

## **DETERMINATION**

**Case reference:** ADA/002303

**Objector:** The Diocese of Carlisle

**Admission Authority:** The Governing Body of Patterdale Church of England Primary School

**Date of decision:** 31 August 2012

### **Determination**

**In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of Patterdale Church of England Primary School.**

### **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 the Diocese of Carlisle, (the Diocese) the objector, about the admission arrangements (the arrangements) for Patterdale Church of England Primary School (the School), a voluntary aided primary school for pupils age 4-11 years for September 2013. The objection is to the oversubscription criteria which do not give preference to children of the faith.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the School's governing body, which is the admission authority for the School. The objector submitted their objection to these determined arrangements on 21 June 2012. 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**

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

The documents I have considered in reaching my decision include:

- a. the objector's form of objection dated 21 June 2012 and supporting documents;
- b. the School's response to the objection and supporting documents;

- c. Cumbria County Council's, the local authority, (the LA) composite prospectus for parents seeking admission to schools in the area in September 2013;
- d. maps of the area identifying relevant schools;
- e. confirmation of when consultation with the Diocese on the arrangements last took place;
- f. copies of the minutes of the meeting of the governing body of 21 February 2012, at which the arrangements were determined; and
- g. a copy of the determined arrangements.

### **The Objection**

- 4. The objector argues that the Diocese requires all its schools to use faith based oversubscription criteria and refers to paragraph 1.36 of the Code. "... Schools designated by the Secretary of State as having a religious character (commonly known as faith schools) may use faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed."
- 5. It further argues that the School must have regard to its guidance and has not done so. Paragraph 1.38 of the Code: "Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based oversubscription criteria, 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. Church of England schools **must**, as required by the Diocesan Boards of Education Measure 1991, consult with their diocese about proposed admission arrangements before any public consultation."
- 6. It argues that that the governing body has failed to recognise that they must have regard for the guidance of the Diocese. In addition, it argues, that it is not clear whether the governing body of the School had been properly briefed or fully understood the decision they were being asked to make.

### **Background**

- 7. In 2011, the Carlisle Diocesan Board of Education (DBE) updated and issued its guidance on school admission policies in preparation for the new Code and legislation. It consulted with all its schools and relevant local authorities in October 2011. The DBE agreed its policies on 21 November 2011.
- 8. The DBE has identified five principles by which Church of England (CE) values and beliefs should impact on admissions policies;

1. A concern for the disadvantaged / vulnerable;
2. The importance of neighbourhood and communities;
3. Support for the family;
4. The importance of the family in Christian nurture;
5. Regard for the Law.

9. The DBE reports that there were concerns from respondents to the consultation about principle 4.

“Some respondents argued passionately that CE schools benefit from the Christian values and vision that guide their practice and are communicated to all stakeholders but they exist for people of any faith or none. Therefore, they argued, no preference should be given on the basis of a particular faith commitment.”

10. The DBE’s response was that it “understands the strength of this vision but also recognises that we live in an increasingly secular society. Inappropriate and often hostile values are promoted through many media which can undermine the values and practices of a Christian home. CE schools with to provide and oasis of support and partnership for Christian families wishing to promote Christian values.

The DBE therefore requires all admission policies to give priority to those parents who regularly attend worship with their children. The DBE will usually refer to the office of the schools adjudicator any admission policies which do not.”

The example given is

“Children living within the catchment area, who with a parent, attend at last twice a month, a Church in membership of Churches Together in Britain or the Evangelical Alliance. Attendance may be at more than one Church but should be at least two years prior to the application date.”

11. The DBE required all its schools to include faith criteria in the oversubscription criteria and gave the appropriate wording which it wished to be used.
12. At the governing body meeting on 12 November 2011, the governors discussed the admissions policy; the item is headed “Admissions policy 2012-2013”. It records that the Diocese was consulting on School Admissions policies and the letter from the DBE was circulated with the agenda papers. It notes that governors did not feel any changes were required to their recently revised policy.
13. The DBE received the School’s policy, without faith-based oversubscription criteria, in December 2011. The objector reports that communications took place with the School on three occasions in January 2012.
14. The governors of the School considered their policy on 21 February

2012. There is no record of the discussion, but only that it met the government recommendations and the legal criteria. The decision was taken to approve the policy without the amendments sought by the Diocese.

15. The Diocese made further attempts to have their views adopted, but was unsuccessful. The view of the governing body in correspondence of 19 April 2012 included that:

- “It takes its faith responsibilities very seriously across all of its work.”
- “The School's admissions policy is reviewed every year and careful consideration is given to the faith criteria.”
- “ because of the isolated geography of the School, the governors feel it would be detrimental to the School if children were excluded from the School on the grounds of faith. “
- “The governors are therefore keen to encourage all those children who are living in the Patterdale and Glenridding area to attend our School. “
- “The Christian faith is an important part of the School's teaching and ethos.”

### Consideration of Factors

16. This objection is solely about the School's decision not to include faith based oversubscription criteria to give priority for admission to the School. There are two parts to this objection.

17. The first is that the School has behaved contrary to paragraph 1.36 of the Code in not including faith based criteria in the oversubscription priorities. The DBE wished them to do so.

18. Paragraph 1.36 the Code says faith schools “may use faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed.” Thus the Code clearly says ‘may include’ not ‘must include’. The School is not obliged under the Code to use faith based oversubscription criteria if it decides not to do so. I do not uphold this part of the objection.

19. The second part of the objection relates to the Code: paragraph 1.38

“Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body ..... when constructing faith based oversubscription criteria..... 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. Church of England schools **must**, as required by the Diocesan Boards of Education Measure 1991, consult with their diocese about proposed admission arrangements before any public consultation.”

20. The objector argues that insufficient weight was given by the governing body in their deliberations to this guidance. Certainly the minutes of the meetings when the proposal was made and then adopted are brief. However, the subsequent submission by the governing body demonstrates that the governors have reflected on the guidance and gives clear reasons for their decision.
21. The minute of the governing body's meeting shows the letter from the DBE was received and the guidance declined. The School and the Diocese communicated on three occasions during January and there was at least one meeting with the Diocese about its admission arrangements. I consider that this satisfies the requirement of the Code in paragraph 1.38. They had regard for the guidance and wrote explaining in the email of 19 April 2012 why they were not following it. The Code says that faith schools may use faith based oversubscription criteria; it does not say **must**.
22. The School explained that it takes its faith responsibilities seriously but is clearly anxious about any possible impact on the roll at the School. The School is very much smaller than the average primary school. At the time of the Ofsted Inspection, 25 April 2012, which found the School to be 'good', there were 33 pupils in roll. Children are taught in two classes, one has Reception, Year 1 and Year 2 pupils, the other Year 3, Year 4, Year 5 and Year 6. The School is concerned that no children should be excluded from making application to the School on the grounds of faith.
23. My view is that the School consulted the DBE about the admissions criteria and considered their advice. Within the required timescale they did not decide to follow it. This not contrary to the Code.

## **Conclusion**

24. When considering its admissions policies the Diocese decided to require all its schools to include faith based oversubscription criteria. This is the wish of the DBE; it is not a requirement in the Code. The School decided not to do so. The Code says that faith schools may include such criteria. It further says that schools must have regard to the advice and guidance of the Diocese when constructing faith based oversubscription criteria but there is no requirement to have such criteria.
25. I find that the school did consult with the Diocese as required by the Code and did consider the advice and guidance but decided not to follow it. The school is compliant with the Code and therefore I do not uphold the objection.

## **Determination**

26. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the Governing Body of Patterdale Church of England Primary School.

Dated: 31 August 2012

Signed:

Schools Adjudicator: Miss Jill Pullen