



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA 2794</b>
<b>Objector:</b>	<b>The Fair Admissions Campaign</b>
<b>Admission Authority:</b>	<b>The Trinitas Academy Trust for Trinity Church of England School, Belvedere, Bexley</b>
<b>Date of decision:</b>	<b>27 November 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 for admissions in September 2015 determined by the Academy Trust for Trinity Church of England School, Belvedere, Bexley.**

**I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the school does not conform with the requirements relating to admission arrangements.**

**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 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 Fair Admissions Campaign (the objector), about the admission arrangements (the arrangements) for Trinity Church of England School (the school), an academy school within the Trinitas Academy Trust for pupils aged 11 – 18 in the London Borough of Bexley, for September 2015. The local authority (LA) is the London Borough of Bexley and the school is within the Diocese of Rochester (the diocese). The objection is in several parts and covers a range of issues that it identifies in the admission arrangements.**

### **Jurisdiction**

- 2. The terms of the funding agreement for this school between the Trinitas 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 directors of the academy trust, which is the admission authority for the school, on 29 April 2014, on that basis.

3. The objector submitted the objection to these determined arrangements 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. As the arrangements have been drawn to my attention, I am also using my power under Section 88I of the Act to review 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:
  - a. the objector's form of objection dated 30 June 2014;
  - b. the school's responses to the objection and further correspondence and supporting documents;
  - c. the LA's comments on the objection;
  - d. the diocese's response to the objection;
  - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014 and September 2015;
  - f. minutes of the meeting of the directors of the trust held on 29 April 2014 at which the academy trust determined the arrangements; and
  - g. a copy of the determined arrangements for 2015.

### **The Objection**

6. The objection that was received contained several points as follows:
  - The arrangements do not comply with paragraphs 1.46 or 1.47 of the Code because the 2015 arrangements had either not been determined at the time of the objection in June or they had not been published in accordance with the requirements of the Code.
  - The arrangements do not comply with the Code at paragraph 1.9(a) because "*All parents/guardians applying for places for their children at Trinity School are expected to respect the Christian ethos of the school*".
  - The arrangements do not comply with paragraph 1.6 of the Code as "*stated children not given priority*".
  - The arrangements do not comply with paragraphs 1.7 and 1.37 of the Code because "*looked after/previously looked after children of the faith are not given priority over criteria(sic) 1*"

- The arrangements do not comply with paragraph 1.7 of the Code because “*previously looked after children not given priority over criteria 2-6*”.
- The arrangements do not comply with paragraphs 1.37, 14 and 1.8 of the Code because in “*criteria 1-2 - not defined for how many years the child must have been worshipping.*”
- The arrangements do not comply with paragraphs 1.37, 14 and 1.8 of the Code because in “*criterion 3 ‘practising’ is not defined*”.
- “*There is no effective tie-breaker to separate two applicants living equidistant from the school*” and this does not comply with paragraph 1.8 of the Code.
- The arrangements do not comply with paragraph 2.4 of the Code because completion of the supplementary information form (SIF) is “*compulsory even for those not applying under a faith criterion*”.
- The arrangements do not comply with paragraph 2.4 of the Code because the “*SIF asks for a pupil’s gender, their present school, asks for both parents’/guardian’ details, assumes parents are of opposite genders.*”

### **Other matters**

7. In addition to the objections raised, I have reviewed the admission arrangements as a whole and raised the following points with the school.
  - The introduction to the arrangements refers to the “standard number” for admissions; the Code at paragraph 1.2 refers to a published admission number (PAN) which applies to the normal year of admission.
  - The sixth form admission arrangements were difficult to find but within the prospectus the PAN is given as 140 with up to 20 external places.
  - The arrangements require use of a school reference form for admission to the sixth form. This appears to be in breach of the Code at paragraph 1.9(g). There is also reference to an interview which is in breach of paragraph 1.9(m) of the Code.

### **Background**

8. The school became an academy on 31 March 2011 within the Trinitas Academy Trust (the trust). The admission arrangements have remained the same since that time. In 2014 the school received more applications than there are places in Year 7. The school was inspected on 27 November 2013 and Ofsted judged that the school required improvements. The trust met on 29 April 2014 and the minutes show that the trust decided to make no changes to the admission arrangements for 2015 and at the same meeting determined the arrangements. Following this decision a note was added to the school’s website to say that “*for admissions to Y7 in September 2015, please note that our admissions criteria have not changed.*” In

September 2014 the website was updated and the 2015 arrangements are now available on the website.

9. The 2014 sixth form admission arrangements are also to be found on the school's website, the arrangements for sixth form admissions 2015 had not been placed upon the website when this was checked in October 2014.
10. The oversubscription criteria for year 7 (Y7) and sixth form admissions in September 2015 are as follows:
  - i. Children who are regular and frequent (normally weekly) worshippers at a Church of England or other Anglican Church. A clerical reference is essential. If the family has moved to the area or has moved to a different Church within the previous year, the applicant should provide clergy references for all churches attended during the previous year. Looked after children will be given priority in this criterion.
  - ii. Children who are regular and frequent (normally weekly) worshippers at a Church in membership of Churches Together in England...
  - iii. Children who are practising members of a faith other than the Christian faith.....
  - iv. Children who have a sibling on the roll of Trinity School on the closing date for applications. (If oversubscription occurs in this category, places will be offered in order of the age of the sibling - youngest first.....)
  - v. Children who are regular and frequent (normally weekly) worshippers at a Church not in membership of Churches Together in England.
  - vi. Places still available after the previous criteria have been applied will be offered in order of distance from the school.

Below the oversubscription criteria the school notes that looked after children will be given priority over all other applicants irrespective of their position in criteria ii – vi. The school also includes explanatory notes and further information about the admissions procedures.

### **Consideration of Factors**

11. When reviewing the arrangements I have considered the different elements of the objection and I have also considered the arrangements as a whole. The diocese responded to the objection and supplied a copy of its guidance on admissions that it issues to its schools and confirmed that the school had consulted with the diocese before it determined its arrangements. It did not comment on any of the specific elements of the objection. The LA also responded in general terms

and did not offer specific comments about any of the details of the objection.

12. I shall begin by considering how these arrangements were determined and published on the school's website. The meeting that took place on 29 April 2014 was after the date of 15 April by which every year arrangements have to be determined. Therefore the admission authority did not meet the requirements of paragraph 1.46. However, at the time the objection was made the school did have determined arrangements. At the meeting on 29 April the school decided to make no change to the 2014 arrangements, but then failed to place the agreed arrangements upon the school's website. This was in breach of paragraph 1.47 of the Code. In September 2014, the Y7 admission arrangements had been updated on the school's website but the arrangements for 2014 had been removed and should have been left for the duration of the year that they apply to as set out in paragraph 1.47 of the Code. At the same time, the sixth form arrangements had not been updated on the school's website and still referred to admissions for September 2014. This is in breach of paragraph 1.47 of the Code and I uphold these elements of the objection.
13. There are two matters to consider in the introductory paragraphs of the arrangements. The first is the statement that the "*standard number for admissions is 180 in years 7-14*". This should refer to the published admission number (PAN) as detailed in paragraph 1.2 of the Code and refer to the relevant age group, which in this case is Y7 in 2015, it cannot refer to "*years 7-14*". In the sixth form arrangements the PAN is given as "*140 with up to 20 external places*". The PAN is a minimum number of places being offered to students new to the school not a number "*up to*". The students within the school are already admitted to the school and so are not part of the PAN for the sixth form. In this case, therefore, the PAN is 20. There is discretion for admission authorities to admit above the PAN set out in paragraph 1.4 of the Code. The arrangements do not comply with the Code's requirements in relation to admission numbers.
14. The second matter for consideration is the statement at the beginning of the arrangements that says "*All parents/guardians applying for places for their children...are expected to respect the Christian ethos of the school.*" The objection is that this amounts to a condition placed upon applicants to the school in breach of paragraph 1.9(a) of the Code which prevents any conditions being placed on applications other than those in the oversubscription criteria. The school has responded by saying that this is a statement informing parents of the faith status of the school and is not a condition placed upon applicants, but merely an expectation that is not taken into account when places are allocated. I do not consider that there is any condition being placed upon the applications. On this basis I do not uphold this element of the objection.

15. The objector says that the arrangements do not comply with the Code at paragraph 1.6 because “*stated children are not given priority*”. Paragraph 1.6 of the Code concerns oversubscription criteria and the requirement to have oversubscription criteria. It includes within the paragraph reference to the requirement that all children with a statement that names the school must be admitted. However, the admission of such children is not via an oversubscription criterion but via separate legislation and there is no suggestion that the school does not meet the requirement to admit children who have a statement that names the school. Admission arrangements ought to say that children who have a statement that names the school will be admitted, but the omission of such a reference does not contravene paragraph 1.6. The school acknowledges that it ought to refer to the admission of children who have a statement and it has offered to include some suitable wording to rectify this. I do not uphold this part of the objection.
16. The first oversubscription criterion gives “*priority to children who are regular and frequent (normally weekly) worshippers.....*” and in the last sentence states that “*looked after children will be given priority in this criterion.*” Paragraph 1.7 of the Code says that the “*highest priority **must be given...to looked after children and previously looked after children.***” The arrangements do not refer to previously looked after children and in this respect are not compliant with the Code.
17. Paragraph 1.37 of the Code says that “*Admission authorities for faith schools may give priority to all looked after and previously looked after children whether or not of the faith, but they **must** give priority to looked after and previously looked after children of the faith before other children of the faith. Where any element of priority is given in relation to children not of the faith they **must** give priority to looked after children and previously looked after children not of the faith over other children not of the faith.*” As they are written, the arrangements do not comply with this paragraph of the Code because although looked after children are given priority in each of the six oversubscription criteria, this is not what is required by the paragraph of the Code quoted above. I have commented in the previous paragraph that previously looked after children are not included here when they should be. Many schools follow the example of the criterion given in the appendix to the Code on page 31 and make the first oversubscription criterion for looked after and previously looked after children and give them priority over all other applicants irrespective of faith. For other faith schools, this oversubscription criterion may become two; one giving looked after and previously looked after children of the faith, that is the designated religious character of the school, priority over other children of the faith and the second for other looked after and previously looked after children who have priority over other children who are not of the faith. The school must decide how it wishes to set out this particular matter so that its decision is clear and compliant with the Code. As it stands it is not compliant with the Code and I uphold this element of the objection.

18. The objector points out that in the criteria concerning faith it is unclear how “practising” is defined and unclear how long a child must have been a weekly worshipper to meet the criteria. The school responded that the definition of practising is set out in the clerical reference form in respect of each of the criteria. Paragraph 14 of the Code requires admission arrangements to be “clear” and paragraph 1.8 requires oversubscription criteria to be “clear”.
19. I do not consider that the oversubscription criteria are sufficiently clear with the statement that the definition of “*practising*” is “*regular and frequent (normally weekly)*” worship with a requirement for this to be confirmed through a clergy reference but no reference to the length of time that will be taken into account. I also consider that it is not acceptable for the reference form to be the place where a parent has to look to find out about a definition of practising. The arrangements themselves must be clear what is meant by practising, regular and frequent so that the reference form can refer to the arrangements and not the other way round.
20. In its response, the school said that the time period is implicit in the criterion because it asks for additional references to be provided if the applicant has moved from a different church within the last year. In my view, the arrangements are insufficiently clear on this point and the school should make this point explicit so that a parent can easily understand what is required and the person completing the clerical reference is also clear about the definitions of “practising”, “regular” and “frequent” and that the requirement is for the practice described to have extended for at least the previous 12 months. On this basis I uphold this element of the objection.
21. Distance is used to prioritise applicants within a criterion if there are more applicants than places remaining. The objector points out that the arrangements do not include a tie breaker that can be used if two applicants live exactly the same distance from school. The school has accepted that this is the case and agreed to introduce a tie breaker so that it is compliant with paragraph 1.8 of the Code that makes a tie breaker a requirement.
22. The school requires all applicants to complete a SIF. The objector questions whether it is necessary for an applicant to complete the SIF if they are not applying for a place at the school under a faith criterion. Paragraph 2.4 of the Code says that admission authorities “.. **must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria...**” The school responded that it asks all applicants to complete the form so that the applicant could indicate which oversubscription criterion applied to them and that if the application was not being made on the faith criterion then the form had no further bearing once this was known. Applicants apply to the school and it is for the admissions authority to apply the oversubscription criteria. Given that this is a faith school, the school needs to know if an applicant is applying and

seeking priority against the oversubscription criteria on the basis of their faith. The school can assume that applicants who do not complete the form do not wish faith to be taken into account. A positive confirmation of this will assist the school and allay any concerns about missing forms by those processing the applications but it is not essential and cannot be required. Paragraph 14 of the Code requires arrangements to be “clear” and in this case the school must make clear the assumptions that it will make if a parent chooses not to complete a SIF. For this reason I uphold this element of the objection.

23. There are some issues concerning the information required on the SIF. The objector points out that paragraph 2.4(e) of the Code says that “*admission authorities.... must not ask.....both parents to sign the form*”. However, the school only asks for one parent to sign at the end of the form which complies with the requirements of the Code. I do not uphold this part of the objection. On page one, the SIF asks for information about both parents and this needs to be amended so that only one parent’s information is required in order to comply with paragraph 2.4(a) of the Code. I uphold this part of the objection.
24. The SIF asks for the name of an applicant’s current school. The SIF also asks for the gender of the applicant. The school explains that it needs to know both these pieces of information after the places have been allocated and that it is more convenient to ask for them at this point rather than after the allocation process. Paragraph 1.9(b) of the Code says that “*admission authorities .... must not..... take into account any previous schools attended unless it is a named feeder school.*” The school does not name any feeder schools and does not therefore require this information for the admissions process. The school has agreed that it does not need to know the gender of the applicant in order to allocate places. In order to ensure that the process is seen to be fair and comply with the Code this information needs to be removed from the SIF. I uphold this part of the objection.
25. The SIF asks parents to complete the details of the priest from who they will be seeking a reference. However, the school expects the parent to obtain and submit the reference so it is unnecessary for the parent to complete this information given that the priest or writer of the reference will also provide the same information upon the clergy reference form.
26. I referred to the sixth form arrangements earlier in relation to the PAN. It proved difficult to find the sixth form arrangements on the school’s website as they are within the school’s prospectus and I was unable to download a copy of this for reference, although I was able to refer to it on line. The arrangements describe asking applicants to visit the school for an interview and a requirement for external applicants to obtain a completed reference form from their current school. Paragraph 1.9(m) of the Code says that “*admission authorities.... must not.... interview children or parents. In the case of sixth form*

*applicants a meeting may be held to discuss options and academic entry requirements....*” and paragraph 1.9(g) says “*admission authorities...must not...take account of reports from previous schools....*”. In correspondence, the school clarified that it does invite applicants to visit school but that this is for a discussion about subject choices and entry requirements and is not part of the application decision. If this is the case then the statement on the website “*we will not be able to arrange an interview until.....*” needs to clarify this point. The requirement for applicants to ask their current school to complete and return a reference form does not comply with the Code.

## **Conclusion**

27. I have considered carefully all the points made by the objector, the school, the LA and the diocese. I have tested the school’s arrangements against the relevant provisions of the Code. The objection listed points that I have referred to above and I have indicated which element of the objection I have upheld and which I have not. Overall I have partially upheld the objection. The school has responded constructively and has indicated its willingness to accept the points made. It must make the necessary changes to its arrangements for 2015 as soon as possible.

28. The school has informed me of its intention to change its admission arrangements for 2016. It shared an outline of the changes proposed and asked for my comments. My jurisdiction is confined to arrangements that have been determined and not those that are subject to consultation and are as yet undetermined. I would however refer the school to the requirement in paragraph 1.38 of the Code to consult with the diocese before going out to wider consultation and then to follow the Code’s requirements about consultation set out in paragraphs 1.42 to 1.45. The school must then take careful note of the requirements in paragraphs 1.46 and 1.47 concerning the determination of the arrangements and their subsequent publication. Paragraph 14 of the Code required arrangements to be “*clear*” and that “*parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.*” The school could consider how to reduce the complexity of its proposed arrangements to help comply with this requirement.

## **Determination**

29. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for admissions in September 2015 determined by the Academy Trust for Trinity Church of England School, Belvedere, Bexley.

30. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the school does not conform with the requirements relating to admission arrangements.
31. 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.

Dated: 27 November 2014

Signed:

Schools Adjudicator: David Lennard Jones