



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2815

Referrer: The Fair Admissions Campaign

Admission Authority: The academy trust for Khalsa Secondary Academy, Buckinghamshire

Date of decision: 11 February 2015

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the academy trust for Khalsa Secondary Academy, Buckinghamshire for admissions in September 2015. I determine that they do not conform with the requirements relating to admissions.

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 and no later than 15 April.

The referral

1. Under section 88I(5) of the School Standards and Framework Act 1998, (the Act), I have considered the admissions arrangements (the arrangements) for Khalsa Secondary Academy (the school), an academy free school with a Sikh religious character in Buckinghamshire for pupils aged 11 – 18 for September 2015. The arrangements were brought to the attention of the adjudicator as an "objection" on 30 June 2014 by the Fair Admissions Campaign (the referrer). The referral queries whether the arrangements have been determined or published as required and argues that a number of aspects of the school's faith-based oversubscription criteria and its supplementary information form (SIF) do not comply with the requirements relating to admissions.

Jurisdiction

2. The terms of the academy agreement between the 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. The

referral was made on 30 June 2014 which is the last date on which an objection could be made to determined admission arrangements for 2015. However, the academy trust had failed to determine its arrangements for 2015 at that time and as objections under section 88H of the Act can only be made to determined arrangements, there could be no objection.

3. Following an approach by the Office of the Schools Adjudicator (OSA) the academy trust for the school determined the arrangements on 3 September 2014. Having had the arrangements drawn to my attention I am satisfied that it is within my power under section 88I of the Act to consider the arrangements and to determine whether they comply with the requirements relating to admissions and, if not, in what respects they do not.

Procedure

4. In considering this matter I have had regard to all relevant legislation, the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
 - a. the referrer's email dated 30 June 2014;
 - b. the school's response to the referral dated 9 August 2014 and subsequent correspondence;
 - c. the response of Buckinghamshire County Council which is the local authority (LA) for the area to the referral and supporting documents dated 1 September 2014 and subsequent correspondence;
 - d. the response of the Network of Sikh Organisations (NSO) which is the religious authority for the school to the referral dated 20 August 2014 and subsequent correspondence;
 - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
 - f. copies of the minutes of the meeting of 3 September 2014 at which the academy trust determined the admission arrangements for 2015; and
 - g. a copy of the determined arrangements.
6. I have also taken account of information received during a meeting I convened on 9 October 2014 at the school which was attended by representatives of the school and the LA. The school's religious authority was also invited to send a representative but did not do so.

Matters raised in the referral

7. The referral read as follows:

“either 1.46 (admissions policy for 2015 not decided yet) or 1.47 (admissions policy for 2015 not published yet)

1.8/1.37/14 (criteria b – oversubscription criteria do not themselves specify how religious commitment criteria can be satisfied)

2.4 (all applicants need to complete the School Application Form even if applying under the lowest category. Similarly ‘For Sikh parents/legal guardians/carers who do not submit a completed Religious Questionnaire in respect of their child’s place, the application will not be considered.’ – presumably such applicants should be considered under the lowest (open) category? And the SIF says ‘As Khalsa Secondary School is a faith inspired (Sikh) school you are required to complete the additional Religious Questionnaire form.’ – contradicting statements elsewhere that it is only for those applying for religious places)

2.4 (admissions form asks for child’s gender, details of both parents/carers, assumes they are of opposite genders, details of current school, ‘Date of arrival in UK if applicable’, ‘Country of Birth’, ‘STATE PRINCIPLE [sic] RELIGIOUS FAITH OF THE CHILD AND PARENTS: (State none - if you do not follow a faith)’, ‘STATE PRINCIPLE [sic] LANGUAGE SPOKEN BY THE CHILD AND PARENTS’, ‘OTHER LANGUAGE(S) SPOKEN BY CHILD’)

1.8/14/1.37 (SIF says ‘The school does not specifically ask a parent to prove that they have a religious commitment, but it does reserve the right to ask such evidence if required.’)

1.8/14/1.36 (the religious questionnaire is extremely subjective – many of the questions do not lend themselves to an objective scoring system and at any rate it is not clear how many points each question is worth. Parent and child are asked whether they worship ‘Once a Day’, ‘Once a Week’, ‘Once a Month’ or ‘Less frequently’ but it is not clear how this affects [sic] scoring either. In addition, ‘How do you feel your child would benefit from attending this school?’ is not an assessment of Sikh religious commitment)

1.9a) (the religious questionnaire asks ‘The School has regular religious functions, how will you as a family participate in these?’ This appears to be putting extra requirements on admissions without even precisely specifying what they are)

1.9e)/1.9i)/1.8/14 (the religious questionnaire asks ‘3 Pillars of Sikhi – Please state what you understand by them and how you uphold them in your daily life: Naam Japna’, ‘Kirat Karni’ ‘Vand Ke Chakhna, what Seva have you or your child participated in?’ and later ‘The family participates in Seva at the Gurdwara or in the community’)”.

Other Matters

8. When I reviewed the arrangements I considered that in a number of ways they might not meet the requirements relating to admissions. These were:
- a. the arrangements did not set a published admission number (PAN) as required by paragraph 1.2 of the Code and did not make clear that only Year 7(Y7) is a relevant year group for the school (that is an age group normally admitted to the school);
 - b. the arrangements provided that applications are to be made direct to the school which appeared to be contrary to the requirement of Schedule 2 to The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) which requires applications to be made via the local authority in which the applicant lives;
 - c. the arrangements appeared complicated to the extent that they were unclear and unreasonable and for these reasons breached paragraphs 14 and 1.8 of the Code. For the same reasons they also breached paragraph 1.37 of the Code as it would not be possible for parents to understand how places would be allocated;
 - d. some aspects of the arrangements appeared unfair as they required extended written answers which would be harder for some parents to give. Such answers also could not be assessed objectively. The arrangements thus contravened paragraphs 14 and 1.8 of the Code;
 - e. the arrangements seemed contradictory and internally inconsistent and this also made them unclear and unreasonable and hence in breach of paragraphs 14 and 1.8 of the Code;
 - f. the RQ asked about matters which were not part of the oversubscription criteria and thus appeared to breach paragraph 2.4 and 2.7 of the Code;
 - g. in relation to the oversubscription criteria for which places were allocated without reference to faith, the arrangements suggested that those places were only available to children of "*other or no faith*" and this contravened paragraphs 14, 15d, 1.8 and 2.8 of the Code; and
 - h. the arrangements stated that an appeal against a decision not to admit a child should be made within 14 days of receiving the decision, but paragraph 2.1a of the Appeals Code states that at least 20 days must be allowed for appeals and thus the arrangements are not clear.

Background

9. The school opened as a new academy free school in September 2013 with pupils in Y7 only. From September 2014, the school accordingly had pupils in Y7 and Y8. It was not oversubscribed in either year and so has never had to apply its oversubscription criteria. While the school is intended in due course to have a sixth form, it is not currently admitting any children into Y12 and does not plan to do so until the cohort of those who joined the school in 2013 works its way through the school.

10. When I reviewed the school's website in September 2014, it had a dedicated admissions page which included links to a document headed "School Admissions Policy" (the policy document) and to forms entitled "Admissions Form" and "Religious Questionnaire". The website page also included the following statement:

"Please complete an admissions form and a religious questionnaire. The completed forms should be sent by recorded delivery...to

The Admissions Secretary [followed by the school's name and address]."

11. The policy document when the arrangements were determined said that priority for up to 50 per cent places is given on the basis of adherence to the Sikh faith with the remaining places "*allocated to children of other or no faith*". The school has since the objection varied this aspect of its arrangements so that that they now refer to the remaining places being "*allocated without reference to faith*." The policy document sets out who is to be regarded as a Sikh for the purpose of gaining priority for places on the basis of adherence to the Sikh faith under the school's admission arrangements. The policy document states the number of places in each year group and includes a clear statement that all children with an Education, Health and Care Plan (EHCP) which names the school will be admitted.

12. The oversubscription criteria are described in the policy document as follows:

"1. Priority Group 1 – 50% of places allocated on the basis of faith. Before any other children are admitted under this criterion, SEN children with an Education, Health and Care plan (EHC) naming the Academy will be admitted. Thereafter, children will be admitted in the following order:

- a. Looked After Sikh Children and Previously Looked After Sikh Children; no additional supplementary information (religious questionnaire) is needed.*

- b. *Sikh children whose parents demonstrate their commitment to the Sikh faith; this commitment will be assessed and places will be allocated based on the score achieved in the religious questionnaire. Priority will be given to the highest scores in descending order.*
- c. *Children who have a sibling attending the school at the time the child is due to start the school. Priority will be given to children from multiple births when applying at the same time.*
- d. *Proximity: children who live nearest to the school as measured by the definition below*
- e. *Random allocation will be used if any further tie-break is necessary within criterion 1c and d above.*

2. Priority Group B – 50% of allocation to non-Sikh applicants. Before any other children are admitted under this criterion, SEN children with an Education, Health and Care Plan (EHC) naming the Academy will be admitted. Then children will be admitted in the following order:

- a. *Looked After Children and Previously Looked After Children*
- b. *Children who have a sibling attending the school at the time the child is due to start the school. Priority will be given to children from multiple births when applying at the same time.*
- c. *Proximity: children who live nearest to the school as measure by the definition below.*
- d. *Random allocation will be used if any further tie-break is necessary within criterion 1 b and c above.”*

13. The arrangements provide that an appeal against a decision not to admit a child must be made within 14 days of receiving the decision. The arrangements define siblings for the purpose of the oversubscription criteria and how proximity from home to the school will be measured.

14. The questions asked in the religious questionnaire (RQ) referred to in 1b of the arrangements above which are used to establish commitment to the Sikh faith are:

“3 Pillars of Sikhi – Please state what you understand by them and how you uphold them in your daily life:

- a. *Naam Japna*
- b. *Kirat Karni (Do not state your occupation)*
- c. *Vand Ke Chakhna, what Seva have you or your child participated in? (This could be within or outside the home). Please give three examples:*

General Questions

What is your understanding of the Sikh ethos and how do you promote this within your home?

The school has regular religious functions, how will you as a family participate in these?

How do you feel your child would benefit from attending this school?"

15. There is a separate section in the RQ to be completed by the Granthi/Parbhandak which asks for confirmation of the frequency with which the parent and child attend the Gurdawa for worship and whether or not the family participates in Seva at the Gurdawa or in the community. There is provision for the Granthi/Parbhandak to sign the form and for the Gurdawa stamp.

Consideration of matters raised in the referral and other matters

16. Determination and publication of the admission arrangements: The referrer considered that the arrangements for 2015 had either not been determined as required by paragraph 1.46 of the Code or not published as required by paragraph 1.47. When the OSA contacted the school in August 2014, it became apparent that the arrangements for 2015 had not been determined. The school's letter of 9 August 2014 said in respect of the arrangements published on its website at that time and as seen by the referrer earlier in the year: "*We can confirm that the default arrangement we have in place is that the current approved admission arrangements continue for future years unless we receive any policy changes or feedback from objectors or prospective parents.*" This made it clear that the academy trust had not determined arrangements for 2015 and was in breach of paragraph 1.46 of the Code which requires that arrangements must be determined annually. The right of parents and others to object to admission arrangements applies only to determined arrangements. It is not acceptable for admission authorities to fail to comply with their duty to determine arrangements and thus to deprive others of the right to object.
17. Different published versions of the arrangements: In response to the approach from the OSA, the school's governing body met on 3 September 2014 and determined the arrangements for 2015 and subsequently published them on the school's website. The arrangements as determined and subsequently published were in places different from those published earlier. The referral had been based on the earlier version as that was what had been published at the time the referral was made. I am concerned with the determined arrangements for 2015. Where aspects of the referral that relate to matters that feature in the determined arrangements, I shall take those matters into account as well as considering other ways in which the determined arrangements appear not to comply with requirements relating to admissions. As the school has since

the meeting exercised its right to vary its determined arrangements in order to comply with a mandatory provision of the Code, I shall make clear where this is the case.

18. The PAN: Paragraph 1.2 of the Code states that “as part of determining their admission arrangements, all admission authorities must set an admission number for each “relevant age group””. A relevant age group is an age group in which children are normally admitted to the school. The school has one relevant age group which is for children joining Y7. The arrangements when I first saw did not state a PAN and thus breached paragraph 1.2. Instead, the arrangements referred to the “school admission numbers for each year group from 2013 to 2017” followed by a table as shown below:

	2013	2014	2015	2016	2017	2018	2019
Year 7	120	120	120	120	120	120	120
Year 8		120	120	120	120	120	120
Year 9			120	120	120	120	120
Year 10				120	120	120	120
Year 11					120	120	120

19. As an admission number relates only to children joining the school at the normal year of entry and not those moving from one year to another within the school, or the number of places in each of the other years I was concerned that this table could suggest that further children were to be admitted each year to the school and this would make the arrangements unclear and in breach of paragraph 14 of the Code. At the meeting, the school accepted this point. It has varied the arrangements to remove the table and to state that the PAN for Y7 is 120.

20. The use of an admissions/application form: I consider next the school’s use of an admissions/application form together with my concern that the arrangements required applications to be made direct to the school and the implication that offers for places would then be made by the school. I note in this context that the school’s arrangements refers in different places to “admissions” and “application” form but it is clear from the context that both refer to the same form. The school’s website in September 2014 included the statement “Please complete an admissions form and a religious questionnaire.” The policy document said:

“To apply for a place at our school for 2015 admissions, parents/legal guardians/carers have to complete the School Application Form and Religious Questionnaire, with the exception of looked after children and/or previously looked after children. The RQ applies only to Sikh applicants.”

21. In the first year of operation (which for this school was the year beginning September 2013) an academy free school is permitted by virtue of footnote 48 to paragraph 2.20 of the Code and the school’s

funding agreement to receive applications direct to the school and for this purpose to use an application form. For all subsequent years, applications for an academy free school must be made on the common application form (CAF) of the LA in which an applicant lives as the school must take part in the co-ordinated admissions process. Linked to this, offers for places must be made by the LA on national offer day and not by schools. All of this is set out in Section 2 of the Code. 2015 will be the school's third year of admissions.

22. The school has explained that the academy trust for the school is the Slough Sikh Education Trust (the trust). The trust had originally intended that the school should be established in Slough which is a neighbouring LA to Buckinghamshire and where the trust already has a voluntary aided Sikh primary school. However, it was not possible to find a site in Slough and the school's site in Buckinghamshire which is only one and a half miles from the primary school in Slough was selected. Initially, it was not certain that the school would be based permanently in Buckinghamshire. It became clear at the meeting that – against this background of uncertainty - there had been limited contact between the school and the LA and the school had failed to appreciate its duty to work with the LA. The school had for 2014 received and accepted applications for places direct from parents and had also made offers direct to applicants. By doing this it had been in breach of the requirements relating to admissions set out in schedule 2 to the Regulations and in paragraph 2.10 of the Code. At the meeting, the school and LA both professed themselves keen to work together. I note that since the meeting and following advice provided by the LA changes were swiftly made to the school's website making clear that applications for places in Y7 for 2015 were to be made via the CAF for the child's home LA. The school also said that any applications that had been made direct to the school by early October would be passed to the LA to deal with in order that the school would no longer contravene this aspect of the Code. The school no longer has an application form.
23. The referrer had also noted that the admissions form was requested for all applicants even if applying under the lowest category and that it requested information not necessary to apply the oversubscription criteria, including details of languages spoken and faith if any of the family. The referrer argued that these elements breached paragraph 2.4 of the Code on the basis that the form was a SIF. However, as set out above, the admissions form was not a SIF but an application form which was being used unlawfully. As the school has since the meeting varied its arrangements so that the form is no longer in use, this breach has been remedied.
24. The school's faith-based oversubscription criteria and the RQ: The school is an academy free school with a religious character. Footnote 30 to paragraph 1.36 of the Code states that the funding

agreements for such schools “provide that where the school is oversubscribed at least 50% of places are to be allocated without reference to faith”. The RQ is a SIF and so governed by the provisions of paragraph 2.4 of the Code which provide that a SIF can only be used to seek information which is not available on the CAF and which is needed to apply the school’s oversubscription criteria. As the referrer noted, children applying for the school and seeking priority under the criteria relating to places for which priority is not given on the basis of faith did not need to complete the RQ for their application to be considered. This was because all the information necessary to apply the oversubscription criteria is provided on the CAF. The school’s arrangements as determined in September 2014 did not make this clear; indeed, the request on the website: “Please complete an application form and a religious questionnaire” gave the opposite impression. The statement in the policy document: “To apply for a place at our school for 2015 admissions, parents/legal guardians/carers have to complete the School Application Form and Religious Questionnaire, with the exception of looked after and/or previously looked after children.. The RQ applies only to Sikh applicants” was also not completely clear. Finally, the admissions form also said “As Khalsa Secondary School is a faith inspired (Sikh) school you are required to complete the additional RQ form.” While the admission form itself is no longer in use as explained above, it was in use and formed part of the arrangements for 2015 when these were determined. The determined arrangements by suggesting that all applicants had to complete the RQ for their applications to be considered did not conform with paragraph 2.4 of the Code. Following discussion at the meeting, the school has varied the arrangements to make clear that the RQ is to be completed only by those seeking priority for admission on the basis of the Sikh faith.

25. The clarity of the faith-based oversubscription criteria: When I reviewed the arrangements, I noted, as the referrer had said, that the oversubscription criteria as set out in the policy document do not give any information as to how religious commitment will be assessed. Instead, it is necessary to look at the RQ for this. The referrer argued that this meant that the arrangements breached paragraphs 14, 1.8 and 1.37 of the Code which together require that arrangements are reasonable, fair, clear and objective; that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated and, in relation to schools with a religious character, that admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.
26. The school’s arrangements include the policy document and the RQ and both can easily be found on the school’s website. As set out above, the admissions policy document includes in the oversubscription criteria the statement “[Sikh] commitment will be assessed and places will be allocated based on the score achieved

in the religious questionnaire.” It is for admission authorities to decide how to set out their arrangements including the oversubscription criteria they will use and, as part of that, any requirements that have to be met to gain priority on the basis of faith. In setting out arrangements, admission authorities must meet the requirements for clarity and objectivity, and ensure that parents can easily understand how the faith-based oversubscription criteria will be met. I do not consider that, purely by organising its arrangements in the way it has, the school has failed to meet this requirement as there no requirement for the school to include its test of religious commitment within the list of oversubscription criteria.

27. When I reviewed the faith-based criteria and the associated RQ, it seemed that elements of the arrangements were unreasonably complex, not clear not objective and not fair. A number of the provisions were also contradictory and inconsistent to the extent that the arrangements as a whole could not actually have been used to determine which children should have had priority if the school had been oversubscribed.
28. I could not work out how the elements relating to priority for Sikh children would operate in practice. The RQ says that *“The Trust only informs the school of the outcome of the RQ grading as a mark indicating Good, Satisfactory or Insufficient as explained fully in the Admissions Policy.”* The RQ also says that *“total marks are out of 30. Each question has a weighting of 5 marks”*. The admissions policy document says: *“...places will be allocated based on the score achieved in the religious questionnaire. Priority will be given to the highest scores in descending order.* There was nothing in the arrangements to explain whether a particular number of marks equated to good, satisfactory or inadequate. In addition, there was nothing explaining how marks were awarded for each question, for example, whether responses either scored zero or five or whether it was possible to gain one or more points short of five for answers. The provisions were also internally inconsistent as putting scores into three bands (especially as there was no explanation of how this was done) is not consistent with ranking scores in descending order in order to allocate places. As well as the six questions to be answered by parents, there is a separate section which asks the Granthi or Parbhandak to confirm that the parent and child attends the Gurdwara for worship daily, weekly, monthly or less frequently and whether or not the family participates in Seva (which means selfless service to others) at the Gurdawa or in the community. There was nothing in the arrangements to explain how this information was taken into account in applying the oversubscription criteria.
29. At the meeting, the school acknowledged that as it had not been oversubscribed, it had not actually tried to use the oversubscription criteria. The school was able to confirm that in relation to each of

the six questions an applicant could gain 0, 1, 2, 3, 4 or 5 marks and that particular numbers of points would result in an application being categorised as one of good, satisfactory or insufficient. The school acknowledged that the arrangements did not explain how many points were awarded for particular types and levels of activity. The school also said frequency of worship and the assessment of whether a family took part in Seva (other than in relation to the three pillars of Sikhi which are discussed below) were not taken into account for the purpose of awarding points. However, if an application scored no points, then the endorsement of the Granthi or Parbhandak would be taken into account, but the school did not explain how this would be done. I asked what process the school would use for scoring the RQ. Again, the school acknowledged that this had not yet been tested as the school had not been oversubscribed. The school added that that two or three governors would look at the applications and agree the scores to be awarded in each case.

30. The arrangements are internally inconsistent which in itself means that they are unclear and hence in breach of paragraphs 14 and 1.8 of the Code. The arrangements are so complex that they are unreasonable which is also a breach of paragraph 1.8. The arrangements also fail to meet the requirement for objectivity set out in paragraphs 14 and 1.8. In particular, an approach which involves governors looking at applications and deciding what scores to award would not be objective. It would not be possible for a parent looking at the arrangements to understand how the faith-based oversubscription criteria would be satisfied and the arrangements accordingly breach paragraph 1.37 of the Code.
31. The referrer also argued that the admissions form breached paragraphs 14, 1.8 and 1.37 of the Code where it said: *“The school does not specifically ask a parent to prove that they have a religious commitment, but it does reserve the right to ask such evidence if required. This is normally achieved through a signed declaration, counter signed by a religious body”*. This statement was in fact not included in the version of the admissions form which was part of the determined arrangements so it is not part of my consideration. In addition, the admissions form itself has now been removed in its entirety from the arrangements.
32. I turn now to the question of whether the questions themselves are objective and fair. The questions are open questions and require those responding to describe their understanding of the pillars of Sikhi and give examples of how the family upheld these in daily life. I consider that such questions cannot be objectively assessed and they are accordingly not in conformity with paragraphs 14 and 1.8 of the Code. So far as fairness is concerned, the questions call for extended writing and seem to test knowledge of Sikhism as well as commitment to the faith. The RQ does state that it can be translated into Punjabi or another language if required but the arrangements

do not make clear whether answers can be given in any language. Even if the school would accept – and be capable of assessing - an RQ completed in any language, giving extended answers will always be more difficult for certain groups such as those with learning difficulties or poorer literacy skills. The arrangements are not fair or objective and do not conform with paragraphs 14 and 1.8 of the Code.

33. The final question is: *“How do you feel your child would benefit from attending this school?”* This is not a question which could be valid for the purposes of applying a school’s oversubscription criteria. Oversubscription criteria are concerned with the priority which is to be given to different children in the event of the school’s being oversubscribed.
34. The referrer argued that the question in the RQ which asked how families would participate in the school’s “regular religious functions” appeared to *“be putting extra requirements on admissions without even precisely specifying what they are.”* The referrer considered that this amounted to a condition in breach of paragraph 1.9a of the Code. The wording of the question suggests that there is no doubt that families will be taking part in the school’s religious functions; the question is only about how they will take part. Paragraph 1.9a of the Code states that admission authorities **must not** *“place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements”*. The assumption implicit in the question that families will take part in activities amounts to a condition in breach of paragraph 1.9a of the Code.
35. I turn now to the issue of giving priority on the basis of the child or parent’s participation in Seva and upholding of the “3 Pillars of Sikhi”. The referral argued that giving priority on this basis breached paragraphs 1.9e, 1.9i, 1.8 and 14 of the Code. Paragraphs 14 and 1.8 are, as already explained, concerned with clarity, objectivity, reasonableness and fairness and I have dealt with these above.
36. Paragraph 1.9i of the Code allows schools with a religious character to take account of religious activities as laid out by the body or person representing the religion or religious denomination. In the case of this school, its religious authority is the Network of Sikh Organisations. The NSO email to the OSA of 20 August 2014 said *“NSO does not provide any written guidance to Sikh schools on admissions. It is the duty of their trusts to establish criteria for admissions. NSO gets involved as and when requested for support and guidance from any particular school.”* As the NSO has not laid out any activities I conclude that the school’s arrangements breach paragraph 1.9i of the Code by taking into account religious activities which have not been laid out.

37. The referrer also argued that the activities also breached paragraph 1.9e of the Code which states that priority must not be given on the basis of any practical or financial support parents may give to the school or any associated organisation, including any religious authority. I have accordingly considered whether, if the activities had been laid out in accordance with paragraph 1.9i of the Code, they would breach paragraph 1.9e. The RQ states that the 3 pillars of Sikhi are Naam Japna, Vand Ke Chakna and Kirit Karni. The terms are not defined in the arrangements. However, they are core components of the Sikh faith and would be familiar to its adherents. It is also easy to find their meaning from websites about the Sikh faith which explain that Naam Japna relates to meditation, hymn singing and contemplating the name of God; Vand Ke Chakhna concerns the sharing with others of the fruits of one's labours and Kirit Karni relates to work, living a good life and doing good deeds. Seva means service to others. In relation to Kirit Karni the RQ says that the parent's occupation should not be stated and I mention this as the Code states in paragraph 1.9f that priority must not be given on the basis of parental occupation.

38. I consider that giving priority on the basis of Naam Japna does not breach 1.9e. So far as Kirat Karni and Vand Ke Chakhna are concerned, both of these include elements which could amount to practical or financial support for example, by giving money or working voluntarily for a charity. However, to breach 1.9e the practical or financial support must be to the school or an associated organisation. There is nothing in the arrangements to suggest that the faith-based oversubscription criteria can only be satisfied if the Kirat Karni or Vand Ke Chakhna relates to the school, to its religious authority or, indeed, is to be taken as limited to Sikh organisations. However, I repeat here for the avoidance of doubt that I find that the questions asked of parents about their understanding of these matters are unreasonable, unclear, not objective and not fair and I have determined that they breach paragraphs 14 and 1.8 of the Code.

39. As set out above, oversubscription category 1 is concerned with places for which priority is given to Sikh children. Sub-categories 1a and 1b make this clear by referring to Sikh children whereas categories 1c, 1d and 1e do not but simply refer to children. In fact, as confirmed by the school at the meeting, categories 1c, 1d and 1e are all concerned with Sikh children. This means that the arrangements are not clear and do not meet the requirements of paragraph 14 and 1.8.

40. Places allocated without reference to faith: The policy document when I first saw it stated that *"up to 50% of the places will be allocated on the basis of Sikh faith and all remaining places will be allocated to children of other or no faith"* and later on "Priority Group B 50% places of allocation of places to non-Sikh applicants". It is not, in fact the case that places are allocated to *"children of other or*

no faith” or that they are only open to children who are not Sikh. Rather, such places are to be allocated without reference to faith, the Sikh or any other faith, which is a different matter. The school has varied its arrangements since the meeting to make this clear.

41. The referrer also noted the statement in the policy document “*For Sikh parents/legal guardians/carers who do not submit a completed Religious Questionnaire in respect of their child’s place, the application will not be considered*” and questioned whether this was acceptable as it implied that such children would not be considered for those places for which priority was not given on the basis of faith. Paragraphs 15d and 2.8 of the Code require that where places are available, then any child who wants one must be admitted without the use of conditions or the application of oversubscription criteria. Moreover, any parent could apply for a place and if the RQ is not submitted can only be considered for priority for a place that is available without reference to faith or for any place if the school is undersubscribed with applicants who seek priority on grounds of faith. I determine that this aspect of the arrangements does not conform with paragraphs 15d and 2.8 of the Code.
42. Appeals: Appeals against the decision of the governing body not to admit a child are not a matter for the adjudicator. However, I note that the arrangements do not conform with the law relating to appeals when they say that an appeal “*should be made within 14 days of the receiving the decision...*”. In fact, paragraph 2.1a of the Appeals Code states that appellants **must** be allowed at least 20 school days from the date of notification that a place has not been awarded to prepare and lodge their appeal.

Conclusion

43. I have determined that the school’s arrangements breach the requirements relating to admissions in many ways. The school has already made some changes, but the arrangements as a whole require significant redrafting and simplification in order to comply fully with the Code. I wish to record that the school has shown itself willing to make the necessary changes. The LA for its part has offered support which the school seems happy to accept.

Determination

44. In accordance with section 88(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements determined by the academy trust for Khalsa Secondary Academy, Buckinghamshire for admissions in September 2015. I determine that they do not conform with the requirements relating to admissions.

45. 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 and no later than 15 April.

Dated: 11 February 2015

Signed:

Schools Adjudicator: Shan Scott