



Office of
the Schools
Adjudicator

Determination

Case reference:	ADA4345
Objector:	A parent
Admission authority:	Star Academies for The Olive School, Blackburn
Date of decision:	12 November 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 Star Academies for The Olive School, Blackburn.

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 the timescales set out in this 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 about the admission arrangements (the arrangements) for September 2025 for The Olive School, Blackburn (TOSB) (the school), an academy primary school for children aged between 4 and 11 located in Blackburn, Lancashire. The objector is an individual with parental responsibility for a child who will be the right age to join the school in September 2025.
2. The objection is to the oversubscription criteria which give priority to a child whose parent is a member of, or who receives the membership benefits of, certain named mosques.
3. The parties to this objection are:
 - a. Star Academies (the trust) which is the admission authority for the school;

- b. Light Trust (the faith body), previously Tauheedul Islam Faith, Education and Community Trust (TIFECT), which is the faith body for the school;
- c. the objector; and
- d. Blackburn with Darwen Borough Council (the LA) which is the local authority for the area in which the school is located.

Jurisdiction

4. The terms of the academy agreement between the multi-academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 14 May 2024. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act and that 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 school's local governing body at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 14 May 2024 and supporting documents;
- d. the trust's response to the objection, which was submitted via its legal representatives, supporting documents and subsequent correspondence;
- e. the faith body's response to the objection, supporting documents and subsequent correspondence;
- f. correspondence from the LA and supporting documents;
- g. correspondence from the DfE regarding the faith body for the school;
- h. information available on the websites of the LA, the school, the trust and Department of Education (DfE);
- i. the judgment in the case of *The Queen On the application of The Governing Body of the London Oratory School Claimant - and - The Schools Adjudicator - and- (1) The British Humanist Association (2) The Secretary of State for*

Education¹ (the Oratory judgment); and

- j. Case reference ADA2800, dated 20 January 2015 regarding an objection to the admissions arrangements of Tauheedul Islam Boys' High School, Blackburn.

The Objection

7. The objector sets out their objection as follows:

“The school requires parents to be members of a specific mosque or, although given less weighting, another 3 stated mosques. The admissions criteria give preference to either the parent being a member or a woman receiving membership benefits of the stated mosques. Membership of the stated mosques requires a financial contribution and is not open to new applications nor has been for many years. Membership of the preferred mosques is exclusive to a select few individuals and or their associates / family members and not open to the general Muslim population of Blackburn. This in turn introduces a discriminatory bias in the school’s admission criteria and is reflected in the stated number of pupils admitted in prior years, which are not members of the identified mosques. This bias is particularly unfair towards other Muslim parents who are not members of the preferred mosques and cannot become members if they wished to do so. The discriminatory bias is also towards parents who are members of other mosques in Blackburn.”

8. In a subsequent email, the objector goes on to say:

“All of the mosques stated in the admissions pack do not state what the criteria is or whether this is uniform across the mosques. Tauheedul Islam does advise of a maintenance contribution as mentioned on their website.

I now understand from the details provided, a sunni muslim (following the same understanding of the mosques and school) of Blackburn residence praying at the mosque is not eligible to obtain membership unless living within a very close proximity. It is not worshippers at the mosque that are eligible but residents living close to the mosque. This inherently disbars worshipers [sic] at the mosques which may live further afield but actually closer to the school than mosque members or maybe more frequent visitors of the mosque.

It is reasonable to conclude that since the establishment of the school, significant time has now passed for the historical link to the said named 4 mosques to have diminished. As matters currently stand, a member of the named mosques from pre 2013 or applicable female relative, could still send their 4 year old child to Olive School although may not reside near the mosque or be worshipping at the mosque.

¹ [High Court Judgment Template \(judiciary.uk\)](http://judiciary.uk).

The financial contribution made is not like a voluntary donation as these are managed separately, as displayed on Tauheedul Islam mosque website.

In conclusion, membership of the mosques, particularly Tauheedul Islam, indicates on a financial contribution. Membership of the named mosques is not inclusive of muslim worshipers [sic] following Islam and the ethos of the school but neighbouring residents and relevant female relatives. The historic link between the mosques and the school is vastly diminished given the passage of time and the expected change in demographics of the areas surrounding the mosques. It cannot be reasonably expected that those mosque members in 2013 still hold a deep link to the school given their children will not be attending anymore.”

9. The objector does not explicitly mention any particular aspect of admissions law or of the Code. However, I consider that a significant aspect of the objection can be addressed by considering whether or not the arrangements conform with paragraphs 14 and 1.8 of the Code which state respectively that:

“...admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective”

And

“Oversubscription criteria must be reasonable, clear, objective...”

10. Two paragraphs of the Code are relevant to the matter of financial support raised in the objection.

Paragraph 1.9e states that:

“It is for admission authorities to formulate their admission arrangements, but they **must not** ... give priority to children on the basis of any practical or financial support parents may give to the school or any associated organisation, including any religious authority.”

Paragraph 1.9n states that:

“It is for admission authorities to formulate their admission arrangements, but they **must not** ... request financial contributions (either in the form of voluntary contributions, donations, or deposits (even if refundable)) as any part of the admissions process.”

11. Two other paragraphs of the Code are relevant to the consideration of faith-based admission arrangements:

Paragraph 1.9i states that:

“It is for admission authorities to formulate their admission arrangements, but they **must not** ... 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).”

Paragraph 1.38 of the Code states that:

“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.”

Background

The school and its admission arrangements

12. TOSB is a Free School which opened in 2013. It has a Muslim religious character and under its funding agreement it is obliged to adopt admission criteria which provide that, if oversubscribed, at least 50% of its places available each year will be allocated without reference to any faith-based admission criteria.

13. The oversubscription criteria in the 2025 arrangements can be summarised as follows:

Priority Group A – 50% of places allocated to children of the Muslim Faith:

- i. Looked after children (LAC) and previously looked after children (PLAC).
- ii. Children, whose parent is a member of, or a woman who receives the membership benefits of Masjid-e-Tauheedul Islam.
- iii. Children, whose parent is a member of, or a woman who receives the membership benefits of Masjid-al-Hidayah, Masjid-e-Irfan and Masjid-e-Anisul Islam.
- iv. Children of staff.
- v. Siblings.
- vi. Children with special, medical or social circumstances.
- vii. All other Muslim children who live nearest from home to school.

Priority Group B – other applicants including those refused admission in Priority Group A, equally and without reference to faith:

- i. LAC and PLAC children.
- ii. Children of staff.

- iii. Siblings.
- iv. Children with special, medical or social circumstances.
- v. All other children who live nearest from home to school.

The Supplementary Information Form (the SIF) for Priority Group A asks the parent / carer to sign to confirm that their child is a Muslim. The parent / carer is then asked to confirm whether they are associated with one of the named mosques, and if so, which one.

Where a criterion is oversubscribed, priority is given to children who live nearest to school, with random allocation as a tie-breaker.

The faith body for the school

14. In its response to my enquiries, Light Trust (formerly TIFECT) told me the following:

“ [the adjudicator] will note from the submissions made by the admissions authority that in addition to consulting Light Trust as the named religious authority for the school, the admission authority sought the views of the Association of Muslim Schools UK. The OSA will be familiar with this organisation as it is a designated faith body appointed to be the religious authority for maintained schools with an Islamic religious character. You will note from the letter of 1 August 2012, it was acknowledged by the AMS that the reference to the 4 mosques was appropriate given their campaign for the free school to be opened.”

15. For the avoidance of doubt, I must make it clear that whilst Schedule 3 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) Regulations 2012 states that the representative body for a school that has a Muslim religious character is AMSUK, that particular body is **not** the representative faith body for TOSB. Rather, the faith body for the school is Light Trust (formerly TIFECT), and the DfE have confirmed to me that this is the case.

ADA2800 - Tauheedul Islam Boys' High School, Blackburn

16. Both the LA and the faith body have drawn my attention to an earlier determination (ADA2800, dated 20 January 2015) regarding an objection to the admissions arrangements of Tauheedul Islam Boys' High School, Blackburn. That school had, and still does have, similar criteria to Aii and Aiii above. Amongst other matters, the objector in that case objected to the wording of the criteria that specified mosque membership, and the adjudicator used their powers under section 88I of the Act to consider the arrangements as a whole. As I understand the position, this determination has been brought to my attention to show the adjudicator did not identify any issues with the preference given to members of the named mosques.

17. The trust's representatives also say:

“[the adjudicator] considered the membership of the mosques and identified that there was no fee applied for membership.”

I consider that this statement misinterprets the adjudicator’s findings in ADA2800. At no point in the determination is there a clear statement about there being no membership fee. Rather, it is more accurate to say that there is no reference in ADA2800 to any membership fee being applied.

18. The adjudicator did not uphold this previous objection. Neither did she raise some of factors which I consider to be relevant in this case.

19. Although this previous objection related to faith-based oversubscription criteria which are substantially the same as those used by TOSB, the grounds of objection were different. By this I mean that the reasons in ADA2800 for objecting to the requirement of membership of one of the four mosques in order to acquire priority for admission were different to those raised in the present case. In ADA2800 the objector did not suggest that it was difficult or impossible for many Muslims to become members of the mosques in question, or that membership of such mosques required a fee. Nor was the relevance of guidance by the faith body raised as an issue. I note that at the time the legal judgment explaining the significance of such guidance (the Oratory judgment) had not yet been determined or published.

20. In summary, ADA2800 was determined in response to the specific objection which had been made in accordance with the requirements of section 88H of the Act, and the circumstances relating to the current objection are different. In any case, an adjudicator is not bound by the findings of previous determinations.

Faith-based arrangements of other schools

21. In order to explain why they believe that the school’s arrangements conform with the Code, the trust’s legal representatives have drawn my attention to the faith-based arrangements of a number of other nearby schools. As I will explain later, a relevant factor in the consideration of any faith-based admission arrangements is the extent to which any criteria relating to faith-based activities are laid out in published guidance from the faith body. For example, it is clear to me from browsing the website of the Blackburn Diocesan Board of Education that it has issued extensive guidance on school admissions to those schools for whom is it the faith body.

22. In general, therefore, any consideration of the conformity with the Code of the arrangements of those other schools would need, amongst other factors, to scrutinise the relevant guidance carefully. Whilst I acknowledge the views of the trust and the faith body about what they believe to be a degree of similarity between their arrangements and those of these other schools, I stress that it is not within my jurisdiction in this determination to consider any arrangements except for those that are the subject of this objection.

Consideration of Case

23. This objection is not about whether the trust has the right to adopt faith-based oversubscription criteria for the school. The school has a designated religious character and so it is permissible for such criteria to be adopted, provided they do not breach any particular aspect of admissions law or the Code. Rather, at the heart of the objection are the specific criteria which, in the event of the Priority Group A (children of the Muslim faith) being oversubscribed, give priority to children whose parent is a member of, or a woman who receives the membership benefits of, particular mosques.

The origin of the faith-based criteria

24. The criteria requiring mosque membership or benefit were set out for me by the trust's legal representatives, who shared with me a statement dated 1 August 2012 from TIFECT (the faith body) to "Mr Patel" (who I presume was a representative of the school). This statement says:

"Thank you for sharing with TIFECT the proposed admission arrangements that the Tauheedul Free Schools Trust is including in the application to the DfE for opening The Olive School, Blackburn in September 2013 for the reception and year 1 cohort.

We note that the school will be allocating 50% of the places based on Muslim faith and 50% to those without reference to faith. We note that the faith category prioritises members of the 4 mosques (Masjid-e-Tauheedul Islam, Masjid-e-Irfan, Masjid-al-Hidaayah and Masjid-e-Anisul Islam) who campaigned for the opening of the school.

We note the membership of the mosques will be considered by the mosques and the criteria they will use to determine membership is:

1. Practising Sunni Muslim
2. Resident within 0.5km of the mosque²
3. Aged 18 and above
4. Regular attendance for 5 times prayers³ at the mosque at which membership is requested, where possible and for single ladies benefit from services offered by the mosque.

² Subsequent correspondence from Light Trust (formerly TIFECT) indicates that this criterion has at some point been changed to read "resident within 0.3km of the mosque"

³ Subsequent correspondence from Light Trust suggests that this criterion has at some point been changed to read "Regular attendance for prayer..."

The trust has provided a very similar statement from the Association of Muslim Schools UK (AMSUK), also dated 1 August 2012, which differs only in that it twice uses “we agree that” (or “we are in agreement that”) rather than “we note that”.

25. The trust has also provided me with some background to explain the origin of the faith-based criteria requiring mosque membership. They tell me that:

“The rationale for the inclusion of the 4 named mosques within the school’s oversubscription criteria is that communities around the 4 mosques campaigned to support the opening of The Olive School. They attended events, canvassed in the local community to secure and demonstrate demand, and were involved in the successful application for the school. The 4 named mosques, and the community they serve, share the faith ethos of the school.

There is a very strong link between the 4 mosques. The community around The Tauheedul Islam Mosque grew over time and the three other mosques were established to serve the growing need.”

26. The funding agreement for the school states that:

“The Academy Trust is also permitted by the Secretary of State to determine admission arrangements that give priority for admission (but not above looked after children and previously looked after children) to children whose parents have permitted founders status. The Academy Trust should ensure that they grant Founders status according to the requirements of Charity law which permit special provision to be made for a small group of the general beneficiaries of the Charity providing that the greatest benefit is to the wider community. The Academy Trust should only grant Founders status to a parent or guardian whom the company has identified in its discretion as having genuinely played a material role in setting up the school and, where appropriate, whose continued role is deemed by the company to be needed to establish the school in its early years for the benefit of the public as a whole.”

27. The objector says that:

“It cannot be reasonably expected that those mosque members in 2013 still hold a deep link to the school given their children will not be attending anymore.”

28. It is my view that the funding agreement provides a rationale for the trust to consider those who were mosque members or beneficiaries at the time of the school’s founding, to fall into the category of “Founders status”. It is therefore reasonable for the children of such parents or guardians to still have the highest priority under the oversubscription criteria after LAC and PLAC children. As these parents may be classified as having Founders status, I do not consider it would be necessary to look behind that status at how membership was acquired prior to the school’s foundation. Hence I do not uphold this specific aspect of the objection, insofar as I accept that those who acquired Founders status by being a member of one of the mosques when the school was founded can lawfully be given priority.

29. However, no distinction is made in the admission arrangements between those parents who have Founders status and those that became mosque members after the school was founded. The only consideration is current membership.

30. The provisions in the funding agreement do not provide for Founders status to be granted to those who have achieved the status of mosque member or beneficiary after the school was established. Consequently, I have to consider the rationale for including that group.

31. The Trust has stated that the rationale for giving priority to members of those mosques who became members since the school was founded is that there continues to be a close relationship between those mosques and the school. Whilst I accept that rationale in principle, there is a broader issue as to whether or not the oversubscription criteria which give priority for the children of those individuals who became members of one of the mosques after the school was founded are sufficiently clear to conform with the Code, and I will explain what is meant by this in due course below.

Financial support and openness of membership

32. The objector did not supply me with evidence to support their assertion that a financial contribution is a mandatory requirement for mosque membership. When I asked the trust about the matter, the legal representatives of the trust told me that:

“No evidence has been provided to support the assertion that the financial contributions are not voluntary. Within the membership criteria it is clear no financial contribution plays a part. Our Client also understands that membership is not rescinded if members do not make a financial contribution. Indeed, our Client understands that there are members who have not made any contributions. In addition, there is no evidence either offered by the objector or known to our Client that a parent has ever claimed that they have been denied membership on the grounds of being unable or unwilling to pay a financial contribution, nor that they have faced any other kind of consequence for non-payment.”

33. In response to the objector’s assertion that mosque membership is effectively closed to new members, I was told by the legal representatives of the trust that:

“Membership is not closed. Each year the school admits pupil from parents who have become members recently. All Muslim parents can become new members of the named mosques if they live within its defined parish (i.e. 0.3km from the mosque), agree with its beliefs, and pray/benefit regularly from the mosque.”

34. In the light of these statements, I have concluded that I do not have evidence to find that membership requires any financial contribution nor that membership is closed, and consequently I do not uphold that particular aspect of the objection.

35. However, the statements lead me to make a further significant point, namely that whilst the trust is able to speak to its understanding of the position in relation to mosque

criteria and financial support (and I have no reason to consider that it is not acting in good faith), nevertheless all matters of mosque membership or benefit, and indeed any associated membership criteria and obligations, are outside of the direct control of the trust. Indeed, the legal representatives say:

“To be clear, the mosques and not the school sets the membership policy for the mosques...The school is not responsible for this criteria [sic].”

In short, the trust is able to tell me the extent of its knowledge about how the mosques operate, but the mosques are separate institutions and are not parties to this objection. This is relevant to the matter of the clarity of the oversubscription criteria, to which I now turn.

The clarity of the oversubscription criteria

36. My reasoning on whether the oversubscription criteria are clear is as follows:

- a. On a superficial level, the requirement to be a mosque member or beneficiary appears to be clear. A parent of a Muslim child knows whether or not they (the parent) are a mosque member or beneficiary, and so will be aware of whether their child will benefit from the oversubscription criteria. However, for a criterion to be clear, it also needs to be clear to someone who is not familiar with the area or the relevant institutions. In this case, it is not clear to all parents looking at the arrangements exactly what is entailed by mosque membership or benefit, nor how one can acquire such status if one does not already have it, nor what factors might rule out such acquisition.
- b. The trust tells me that there are four criteria set by the mosques for membership. These criteria will be met by the parents of some Muslim children but not by others, and so I find that they define and therefore form part of the oversubscription criteria in their own right. However, the determined arrangements do not say what those membership criteria are.
- c. It is not clear from the arrangements whether a parent who meets all four of the membership criteria will automatically be granted mosque membership or benefit, or whether there are some additional aspects to the membership process such as making a request, completing an application form, signing a declaration or undergoing some sort of approval process. If any additional aspects exist, then they too act as part of the oversubscription criteria because anyone who does not meet them will be given a lower priority than someone who does. It is not clear from the arrangements whether any such additional aspects exist, and, if so, what they are.
- d. The arrangements do not set out a distinct priority for parents who are granted Founders status according to the provisions of the funding agreement.
- e. As mentioned above, all matters of mosque membership or benefit, and indeed the associated membership criteria and obligations, are outside of the direct

control of the trust. This raises the possibility that the mosque membership criteria could be changed (as indeed has been the case in the past for the distance criterion, which now appears to be 0.3km rather than the initial value of 0.5km) by a body other than the admission authority. If this were to happen, there would effectively be a change in the determined arrangements, which are a matter for the admission authority to determine and not any other body. There would be the potential for a breach of the requirements of paragraph 3.6 of the Code, which sets out clearly the limited circumstances in which an admission authority can vary the arrangements.

37. Having considered all the above, it is my view that the oversubscription criteria that refer to membership of various mosques are unclear and so do not conform with paragraph 1.8 of the Code. This makes the arrangements as a whole unclear, in breach of paragraph 14 of the Code. I therefore uphold this aspect of the objection, although due to the lack of clarity within the arrangements I am unable to make any finding about the specific matters of unfairness outlined by the objector.

38. I note here a further matter in relation to the arrangements, which are worded so that “being a child of the Muslim faith” is a separate matter to whether or not their parent is a mosque member or beneficiary. This is an important distinction, since the arrangements prioritise LAC and PLAC children of the Muslim faith (whether or not their parent(s) are members of the specified mosques) above those who are children of members or beneficiaries of the named mosques. As things stand, the arrangements provide for self-certification in that there is a box on the Supplementary Information Form for Priority Group A, which simply asks the parent / carer to sign to confirm that their child is a Muslim.

39. In correspondence with the legal representatives of the trust, I was told:

“The faith body was entirely satisfied that membership of the specified mosques was enough to determine that an applicant was a Muslim and, in the absence of an evidence base to demonstrate that is not, we would respectfully submit this becomes a theological question and not one within the jurisdiction of the SA to determine.”

40. However, there is a lack of coherence in this statement. The determined arrangements define a Muslim child as one whose parents certify as such (which is permissible under the Code) but this definition does not align with the faith body’s statement. Whilst it is reasonable for the faith body to regard mosque membership as a sufficient condition for determining that a parent is a Muslim, it is not reasonable to regard it as a necessary condition because the vast majority of Muslims are not members of the specified mosques, nor could they be even if they wanted to. Furthermore, the arrangements and the SIF refer to the faith of the child, not the faith of the parent, and the faith of a child cannot be dependent on mosque membership, since membership is restricted to those aged at least 18.

41. The trust is now required to amend the arrangements, and it is important that the trust has time to model any changes to the arrangements, to identify any unintended consequences of change and to carry out any consultation on the proposals. There are

likely to be implications for other trust schools which share similar oversubscription criteria and definitions, although not necessarily the same faith body. There is insufficient time for these processes to be completed before parents make applications for admission in September 2025. I therefore determine that the arrangements must be revised by 28 February 2025, which is the deadline for determining arrangements for admission in September 2026.

42. It is not within my jurisdiction to suggest to an admission authority what its revised arrangements should be. However, in the light of the matters raised above, I have provided below some observations on the statutory framework as it relates to schools with a religious character, to assist the trust with determining its arrangements for 2025/26. I stress here that compliance with these aspects of the statutory framework, and indeed any other specific aspect of the Code (such as the requirement for oversubscription criteria to be clear), does not of itself guarantee full compliance with the Code.

Other observations

The Statutory Framework and the Oratory judgement

43. The following paragraphs summarise the statutory framework which is relevant to the admission arrangements of schools which are designated as having a religious character.

44. Paragraph 1.36 of the Code requires schools designated with a religious character, like all publicly funded mainstream schools, to offer every child who applies, whether of the faith of the school, or of another faith, or of “no faith”, a place at the school if there are places available. They may, however, use faith-based oversubscription criteria if oversubscribed. The sole exceptions to this rule are grammar schools. The school and the other schools in the same academy trust are not grammar schools.

45. Section 10 of the Equality Act 2010 (the Equality Act) prohibits discrimination on the grounds of religion or belief (generally), and section 85(1) of the same Act applies this prohibition (as well as those arising from other protected characteristics such as disability) to schools concerning admissions. Section 89(12) then applies exceptions to these requirements, and these are set out in Schedule 11 to the Equality Act. Paragraph 5 of Schedule 11 disapplies section 85(1) “so far as relating to religion or belief” to any school designated by the Secretary of State under section 69(3) of the School Standards and Framework Act 1998 as having a religious character (and to schools listed in the register of independent schools as having a religious character). So, such a school may discriminate on the grounds of religion or belief in the arrangements it makes for deciding who it admits as a pupil if oversubscribed.

46. Paragraph 1.9i forbids the prioritisation of children on the basis of their own or their parents’ past or current hobbies or activities, but as an exception permits schools with a religious character to take account of religious activities “as laid out by the body or person representing the religion or religious denomination”.

47. The meaning of “laid out” was considered in the Oratory judgment in which the judge (Cobb J) said that: “the phrase “laid out” means specifically ‘laid out’ in schools admissions guidance published by the religious authority – i.e. specifically provided for or authorised by such guidance.” I understand the meaning of “published” for this purpose to mean that the guidance has been provided in a form which makes it generally known and available, and that this would most commonly be in written form. By generally known and available, I do not mean that it would necessarily have to be available on say a publicly accessible website but that it should certainly be able to be produced if requested from the faith body.

48. I also understand “religious activities” to mean those things that a person might do actively to practise a faith. Hence any religious activities which a school uses in order to discriminate between applicants for admission must be “specifically laid out” in guidance from its religious authority. This includes any reference to an individual’s practice of the faith, that is to say to their religious observance and its frequency/consistency or duration. If such activities are not laid out in guidance, they may not form part of any oversubscription criteria used to determine priority in the allocation of school places in a school’s admission arrangements.

49. Paragraph 1.38 requires the admission authority to “have regard to” any guidance from their faith body when constructing faith-based admission arrangements “to the extent that the guidance complies with the mandatory provisions and guidelines” of the Code, and to consult that body when deciding how membership or practice of the faith is to be demonstrated. Since membership of a faith is not an activity, how it is defined is not caught by the requirement of paragraph 1.9i that it be specifically laid out in guidance from a school’s faith body. As I have already explained in an earlier paragraph, the arrangements as currently written provide for a child’s “membership of the faith” to be certified by a parent.

Current Guidance from Light Trust

50. At the outset of my considerations, the trust told me clearly that no guidance on admissions has been received from the faith body. In an email dated 19 June 2024, the trust’s legal representative states:

“My instructions are that Light Trust (formerly Tauheedul Islam Faith, Education and Community Trust) has not issued any guidance on admission arrangements current or in the past.”

Correspondence from the faith body confirmed that this statement was correct at the time.

51. However, I have now been provided with a paper from the faith body entitled “Light Trust Guidance to Star Academies 2024-25”. This paper states:

“The criteria for the named mosques were set out to the Light Trust as follows:

1. Practising Sunni Muslim
2. Resident within a 0.3km of the mosque

3. Aged 18 and above

4. Regular attendance for prayer at the mosque for which membership is requested where possible (or for single ladies, benefit from services offered by the mosque).

Light Trust's view at the time of supporting with the drafting of the admission arrangements, and at this time, is that these criteria remain appropriate and desirable, with membership of one of the four named mosques forming priority in the admission arrangements for reserved faith places. If such criteria is [sic] thought to be religious activity for the purpose of paragraph 1.9 i) of the School Admissions Code, we confirm this can be taken into account when giving priority to applicants whose parents hold membership of one of the four named mosques. In the event that the criteria for membership at any of the named mosques changes, Light Trust would review its guidance and update Star Academies with its position accordingly."

52. The guidance also states:

"This guidance is issued by Light Trust in its capacity as religious authority for Star Academies' Muslim free schools and academies which include priority for membership of specified mosques ...within their determined arrangements for reserved faith places."

I note that this latter statement is inconsistent with earlier communications I have had with the trust's representatives. As explained earlier in the section describing ADA2800, Tauheedul Islam Boys High School also has priority for membership of specified mosques, but the faith body for that school is not Light Trust. In an email of 1 August 2024, the trust's representatives told me:

"The Association of Muslim Schools UK is the current faith body of Tauheedul Islam Boys High School."

Implications for the trust

53. The trust will need to amend its arrangements so that they are clear. This means that they are easily understood, not just to local parents but also to a reader who may not yet have any connection to the area or the school. It also means that they must be clear about the factors that may cause a child to have a lower priority if the school is oversubscribed. For example, currently it is not clear to parents from looking at the arrangements what is entailed by mosque membership, nor what steps need to be taken to obtain it, nor what religious activities need to be undertaken to qualify.

54. In my correspondence with trust's legal representatives, I raised the matter of whether "mosque membership or benefit" was of itself a religious activity. Having viewed all the correspondence and considered all the information to hand, I have concluded that without full disclosure of the actual process for applying for, and being granted, membership, it is not possible for me to reach a firm conclusion. However, when the oversubscription criteria are revised to make them clear, any references in the revised

arrangements to religious activities will also need to comply with the requirements of paragraph 1.9i of the Code as explained by the Oratory judgement. I note here that the latest guidance from the faith body does not provide an explanation of how “practising” is assessed or measured, nor does it explain the frequency or duration necessary for attendance at prayer to be considered to be “regular”.

Summary of findings

55. I do not uphold the objector’s claim that membership of the stated mosques requires a financial contribution and is not open to new applications nor has been for many years. I consider it lawful that certain mosque members may have a high priority for admission on the basis of their Founders status. However, I find that the oversubscription criteria, which give priority to a child whose parent is a member of, or who receives the membership benefits of, certain named mosques, do not conform with paragraph 1.8 of the Code because they are not clear in the ways I have described above. This means that the arrangements as a whole are unclear and do not conform with paragraph 14 of the Code.

Determination

56. 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 Star Academies for The Olive School, Blackburn.

57. 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 the timescales set out in this determination.

Dated: 12 November 2024

Signed:

Schools Adjudicator: Clive Sentance