



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA2865

Objector: A member of the public

Admission Authority: The Academy Trust for Rimon Jewish Primary School

Date of decision: 11 September 2015

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements determined by the academy trust for Rimon Jewish Primary School in the London Borough of Barnet.

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

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator (OSA) by a member of the public, (the objector), whose identity is known to me, about the admission arrangements (the arrangements) for Rimon Jewish Primary School (the school) for September 2016. The school is an academy free school with a Jewish religious character in Barnet, London, for pupils aged four to eleven. The objection is to the elements of priority given in the oversubscription criteria to children of members or regular attendees of synagogues and to the possible role of the Rabbi of Golders Green synagogue in the allocation of places.

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. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis. The objector submitted the objection to these determined arrangements on 6 May 2015. The objector has asked for his or her name not to be disclosed and has satisfied the requirement in regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing his or her name and address to me. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider 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 objector's form of objection dated 6 May 2015;
 - b. the response of the solicitors acting for the school dated 20 May 2015 and supporting documents and subsequent submissions between then and the end of July 2015;
 - c. the email of 14 May 2015 from the London Borough of Barnet which is the local authority (LA) area in which the school is located in which the LA said that it did not wish to comment on the objection and information provided by the LA about applications to the school;
 - d. the response of the United Synagogue (the US) which is the school's religious body and supporting documents dated 27 May 2015;
 - 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 on 17 March 2015 at which the academy trust determined the arrangements; and
 - g. a copy of the determined arrangements.

The Objection

5. The arrangements give elements of priority to children whose families are members or regular attendees at a number of synagogues. The highest of these elements of priority is given to those whose families are members or attendees of Golders Green synagogue, then other US synagogues, then other Orthodox synagogues and finally other synagogues. The objector argues that many synagogues charge membership fees and that this means that the arrangements breach

paragraph 1.9e of the Code which prohibits the giving of priority “*on the basis of any practical or financial support parents may give to the school or any associated organisation*”. The objector notes that regular attendance is defined as attending one daily and one Shabbat (the Jewish Sabbath) service a week. The objector argues that this makes the arrangements very difficult for any family to satisfy on the basis of attendance as going away or falling ill might result in a failure to attend any service for a week or more and impossible for women to satisfy on the grounds that only men attend daily services. The objector considers that the purpose of this is to persuade families to become members of a synagogue (particularly Golders Green synagogue) as this increases the synagogue’s income. The objector was also concerned that as the school’s Principal is also the Rabbi of Golders Green synagogue and would in this capacity certify attendance at synagogue services there was a lack of accountability in the arrangements.

Other Matters

6. When I reviewed the arrangements, I considered that there were other ways in which they might not conform with the requirements relating to admissions. I have accordingly used my power under section 88I of the Act to consider the arrangements as a whole. The matters which I considered might not conform with the Code were:
 - a. the definition of looked after and previously looked after children used in the arrangements appeared not to conform with the definition set out in paragraph 1.7 of the Code;
 - b. the arrangements did not state that children with an Education, Health and Care (EHC) which named the school would be admitted and thus appeared to breach paragraph 1.6 of the Code;
 - c. the arrangements ask for information which is already available via the LA’s Common Application Form (CAF) which appeared to breach paragraph 2.4 of the Code and, in addition, asked for this information to be provided on the school’s application form. As the school does not have an application form this also appeared to make the arrangements unclear in breach of paragraphs 1.4 and 1.8 of the Code;
 - d. the arrangements did not appear to include information about the admission of children below compulsory school age and deferred entry to school as required by paragraph 2.16 of the Code or about the admission of children outside their normal age group as required by paragraph 2.17 of the Code;
 - e. the arrangements give an element of priority to siblings but did not appear to have defined siblings in its arrangements as required by paragraph 1.11 of the Code; and
 - f. the oversubscription criteria referred to “family” attendance at

synagogue whereas the SIF referred to attendance by a parent/carer and this appeared to make the arrangements unclear in breach of paragraphs 14 and 1.8 of the Code. It also meant that parents might not be able to understand whether their practice would satisfy the faith-based criteria as required by paragraph 1.37 of the Code.

Background

7. The school is an academy free school designated by the Secretary of State under the Act as having a Jewish religious character. The school opened in September 2012 and has a published admission number (PAN) of 28. The admission arrangements when I first saw them in May 2015 said that children with statements of special educational needs which name the school will be admitted. The oversubscription criteria could be summarised as follows:
 1. Children who are in the care of a Local Authority and children who were adopted (or subject to a residency order or a special guardianship order) immediately following having been in care.
 2. Children whose social or medical needs are such that they cannot reasonably be met at another school.
 3. Siblings of pupils at Rimon.
 4. Applicants who meet the criteria for Faith Places (up to 50% of the remaining places).
 5. Open places.
8. The arrangements go on to explain the basis on which faith-based places and open places will be allocated. In respect of the places for which priority is given to children who practice Judaism, the arrangements give different elements of priority to "*children whose families are and have members or regular attenders of [a number of different synagogues or groups of synagogues] since 15 January 2015.*" The highest priority is given to those who belong to or attend Golders Green synagogue, followed by other United Synagogue synagogues, then other orthodox synagogues and, finally, any other synagogue. In all cases, the arrangements explain that "*Membership must be confirmed in writing by the synagogue office and details provided on the SIF. Attendance must be confirmed by the Rabbi or honorary officers of the synagogue and details provided on the SIF.*" The arrangements make clear that the SIF need only be completed where a parent wishes his or her child to be considered for one of the places for which priority is given on the basis of faith. In respect of open places, priority is based on distance from the child's home to the school as measured by Barnet's computerised geographical information system. The arrangements include a tie break which is distance with the random allocation used to separate two or more children who tie equally for the final place. The school was oversubscribed in both

2014 and 2015 and allocated places as shown below:

	2014	2015
Statement of SEN	1	1
<u>Oversubscription criteria</u>		
1. looked after/previously looked after	0	0
2. Social/medical needs	0	0
3. Siblings	6	15
4. Faith places	11	6
5. Open places	10	6

9. Before I turn to the specific aspects of the objection and the other matters I identified, I note that the school recognised in correspondence that its arrangements did not conform with the requirements relating to admissions and accepted the need to make changes to the arrangements. However, at the time of completing this determination no changes had been made to the arrangements as published on school's website.

Consideration of Factors

10. I consider first the aspect of the objection relating to priority gained through membership of various synagogues. The objector argued that the school is in breach of paragraph 1.9e of the Code which states that schools "**must not** give priority on the basis of any practical or financial support parents may give to the school or any associated organisation". The school has in its response to the objection stated that it accepts that "even though concessionary fees or free membership are available for those with limited meansthere is a view that where membership of a synagogue directly affects the priority of a child for a place at the School an association is created between the synagogue and the School and that payment of fees could amount to financial support. In the light of this the School is willing to take synagogue membership out of their oversubscription criteria."
11. The objector was particularly concerned with Golders Green synagogue. In the case of Golders Green synagogue there is no question that there are close links between the synagogue and the school. The synagogue's website proclaims this, stating that "*The community is thrilled to share its premises with a new Jewish primary school*" which is Rimon. The Rabbi of the synagogue is a governor and the Religious Principal of the school; though there is also a headteacher. I consider that the synagogue is an associated organisation for the purposes of paragraph 1.9e of the Code. After the priority given to children of members of Golders Green synagogue, the school gives lesser degrees of priority to children who are members of other US synagogues, then other orthodox synagogues and then other synagogues. As noted above, the US is the school's religious authority. The link between US synagogues other than Golders Green synagogue is less close than the link between the school and Golders

Green synagogue and the links between the school and non-US synagogues less close still. However, in all cases membership gives priority for a place at the school and this creates an association within the meaning of paragraph 1.9e of the Code between the school and the synagogue, because the membership of the synagogue directly affects the priority of the child for a place at the school. Most if not all synagogues charges for membership. I consider that by giving priority for admission on the basis of a parent's membership of a synagogue, the school is in breach of paragraph 1.9e of the Code and I uphold this aspect of the objection. I note that the school has accepted the need to remove any aspect of priority based on synagogue membership from its oversubscription criteria and that the US has said in its email of 27 May 2015 that it welcomes the school's decision in this regard.

12. I turn now to the question of priority given on the basis of attendance at services. So far as the question of women's attendance is concerned, the school contends that the objector is wrong to assert that women cannot attend daily services, by which is meant services other than those on the Sabbath. There is no prohibition in US synagogues on women attending services during the week and I do not uphold this aspect of the objection. So far as the question of the frequency of attendance required in order to secure priority under the arrangements, the school has responded that it accepts that the requirement to attend two services every week for a year is too high and proposes to change it to read as follows:

"i. Children whose families have attended 30 Shabbat (Saturday) services at Golders Green Synagogue throughout the year and 1 weekday service (Sunday–Friday including Friday evening) per month at Golders Green Synagogue throughout the year;

ii Children whose families have attended 20 Shabbat (Saturday) services and 1 weekday service (Sunday–Friday including Friday evening) per month at Golders Green Synagogue throughout the year;

iii Children whose families have attended 20 Shabbat (Saturday) services at Golders Green Synagogue throughout the year;

iv Children whose families have attended 30 Shabbat (Saturday) services at any other synagogue throughout the year and 1 weekday service (Sunday-Friday including Friday evening) per month at any other synagogue throughout the year;

v Children whose families have attended 20 Shabbat (Saturday) services and 1 weekday service (Sunday–Friday including Friday evening) per month at any other synagogue throughout the year;

vi Children whose families have attended 20 Shabbat (Saturday) services at any other synagogue throughout the year."

13. There is no doubt that the level of practice proposed to be required to gain the highest levels of priority under the school's faith-based oversubscription criteria has been reduced and is significantly more modest. The objector had pointed out that it would not be possible to gain the highest priority if the parent or carer was away for even one week or was ill for a week. In this connection I note that the arrangements did not only require attendance at a service at least twice a week to gain the highest level of priority but made no provision for the realities of life, such as illness or the fact that a family away on holiday might attend a service at a synagogue close to where they were staying. The proposed arrangements allow for these eventualities. I uphold this aspect of the objection as the determined arrangements were not fair for the reasons given by the objector and thus breached paragraph 14 of the Code. I note that the school has undertaken also to amend its SIF so that it reflects the proposed new arrangements.
14. The objector has complained about the lack of accountability on account of the Rabbi at Golders Green Synagogue being the Principal of the School. The Rabbi is the Religious Principal of the School, but not the headteacher. The school has pointed out that attendance at Golders Green Synagogue results in no personal gain for the Rabbi and that he is not involved in the allocation of school places. The Rabbi is, of course, involved in certifying the practice of applicants who attend his synagogue. It is not unusual for local religious leaders to be involved in certifying attendance at places of worship while also playing a role, such as by being a governor or even Chair of Governors, at a school with the relevant religious character and this is certainly not limited to the Jewish faith. I do not consider that the Rabbi's role as Religious Principal of the school leads to any breach of the Code and I do not uphold this aspect of the objection.
15. I do note that the school has made provision for six different levels of faith observance in its arrangements. Given that the school has a PAN of 28 and gives priority on basis of faith for no more than half of its places, the school may wish to keep this aspect of its arrangements under review and consider whether so many levels of practice are necessary.

Other Matters

16. The school's arrangements give the highest priority to looked after and previously looked after children as required by the Code. However, the definition of looked after children was not complete as it did not include children provided with accommodation by a local authority who fall within the Code's definition. So far as previously looked after children are concerned, the arrangements did not reflect the changes to some terminology made in the version of the Code issued in 2014. The school has proposed in its response to the objection changes to bring these aspects of the arrangements into conformity with the Code.
17. The arrangements make clear that a child with a statement of SEN which names the school will be admitted. However, the Code also

requires that a child with an Education, Health and Care (EHC) plan which names the school must be admitted and the arrangements did not include this which means that they did not conform with paragraph 1.6 of the Code. The school has proposed in its response to the objection to remedy this omission.

18. The arrangements ask for proof of address and, in the case of children whose parents are separated, for information about where the child lives including the arrangements where a child spends equal time with both parents. The arrangements say that “the exact arrangements should be made clear on the application form [my underlining]”. However, the school does not have an application form as applications are made via the LA’s CAF. It does have a SIF but this will be completed only by those seeking a place under the faith-based criteria and does not, in any case, ask for or information about children’s living arrangements. In addition, the Barnet CAF already requires applicants to provide proof of address and information about living arrangements where parents do not live together and the child spends time with both. By asking for information which is not necessary as it is already covered on the CAF, the arrangements breach paragraph 2.4 of the Code which limits the use of SIFs to additional information which has a direct bearing on the use of oversubscription criteria. As the school does not have an application form and as not all parents will complete the SIF, the arrangements are also unclear in breach of paragraphs 14 and 1.8 of the Code. In the letter of 7 July 2015, the school said that it would amend its arrangements to address these points.
19. Paragraph 2.16 of the Code deals with the admission of children below compulsory school age and deferred entry to school. It makes clear that admission arrangements **must** explain a child’s entitlement to a full-time place in the September following his or her fourth birthday and that parents can defer the date child is admitted to school if certain conditions are met and that, where parents wish, children who are below compulsory school age may attend part-time if certain conditions are met. The school’s arrangements when I first saw them did not cover the matters set out in paragraph 2.16 and so did not conform with the Code. The school has undertaken to remedy this omission.
20. Paragraph 2.17 of the Code deals with the admission of children outside their normal age group and states that admission authorities **must** make clear in the arrangements the process for requesting admission out of the normal age group. The school’s arrangements when I first saw them were silent on this issue and so did not conform with the Code. The school has undertaken to remedy this omission.
21. As is common in admission arrangements, the school gives an element of priority to siblings. However, no definition of sibling is given and this is contrary to paragraph 1.11 of the Code which provides that admission authorities “**must state clearly in their arrangements what they mean by ‘sibling’**. ...” The school has undertaken to revise its arrangements to include the following definition of sibling:

“Sibling means a brother or sister (including adoptive, half or step brothers and sisters and foster children) who will be attending the School at the date of admission and is living permanently at the same address as the child.”

22. The arrangements refer to attendance at synagogue services by “families” whereas the SIF refers to attendance by one parent or carer. I was concerned that there was accordingly a lack of clarity as to who is required to attend services in order for a child to gain priority under the school’s faith-based criterion. This meant that the arrangements breached paragraphs 14 and 1.8 as they were not clear. In addition, parents would not be able to understand how the faith-based criteria would be reasonably satisfied as required by paragraph 1.37 of the Code as they would not necessarily know from looking at the arrangements whether their own practice met the school’s requirements as it was not clear whether the family or only one parent/carer was required to attend synagogue services. The school has confirmed that the requirement is for a parent/carer to attend and the wording in the arrangements and has undertaken to amend the arrangements accordingly.
23. I note that the arrangements provide for parents who wish to appeal against the refusal of a place at the school to write to the governing body within two weeks. Paragraph 2.1 a) of the Appeals Code requires that at least 20 school days be allowed for appeals. The school has undertaken to revise its arrangements to make clear that parents have 20 school days to make an appeal.

Conclusion

24. I have upheld the objection in relation to the priority given to children whose parent or carer is a member of particular synagogues and in relation to the frequency of attendance at services required to meet the school’s test of religious practice. I have not upheld the aspects of the objection relating to the attendance of women at services or the role of the Rabbi of Golders Green synagogue. I have identified a number of other ways in which the arrangements do not conform with the Code. The school has proposed a number of changes to its arrangements. The Code requires that the school vary its arrangements in order to remedy the breaches set out in this determination.
25. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of a determination unless an alternative timescale is specified by the adjudicator. In this case I consider that it is reasonable for the school to make the necessary changes within two months of the date of this determination.

Determination

26. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission

arrangements determined by the academy trust for Rimon Jewish Primary School in the London Borough of Barnet.

27. I have also considered the arrangements in accordance with section 88I(5). I determine that the arrangements do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
28. 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 within two months of the date of this determination.

Dated: 11 September 2015

Signed:

Schools Adjudicator: Shan Scott