



## DETERMINATION

<b>Case reference:</b>	<b>ADA2771</b>
<b>Objector:</b>	<b>The Fair Admissions Campaign</b>
<b>Admission Authority:</b>	<b>The governing body of JFS, London Borough of Brent</b>
<b>Date of decision:</b>	<b>3 October 2014</b>

### Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body of JFS in the London Borough of Brent for admissions in September 2015.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements as the 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 as quickly as possible.**

### The objection

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 Fair Admissions Campaign, (the objector), about the admission arrangements (the arrangements) for JFS (the school), a voluntary aided Jewish secondary comprehensive school for students aged 11 to 18 in the London Borough of Brent, the local authority, for September 2015.

2. The objection is to the arrangements for admission to the school in 2015, but also begins by saying the arrangements for September 2014 are not available on the school's website; the religious practice test is not defined in the oversubscription criteria; the supplementary information form (SIF) asks for the child's gender and asks both parents to sign the form; the Certificate of Religious Practice (CRP) asks whether applicants have been engaged in formal Jewish education (either provided at a Jewish primary school (not a nursery) or at a Cheder (a Jewish religious school),

or equivalent, or a tutor, for at least 2 years); the requirement for formal Jewish education other than at primary schools takes into account children's activities; and finally the CRP asks if the parent or child have been unpaid volunteers in any Jewish communal, Jewish charitable or Jewish welfare activity within the last 2 years.

## **Jurisdiction**

3. 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 objection to these determined arrangements was made on 30 June 2014. 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. I have also used my powers under section 88I of the Act to consider the arrangements as a whole.

## **Procedure**

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

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

- the objection dated 30 June 2014 and further comments dated 14 August 2014;
- the school's letter in response to the objection dated 1 August 2014 with supporting documents; and further comments dated 5 and 24 September 2014;
- a letter dated 3 September 2014 from the Office of Chief Rabbi, the faith body for the school, setting out its response to the objection;
- an email dated 19 August in which the local authority said it had no comment to make about the objection;
- the composite prospectus for parents seeking admission to schools in the local authority area of Brent in September 2014 and in 2015;
- minutes of the meeting of the governing body held on 31 March 2014 at which the arrangements for 2015 were determined; and
- a copy of the determined arrangements for 2015 with SIF and CRP for admission to year 7 and year 12.

## **The Objection**

6. The objection raises several issues about the arrangements of the school. The objector cites the specific paragraphs of the Code which the arrangements are said to contravene:

- i. the arrangements for admission to the school in September 2014 are no longer on website: paragraphs 1.47 and 2.14;
- ii. the religious practice test is not defined in oversubscription criteria: paragraphs 1.8, 1.37 and 14;
- iii. the SIF asks for the child's gender : paragraph 2.4;
- iv. the SIF asks both parents to sign : paragraph 2.4e;
- v. the CRP asks "*Has your child been engaged in formal Jewish education (either provided at a Jewish primary school (not a nursery) or at a Cheder, or equivalent, or a tutor) for at least 2 years?*" : paragraph 1.9b;
- vi. the requirement for formal Jewish education other than at primary schools takes into account children's activities: paragraph 1.9i; and
- vii. the CRP asks "*Within the last 2 years have you and/or your child acted in an unpaid voluntary capacity in any Jewish communal, Jewish charitable or Jewish welfare activity?*" : paragraphs 1.8,14, 1.9e and 1.9i.

### **Other Matters**

7. In the course of considering the objection, I reviewed the arrangements as a whole. The arrangements appear not to conform with the requirements of the Code in the matter of information requested on the SIF for sixth form admissions.

### **Background**

8. The school is a Jewish voluntary aided secondary comprehensive school for students aged 11 to 18 years in Kenton, in the local authority area of Brent. It has a published admission number (PAN) of 300 and there are approximately 2100 students on roll. The school admits students from around 60 primary schools, none of which are named feeder schools. Approximately one third of students on roll did not attend a Jewish primary school. Generally 90 per cent of Year 11 students stay on into the sixth form, which has over 500 students on roll.

9. The school's arrangements state clearly that if there are 300 or fewer applications all those applying will be offered places. When I reviewed the school's website I found that the arrangements are easy for parents to access under a main heading of Admissions which has sub-headings for applicants to year 7 and year 12, complete with SIF and CRP forms and guidance notes.

### **Consideration of factors**

10. The objection is in seven parts and I will consider each in turn.

i) The arrangements for admission to the school in September 2014 are no longer on website: paragraphs 1.47 and 2.14

11. In its response the school explained that the arrangements for admission in 2014 were published in the section of the school's website on 'in-year admissions' but the error had been rectified and the arrangements for 2014 had since been placed on the website and would remain there for the next academic year. It is the school's view that this would not have had any impact on the arrangements for 2015 which are published on the website as required. Subsequently, the objector re-checked the school's website and found that the arrangements for 2014 were not available. The school apologised for any confusion and confirmed on 5 September that the 2014 arrangements had now been placed on the school's website and when I checked on 21 September they were located under the heading 'Other Admissions'.

12. Paragraph 1.47 states, "*Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of their determined arrangements on their website displaying them for the whole offer year.....*"

13. At the time of the objection the arrangements were not published on the school's website as required and I therefore uphold this aspect of the objection.

ii) The religious practice test is not defined in oversubscription criteria: paragraphs 1.8, 1.37 and 14;

14. Citing paragraph 1.37 of the Code which states, "*Admission authorities **must** ensure that parents can easily understand how any faith based criteria will be reasonably satisfied....*", the school says that the CRP is mentioned within the first oversubscription criterion and is set out in a tabular way so that it is easily understood by parents and facilitates their completion of the form. There have been no complaints from applicants relating to a lack of clarity about what is required and the school is of the view that the form is reasonable, clear and objective. It is also procedurally fair and complies with relevant legislation, as required by paragraph 1.8 of the Code.

15. The objector contends that as a matter of clarity (paragraphs 14 and 1.8); any religious practice tests need to be defined in the arrangements and not merely relegated to a SIF.

16. When I checked the school's website under the heading 'Admissions' I found the following information for applicants, "*You will be required to complete a Supplementary Information Form (SIF). In addition, you will also be required to obtain 3 points on the Certificate of Religious Practice (CRP) if you wish to be considered as a priority applicant. Both the SIF and CRP must be sent directly to JFS once they have been completed. The deadline for receipt of the SIF and CRP is 27 October 2014.*" My view is that the school has taken particular care to provide a guidance note to answer the 'frequently asked questions' that parents may have about the CRP and has ensured that this forms part of the arrangements and is published with them. Immediately under the introductory statement above, there are links to all the information that applicants require as follows:

- JFS 11+ Prospectus
- Admissions Policy 2015

- 11+ SIF
- 11+ CRP
- Certificate of Religious Practice Questions.

17. As all the information required to make an application has been provided together in one place as is required by the Code, it is my view that parents can easily access the arrangements and can understand what is required and how places will be allocated and I therefore do not uphold this aspect of the objection.

iii) The SIF asks for the child's gender; paragraph 2.4

18. The school confirms that it is aware of the requirements set out in paragraph 2.4 which says that admission authorities **must** only use SIFs that request information that has a direct bearing on decisions about oversubscription criteria; but adds that the SIF does not request any prohibited information. It is used to gain information about whether an applicant has a sibling, which is relevant to the oversubscription criteria. The SIF does ask for information about the gender of the applicant, but only in order to enable the correct personal pronoun to be used in the administrative process which the school feels is more courteous and personal. The gender of each child is not taken into consideration in the allocation of places and the gender balance in the school is broadly equivalent with only slight variations from year to year.

19. The objector asserts that knowing about an applicant's gender is not required in order to consider an application and this is correct. I must consider what the Code says and paragraph 2.4 says that admission authorities **must** only use SIFs that request additional information which has a direct bearing on decisions about oversubscription criteria. The common application form (CAF) will record the gender of the applicant and as the oversubscription criteria are not gender specific this information should not be requested and I therefore uphold this aspect of the objection.

iv) The SIF asks (albeit does not require) both parents to sign : paragraph 2.4e

20. The school acknowledges that it is possible for applicants to infer that the SIF is asking for the signatures of both parents but explains this had not been the school's intention. A signature is requested in the declaration box and a further signature immediately underneath. The intention is for the same parent to confirm the application and then to confirm the declaration. From experience the school says this normally is the same parent.

21. The objector points to the fact that the heading is "*Parents' Declaration*" and the text proceeds to state, "*I/We*" which is problematic as it may lead some parents to conclude that both should sign. In order to remove the potential for confusion the school has now made a change to its in-year admission forms and confirms that it will review the use of the second signature during the autumn term for arrangements for admission in 2016. The objector welcomes the school's steps to clarify this matter further for parents.

22. The Code says in paragraph 2.4e) that admissions authorities **must not** use SIFs that ask for, “*both parents to sign the form*” and for the avoidance of doubt the school needs to remove all references to “parents”. Without this change throughout the arrangements parents may conclude that it implies a requirement for both parents to complete and sign an application form or CRP and for these reasons I uphold this aspect of the objection.

### The Certificate of Religious Practice

23. The objector raises issues about the CRP and in its response the school outlines the origin of the form and refers to paragraph 1.38 of the Code which says that admission authorities, “.....**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...**” When considering the nature of the CRP, guidance was requested from the Office of the Chief Rabbi as the school wanted to ensure that religious practice could be demonstrated without any expectation that entrance to the school would require too high a level of practice.

24. The advice that was received is based on a section of Oral Law which explains that the world is based on three principles, learning, serving God and loving kindness. Learning could be demonstrated as experience of previous Jewish education, either at a Cheder (Sunday school) or a Jewish primary school. Acts of loving kindness could be demonstrated by voluntary work of various kinds, either by the child or the parents and the third strand, loving God, could be demonstrated by attendance at a synagogue of any denomination with membership not being a requirement.

25. In order to satisfy the requirement of religious practice it is not necessary to achieve every aspect as three points required can be achieved through attendance at the synagogue on eight occasions. There is no advantage or disadvantage if applicants only attend the synagogue and do not refer to previous Jewish education or acts voluntary work. The school refers to paragraph 1.9i and states that it has merely taken account of religious activities as laid out by the body or person representing the religion.

26. I will now consider each strand of the objection about the CRP against the requirements set out in the Code.

v) The CRP asks “Has your child been engaged in formal Jewish education (either provided at a Jewish primary school (not a nursery) or at a Cheder, or equivalent, or a tutor) for at least 2 years?” paragraph 1.9b.

27. The school confirmed that approximately half of all places are allocated to students who did not attend a Jewish primary school and that this was evidence that they had not been disadvantaged, as there is no requirement whatsoever for formal Jewish education.

28. The objector contends that it is possible if two applications are identical apart from the fact that one child has attended a Jewish primary school, it may be that only one child will have obtained the three points required. The school responded saying

that the CRP awards just a single point to demonstrate learning, whilst on the other hand all three points required to demonstrate a child is of the faith can be gained by attending synagogue services on eight occasions. Priority is not afforded to applicants from any named primary school, however, attendance at a Cheder or a Jewish primary school is one form of demonstrating that there has been learning about the Jewish faith.

29. It is the view of the objector that this contravenes paragraph 1.9b) which says that admission authorities, “..... **must not take into account any previous schools attended unless it is a named feeder school**” and that paragraph 1.9e) may also be contravened if any of the Cheders (Sunday schools) are fee-paying. The school has confirmed it does not have named feeder schools and the response from the Office of the Chief Rabbi explained that the school does not take into account attendance at any specific named primary school when considering applications. Attendance at a Jewish school is just one way to evidence that the principle of learning had been satisfied.

30. Having considered the guidance from the faith body I am persuaded that it specifically requires the school to take account of the learning that has taken place, regardless of where this occurred and it makes no distinction between, children who have attended a Sunday school, had a home tutor or happen to have attended a Jewish school prior to making an application. The school has had regard to the guidance from the person representing the religion as set out in paragraph 1.37 of the Code and for this reason I do not uphold this aspect of the objection.

vi) The requirement for formal Jewish education other than at primary schools takes into account children’s activities: (paragraph 1.9i)

31. The objector asserts the requirement for learning takes into account children’s activities and this may contravene the Code.

32. Although paragraph 1.9i does say that admission authorities, “....**must not prioritise children on the basis of their own or their parents’ past or current hobbies or activities**” it goes on to add, “.....**schools which have been designated as having a religious character may take account of religious activities, as laid out by the body or the person representing the religion or religious denomination.**” This requires children of the faith to be able to demonstrate that they have engaged in learning about the faith. In my opinion the faith body has provided guidance which the school has followed in order to enable some parents to demonstrate that children have been engaged in learning about and following the Jewish faith and thereby to gain one of the three points that are needed overall to demonstrate that they are “of the faith”. For this reason I do not uphold this aspect of the objection.

vii) Taking account of ‘acting in an unpaid voluntary capacity in any Jewish communal, Jewish charitable or Jewish welfare activity’ constitutes taking account of practical support parents are giving to associated organisations and is therefore disallowed by paragraph 1.9.e)”.

33. The objector says that the intended meaning of ‘religious activity’ is equivalent to ‘ritual’, but even if a broader understanding is adopted, the objector does not

consider that all Jewish communal, Jewish charitable or Jewish welfare activity is in some looser sense religious, even if it is explicitly permitted in the Chief Rabbi's guidance, and therefore it may contravene the requirements of paragraph 1.9i). The criteria are unreasonable and unfair as some parents and children will be more able to participate in such activities than others (with single parents having particular difficulty, for example).

34. I would contend that it is not reasonable to expect that the definition of 'religious activity' will be consistent between different faith groups. In its response the Office of the Chief Rabbi says that no applicant is *required* to undertake any voluntary work if they prefer not to, it is not mandatory and if no voluntary activity is undertaken this section does not have to be completed. The CRP used by the school has been found to be a useful way to construct faith based oversubscription criteria when deciding how faith is to be demonstrated and that equalities legislation was taken into consideration including opportunities for disabled or single parents.

35. In a further response the school explained that the purpose of the CRP is to not to rank applications in a hierarchy but rather to provide a variety of ways in which parents can establish their child as eligible for consideration under the oversubscription criteria for faith. They either satisfy that requirement or they do not but the school seeks to maximize the ease with which parents in a variety of different family circumstances can achieve this priority.

36. It must be remembered that the advice to which the school has had due regard is based on a section of Oral Law which refers to three principles, one of which was loving kindness and this can be demonstrated by voluntary work of various kinds. Acts of loving kindness cannot be compared to activities such as cleaning or maintenance of a place of worship, where payment may have been required to cover the cost, had it not been undertaken by parents about to make an application to secondary school; and where undertaking such an activity is almost mandatory for parents wishing to gain the maximum number of points in schools where applications are ranked according to the (large) number of points accrued over a specified number of years.

37. In my opinion the school has correctly interpreted the guidance provided by its religious body and has provided an opportunity for those parents who so wish, to demonstrate their faith through charitable acts and it is my view that this does not therefore contravene paragraph 1.9e of the Code and for this reason I do not uphold this aspect of the objection.

### **Other Matters**

38. The SIF for admission to the sixth form includes space for applicants to complete a personal statement with the aid of prompts that include reasons for course choice, relevance to degree/career aspiration and any relevant work experience. The school says this section of the SIF has been designed so that applicants can increase the possibility of being offered a place on a suitable course. The school considers whether the subject choices 'fit' within the Option Grid. Due to the size of the sixth form there is some flexibility from year to year about where subjects can be placed. Having this information early allows staff to adjust option

pools to enable what might otherwise be an impossible combination of subjects. The additional information supplied allows the school to judge how critical an adjustment of option pools would be to the career aspirations of students if alternative adjustments could not both be possible. The school contends this has a direct bearing on the oversubscription criteria. If the information requested is collected later, for example at the post-offer meetings with students, some applicants may find that their choice of subjects could not be met. Both their application and career aspirations would be disadvantaged and may cause them to decline an offer.

39. I acknowledge that the school wishes to provide exact sets of options to suit all applicants and it may therefore wish to refine to wording on the sixth form SIF to clarify exactly which sets of options applicants wish to pursue. The Code says in paragraph 1.9m that although interviews are forbidden, *“In the case of sixth form applications, a meeting may be held to discuss options and academic entry requirements for particular courses.....”* It goes on to add that such a meeting cannot form part of the decision making process on whether or not to offer a place. The school has a very large sixth form and as the school’s prospectus states, *“JFS has a scale and depth of facilities that enables us to specialise in a wide range of curriculum options. We have a range and depth few schools in the country will match”* and further, *“We have a strength and depth of dedicated resources and offer a spectrum of opportunity for the successful transition to higher education, whether university or other choices”*.

40. The Code acknowledges in paragraph 2.4 that in some cases admissions authorities may need to use SIFs in order to process applications. However, they must only use a SIF to request information when it has a direct bearing on decisions about the determined oversubscription criteria and as currently worded the SIF does not conform to the requirements of the Code.

## **Conclusion**

41. The school is a voluntary aided school which has a religious character designated by an order made by the Secretary of State and I have considered the school’s view, that there is a balancing act to be struck between setting a reasonable expectation by which religious practice can be demonstrated, without this being intrusive or excessive and having the blend of opportunities to assist parents to gain the requisite three points on the CRP in ways that are individual and do not rely exclusively on attendance at synagogue, which may not be a common experience for all applicants.

42. Having considered all aspects of the objection I have concluded that in the matters which relate to ii) the religious practice test not being defined within the oversubscription criteria; v) that account is taken of previous schools attended which are not named feeder schools; vi) that children’s activities are taken into account and finally vii) that priority is given on the grounds of practical support given by parents, my view is that the school has had due regard to the guidance from its religious body as required by the Code. I am not persuaded by the arguments put forward by the objector that the requirements of the Code have been contravened; and for these reasons and those given above I do not uphold these aspects of the objection.

43. However, I have come to the view, for the reasons provided above, that in the matters of i) the publication of the admission arrangements for 2014 on the school's website; iii) the request for the gender of the child on the SIF and iv) the requirement for both parents to sign to application forms that the arrangements do not conform with the requirements set out in the Code and I uphold these aspects of the objection.

44. I have also considered the arrangements as a whole for admission to the school in September 2015 and have concluded that in the single matter of the sixth form SIF, the arrangements as detailed above, do not comply with the Code. With regard to this and other issues of non-compliance the Code requires the admission authority to revise its admission arrangements as quickly as possible.

### **Determination**

45. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the governing body of JFS in the London Borough of Brent for admissions in September 2015.

46. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements as the set out in this determination.

47. 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 as quickly as possible.

Date: 3 October 2014

Signed:

Schools Adjudicator: Mrs Carol Parsons