



DETERMINATION

Case reference: ADA 2786

Objector: The Fair Admissions Campaign

Admission Authority: The governing body of All Saints Catholic School, London Borough of Barking and Dagenham

Date of decision: 11 December 2014

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 governing body of All Saints Catholic School, Dagenham.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the arrangements do 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 All Saints Catholic School (the school), a voluntary aided school for pupils aged 11 – 18 in the London Borough of Barking and Dagenham for September 2015. The local authority (LA) is the London Borough of Barking and Dagenham and the school is within the Catholic Diocese of Brentwood (the diocese). The objection is in several parts and covers a range of issues that it identifies in the admission arrangements.**

Jurisdiction

2. These arrangements were determined by the governing body of the school, which is the admission authority for the school, on 16 February 2014. 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

3. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
4. The documents I have considered in reaching my decision include:
 - a. the objection dated 30 June 2014;
 - b. the school's response to the objection and supporting documents;
 - c. the LA's comments on the objection and supporting documents;
 - d. the diocese's comments on the objection and supporting documents;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015; and
 - f. the determined arrangements for 2015.

The Objection

5. The objection that was received contained several points as follows:
 - The arrangements do not comply with paragraphs 1.8, 1.37 and 14 of the Code because the *"frequency of required religious practice in criteria 2-5 is not defined"*.
 - The arrangements do not comply with paragraphs 1.8, 1.37 and 14 of the Code because *"Criteria 11(sic) is unfair as it is left to the priest's discretion as to whether to sign the form"*.
 - The statement *'You must fully accept and support the aims of All Saints Catholic School. You must also want your child to receive a Catholic education'* does not comply with paragraph 1.9a of the Code.
 - The arrangements do not comply with paragraph 1.34 of the Code because they have *"not set out how the random allocation is operated"*.
 - The arrangements do not comply with paragraph 2.4 of the Code because the *"priest's reference form asks for names of both parents, details of holy communion, and asks 'Why do you wish your child to attend a Catholic school?'"*

- The arrangements do not comply with paragraphs 2.4, 1.8, 1.37 and 14 of the Code because *“the priest’s reference form asks for details of length and frequency of mass attendance despite it not being clear how this is used to rank applicants. It also asks ‘if you do not attend Mass regularly, you may wish to give reasons below. Please also give any other details which may be relevant or useful.’ Again it is not clear how this information is judged”*.
- The arrangements do not comply with paragraphs 1.8, 1.9e, 1.9i and 2.4 of the Code because *“the priest’s reference form asks ‘if you or your child participate or contribute to parish activities, you may wish to indicate below”*.
- The arrangements do not comply with paragraph 2.4e of the Code because *“both parents asked to sign the priest’s reference form”*.
- The arrangements do not comply with paragraph 2.4e of the Code because the *“SIF asks about a child’s gender”*.

Background

6. The school is a voluntary aided school serving pupils aged 11 to 18 years. There has been a building programme at the school and in September 2014 the intake increased from 180 to 240. The school was inspected by Ofsted in October 2013 and was judged to be a good school. The LA’s composite prospectus shows that 570 applications (of any preference) were received for the school in 2013 and in 2014 the number was 593.
7. The governing body added criterion 13 as a new criterion in February 2014 and the oversubscription criteria for September 2015 are:
 1. Catholic looked after and previously looked after children
 2. Practising Catholics with a sibling in the school and living in the parishes of list A
 3. Practising Catholics with a sibling in the school and living in the parishes of list B
 4. Practising Catholics living in the parishes of list A
 5. Practising Catholics living in the parishes of list B
 6. Catholics with a sibling in the school and living in the parishes of list A
 7. Catholics with a sibling in the school and living in the parishes of list B
 8. Catholics living in the parishes of list A
 9. Catholics living in the parishes of list B
 10. Other looked after and previously looked after children
 11. Non baptised children of a Catholic parent whose application is approved by the parish priest of a Catholic parish
 12. Other baptised children
 13. Other children with a sibling in school
 14. Other children.

8. The arrangements then give the two lists of parishes. List A contains 8 parishes and list B lists 10 parishes in priority order and then includes all parishes in the Deaneries of Havering, Redbridge and Newham and concludes with “other Catholic parishes”. These are followed by definitions of Catholic (which means baptised with a certificate of baptism or reception) and practising Catholic (which means a person who is confirmed by their parish priest to be practising according to regulations set by the Catholic Church). There are then other definitions and notes concerning the administration of the arrangements.
9. There is a reference to the admission arrangements for the sixth form on page 11 of the arrangements and applicants are directed to the school’s website and that of the North East Consortium which is a sixth form consortium comprising three secondary schools including this one and offering a total of 750 places in year 12 and 600 places in Year 13.
10. The priest’s reference form used by the school is a form provided by the diocese for use by all Catholic schools in the diocese. In its guidance notes about completing the form for parents the diocese explains that the priest’s reference form is a common form across all the Catholic schools in the diocese and means that parents only need to complete it once and can then use it to support all the applications they make to Catholic schools in the diocese.

Other matters

11. Having had these arrangements drawn to my attention I have reviewed the overall arrangements using my power under section 88I of the Act. There are some areas where I consider that the arrangements do not meet the requirements of the Code. I have set these out below and will refer back to them when I consider the points made in the objection.
12. The school did not consult about the change it made to its arrangements for 2015 in a way that met the requirements of paragraphs 1.43, 1.44 and 1.45 of the Code.
13. The school does not clearly state its published admission number (PAN) in the arrangements as required by paragraph 1.2 of the Code.
14. The arrangements do not set out the sixth form admission arrangements and do not clearly state the PAN for the sixth form which is required by paragraph 1.2 of the Code.
15. The arrangements for the sixth form include a request for a reference from a previous school that does not comply with paragraph 1.9(f) of the Code.
16. The arrangements for the sixth form include a section headed “sixth form interview notes”. Paragraph 1.9(m) of the Code says that admission authorities **must not** “*interview children or parents. In the case of sixth form applications, a meeting may be held to discuss*

options and academic entry requirements for particular courses, but this cannot form part of the decision making process on whether to offer a place”.

17. The school gives priority to those living in the catchment area. This area is defined by two lists of parishes. List A comprises eight parishes and List B has a more extensive list and places the first ten parishes in priority order followed by three deaneries and concludes with “all catholic parishes”. Paragraph 1.14 of the Code says, “*catchment areas must be designed so that they are reasonable and clearly defined*”.

Consideration of Factors

18. 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 the guidance documents on admissions that it issues to parents and a copy of its guidance on admissions that it has written for priests in the diocese and a copy of the priest’s reference form. It did not comment on the specific elements of the objection. The LA responded in general terms about the objection.

19. The first part of the objection is that the “*frequency of required religious practice in criteria 2-5 is not defined*”. In its response to this point, the school said that the criteria distinguish between “Catholics” and “practising Catholics.” A person who can produce a certificate of baptism into the Catholic Church is defined as a Catholic and a “*practising Catholic refers to someone who is confirmed by their parish priest to be practising, according to the Canon Law regulations set by the Catholic Church.*” The school goes on to say that “*those regulations do define Catholic practice as ‘weekly attendance at Mass’ but also accepts legitimate circumstances where this ideal is not met, for example for reasons of disability, illness or caring duties. The Catholic Church is clear that the parish priest is best placed by virtue of his profession and likely knowledge of individual circumstances to confirm practice*”.

20. Paragraph 14 of the Code requires admission arrangements and the criteria associated to be “*clear*”. The school may be clear in its own understanding of the detail of the oversubscription criteria but it has not clearly set out its thinking in the arrangements themselves for the benefit of applicants for places. I do not consider that it is acceptable for a parent to have to look elsewhere to find out about the definitions. The arrangements themselves must be clear about what is meant by practising, and the time period over which this is judged. On this basis I uphold this element of the objection.

21. The objector says that the arrangements do not comply with paragraphs 1.8, 1.37 and 14 of the Code because “*Criteria 11 is unfair as it is left to the priest’s discretion as to whether to sign the form*”. This criterion is “*non-baptised children of a Catholic parent whose application is approved by the parish priest of any Catholic parish*”.

The school responded by saying that the discretion aids fairness because the parish priest is best placed to understand the circumstances of any particular situation and gives an example of a family where a non-Catholic parent may have objected to a child's baptism but the Catholic partner and the child have retained a relationship with the Church. In considering this point I refer to paragraph 14 of the Code that says that "*admission authorities must ensure that the criteria used to decide the allocation of school places are fair, clear and objective.*" In my view this criterion does not comply with this requirement because it does not explain clearly and objectively how a parish priest will decide whether the application is approved or not. I uphold this part of the objection.

22. The next element of the objection is the statement "*you must fully accept and support the aims of All Saints Catholic School. You must also want your child to receive a Catholic education*". 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. This is not a matter that is considered in the allocation of places and parents are not asked to confirm that they accept the aims and on this basis I do not consider that there is a condition being placed upon the applications. However, while it is acceptable for a school to have an ethos statement, it cannot require applicants to agree with it and the word "must" should not be used as it implies that there could be a condition and deter an application for a place. On this basis I do not uphold the element of the objection about this being a condition, however the wording needs to be changed to make this entirely "clear" as required by paragraph 14 of the Code.

23. The objection then says that the arrangements do not comply with paragraph 1.34 of the Code because they have "*not set out how the random allocation is operated*". The admission arrangements explain that "*when children have equal claim to a place because they are the same distance from the school then the school will use a lottery system (random allocation) to offer places to the children*". The objector makes reference to paragraph 1.34 of the Code that deals with random allocation. However, my understanding of the process described is that the school is not referring to random allocation of places as a whole or against an oversubscription criterion but is describing how it manages a tie-break as required by paragraph 1.8 of the Code. The wording is unclear and needs to refer to a tie-breaker rather than random allocation and in this respect it does not comply with the Code but I do not think that paragraph 1.34 of the Code has been breached and I do not uphold this element of the objection.

24. I shall now consider the priest's reference and the processes associated with it. The school makes the distinction between Catholic, practising Catholic and other children within its oversubscription criteria. The school defines a Catholic as one who can provide the evidence of a baptism certificate, and defines a practising Catholic as a person who can provide a priest's reference that confirms that they are a practising Catholic according to the regulations set by the Catholic Church.
25. In order that the priest can confirm whether a Catholic is a practising Catholic, the diocese has designed a priest's reference form for all parents seeking a priest's reference to complete. The form asks parents or those with legal responsibility for the child to answer detailed questions about their own and their child's practice to inform the priest who will be writing the reference. The form ends with a summary sheet on which the priest can convey the decision on practice to the school. The diocese states that this form is not part of the admission arrangements because it is a diocesan form that has the sole purpose of informing the priest about an applicant and his or her family and is not shared with any other party. The school includes this point within its arrangements.
26. The diocese sent me a copy of the guidance it provides to its parish priests on how to make the judgement about this Catholic practice in relation to the priest's reference form. The guidance says that "... *A practising Catholic ... observes the Church's precept of attending Mass on Sundays and holy days of obligation ...*". The guidance then concludes that "*priests are advised that, if, by their own observation or other evidence, they can ascertain that a person has an established pattern of attending mass most Sundays ... that person should be regarded as a practising Catholic for the purposes of this priest's reference*". The guidance goes on to advise priests that this attendance should have continued for a "*substantial period of time*" and that priests should "*enquire very carefully into the circumstances where the pattern of practice has not continued over several years*". It concludes that "*a person is certainly not to be regarded as a practising Catholic if that practice has started recently solely in order to fulfil the requirements of entry into a Catholic school*".
27. The diocese has produced a guidance note for parents on how they should complete the priest's reference form. This guidance note does not include the advice for priests described above but is clear about how a parent should complete each section of the form.
28. The statutory basis of the Code is set out on page 4 of the Code and in footnote 4 there is the following definition: "*Admission arrangements means the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is to be offered*".

29. The priest's reference form is completed for the sole purpose of considering an application for a place at the school and without it the governing body would not have the evidence to be able to apply the admission criteria. The 2015 supplementary information form (SIF) is available on the school's website and it includes within it a note to say that practising Catholics must complete a priest's reference form that is available from the school. On this basis the priest's reference form falls within the above definition and is part of the school's admission arrangements and must, therefore, meet the requirements of the Code.
30. I shall now consider the priest's reference form against the requirements of the Code. The priest's reference form begins by asking for the name of the mother and the father or those who have parental responsibility for the child and then asks for each of these people whether they are a Catholic; how often they attend Mass (weekly/ fortnightly/ monthly/ other) and for how long this practice has been. It then asks for details of a child's baptism and date of first holy communion and the details of the parish activities in which a parent or child participate; why the parents wish their child to attend a Catholic school and concludes by asking for the signature of the father and the mother.
31. The objector points out that the arrangements do not comply with paragraph 2.4 of the Code because the *"priest's reference form asks for names of both parents, details of holy communion, and asks 'Why do you wish your child to attend a Catholic school?'"* and goes on, the arrangements do not comply with paragraphs 2.4, 1.8, 1.37 and 14 of the Code because *"the priest's reference form asks for details of length and frequency of mass attendance despite it not being clear how this is used to rank applicants. It also asks 'If you do not attend Mass regularly, you may wish to give reasons below. Please also give any other details which may be relevant or useful.' Again it is not clear how this information is judged"*. The objector then points out that the arrangements do not comply with paragraphs 1.9e and 1.9i of the Code because *"the priest's reference form asks 'If you or your child participate or contribute to parish activities, you may wish to indicate below'"*.
32. Paragraph 2.4 of the Code says that admission authorities "... **must** only use forms that request additional information when it has a direct bearing on decisions about oversubscription criteria". The admission criteria determined by the governing body require them to know if an applicant has been baptised and if he or she is a practising Catholic. The information requested does not have a direct bearing on the admission decision and I conclude that the unnecessary information requested from parents does not comply with this requirement of the Code.

33. Paragraphs 14, 1.8 and 1.37 of the Code refer to the requirement for arrangements to be fair, clear and objective and paragraph 1.37 begins “*Admission authorities **must** ensure that parents can easily understand how any faith based criterion will be satisfied*”. The governing body as the admission authority has clearly defined that the evidence required for an applicant to demonstrate that he or she is a Catholic is a Catholic baptism certificate. Applicants are asked to take this document to the school so it is not clear why this is included in the priest’s reference form.
34. The priest is asked on the diocesan form to confirm that the applicant is a practising Catholic from a practising Catholic family. This is different to the definition that is referred to within the arrangements and which does not refer to the family. My understanding of the diocesan guidance about this is that the priest is being asked to confirm that the applicant “has an established pattern of attending Mass on most Sundays” and that this has been for “a substantial period of time”. In my view therefore, the form asks for information that is not required to make this decision and in order to comply with paragraph 2.4 of the Code the questions should be removed from the form. This comment applies to the objector’s points about information about parents, information about other activities, details of baptism and first Holy Communion and the question about why a parent wants their child to attend a Catholic school.
35. In addition I consider that the words “most” and “substantial” are open to interpretation. I have quoted paragraph 1.37 above and in order to fully meet the requirement for parents to be able to understand the criteria some further qualification of these words is required. The objector makes reference to paragraphs 1.9(e) and 1.9(i) of the Code in relation to the part of the priest’s reference form that asks for information about activities. I am satisfied that this information must not be requested under my overall comment that is based on paragraph 2.4 of the Code and on this basis have not therefore needed to consider whether or not these paragraphs of the Code apply.
36. The last point is that paragraph 2.4(e) of the Code says that “*admission authorities ... **must not ask ... both parents to sign the form***”. The requirement for both parents to sign the priest’s reference form does not comply with this and so I uphold this element of the objection.
37. The next element of the objection is that the SIF “*asks about a child’s gender*” and does not comply with paragraph 2.4 of the Code. In this instance the issue is whether or not this is information that the school needs in order to make a decision about allocation of places. I do not consider that this is necessary information for two reasons, the first is that gender does not form any part of the admission arrangements and the second is that if the information is required for the basic administration of the process then this will be collected through the common application form (CAF) and does not need to be duplicated in the SIF. I uphold this element of the objection.

38. I shall begin my consideration of the other matters in this case with the process used to determine the arrangements by the governing body of the school. Paragraph 1.43 of the Code requires consultation on any changes to a school's arrangements to take place "for a minimum of 8 weeks and **must** take place between **1 November** and **1 March** in the determination year". The governing body did not do this when it added criterion 13, and so did not comply with this paragraph of the Code.
39. In its arrangements the school gives priority to applicants living within listed parishes. By giving priority to those living in particular areas it is, in effect, defining a catchment area as it is permitted to do by paragraph 1.14 of the Code. The catchment area is defined by two lists of parishes. List A comprises eight parishes near to the school and List B has a more extensive list and places the first ten parishes in priority order followed by three deaneries and concludes with "all Catholic parishes". People living within list A have priority over List B. While List A appears to comply with paragraph 1.14 of the Code which says "*catchment areas **must be designed so that they are reasonable and clearly defined***", List B does not clearly define an area and I do not consider that it is reasonable to have such an extensive list of parishes, particularly as the list concludes "all Catholic parishes". In order to be compliant with the Code the school must review how it wishes to define its catchment area so that it meets the requirement to be reasonable and clearly defined.
40. Paragraph 1.2 of the Code requires admission authorities to state the PAN for relevant year groups and for this school these year groups are year 7 (Y7) and year 12 (Y12). The LA includes the PAN for Y7 in its composite prospectus but the Code requires the school to include both the PAN for Y7 and the PAN for Y12 in its published arrangements which must be shown on the school's website. The school does not comply with the Code in this respect.
41. I now turn to the sixth form arrangements. Reference is made to sixth form admissions within the published arrangements but I could not find information on the school's website about the published admission number (PAN) for the sixth form as is required by paragraph 1.2 of the Code. The school is part of a sixth form consortium working with two other schools but this does not remove the requirement set out in paragraph 1.7 of the Code to have oversubscription criteria for each relevant age group. In this case the relevant age group is year 12 (Y12). The school is not compliant with the Code in these respects.
42. The information that is available on the school's website concerning admission to the sixth form includes a request for a reference from a previous school. This does not comply with the Code in paragraph 1.9(g) which states that admissions authorities **must not** "*take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement or that of any other children in the family*".

43. There is a section on the sixth form application form headed “sixth form interview notes”. Paragraph 1.9(m) of the Code says that admission authorities **must not** “*interview children or parents. In the case of sixth form applications, a meeting may be held to discuss options and academic entry requirements for particular courses, but this cannot form part of the decision making process on whether to offer a place*”. The school should clarify the purpose of any meeting in its documentation and ensure that it is not an interview so that its arrangements comply with the Code.

Conclusion

44. I have carefully considered all the points made by the objector, by 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 there are some aspects of the objection that I have upheld and there are others that I have not. Overall therefore I partially uphold the objection.

45. I have identified several matters that the school must address in order that its arrangements comply with the Code. These are described in detail above but in summary the school must ensure that it carries out its consultation in compliance with the Code and after this has been completed it must review comments and determine its arrangements by the required date. The determined arrangements must then be placed on the school’s website. The school must ensure that the definitions that it is using to decide if an applicant is a Catholic or a practising Catholic are clearly set out in the arrangements; criterion 11 needs to be reviewed to ensure that it complies with the Code; some clarification about the use of a tie-breaker is required; the arrangements must include a PAN for Y7 and Y12 and the sixth form admission arrangements must be published on the website; there must be clarification on the use of meetings; references from previous schools are not permitted; the definition of the school’s catchment area must be reviewed to make it reasonable and clearly defined; and the questions on the priest’s reference form that do not comply with the Code must be removed.

46. The governing body is required to make these changes as soon as possible and no later than 15 April.

Determination

47. 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 governing body of All Saints Catholic School, Dagenham.

48. I have also considered the arrangements in accordance with section 88I(5). I determine that there are other matters where the arrangements do not conform with the requirements relating to admission arrangements.
49. 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: 11 December 2014

Signed:

Schools Adjudicator: David Lennard Jones