's ethos is in direct contravention of paragraph 2.4 of the Code and I uphold this element of the objection. (Paragraph 1.38 of the Code)

d). The arrangements are procedurally unfair. The objector suggests that it is procedurally unfair to ask for a second Rabbi's reference if the family have been known to the Rabbi for less than two years. I do not uphold this element of the objection. (Paragraph 1.8 of the Code)

e). Lack of guidance from religious authority. The OCR has written that "its (the school's) expression through the Oversubscription Criteria as set out by the school, is a legitimate expression of Orthodox Jewish ethos that fits within the parameters set out in the Office of the Chief Rabbi guidance to schools." I have seen the OCR guidance and am satisfied that the key elements of religious observance expected of families by the school is in line with this guidance. I therefore do not uphold this element of the objection. (Paragraphs 1.9a, 1.38 and 2.4 of the Code)

26. The school has not reviewed and amended its admission arrangements since 2019 and through its solicitor the governing body have made it clear that they are keen to amend the

arrangements so that they are in line with the Code and the law whilst maintaining their firm commitment to prioritising those children from families which adhere to the required elements of religious observance. I am grateful to the school for their timely and positive responses and their willingness to change the arrangements to comply with the Code and the law.

Determination

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by the governing body for the Independent Jewish Day School in the London Borough of Barnet.

28. 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: 28 October 2024

Signed:

Schools Adjudicator: Ann Talboys