



DETERMINATION

Case reference: ADA3149

Objector: A member of the public

Admission Authority: The Governing Body of St Bede's Catholic College

Date of decision: 18 August 2016

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 admission to Year 7 in September 2017 determined by the governing body of St Bede's Catholic College, Bristol.

I have also considered the arrangements in accordance with section 88I(5). I determine that there are matters as set out in this determination that 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 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). The objection concerns the admission arrangements (the arrangements) for September 2017 for St Bede's Catholic College (the school) an academy school for children aged 11 – 18 located in Bristol. The objection has six parts and includes concerns about the provision for children with Education, Health and Care (EHC) plans; the consultation process used to determine the arrangements; the priority given to the children of staff within the arrangements; the admission arrangements for Year 12 (Y12) including the application form used and the information requested in the supplementary information form (SIF) used for in year admissions.

2. The local authority (LA) for the area in which the school is located is Bristol City Council. The LA is a party to this objection as is the Diocese of Clifton (the diocese) which is the school's religious authority.

Jurisdiction

3. The terms of the funding agreement between the academy trust for the school and the Secretary of State for Education require that the admissions policy and arrangements for the schools are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing body of the school as the admission authority for the school on behalf of the academy trust, on the 15 March 2016 on that basis. The objector submitted the objection to these determined arrangements on 10 May 2016. One part of the objection concerns in-year admissions to the school, a matter in which I do not have jurisdiction and which I have not, therefore, considered further although I note that the school does plan to review its in-year admission arrangements

4. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and, with the exception of the point concerning in-year admissions, 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

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

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

- a. the objector's objection form dated 10 May 2016 and supporting documents together with subsequent comments;
- b. comments from the school in response to the objection together with supporting documents and subsequent comments;
- c. comments on the objection from the diocese together with subsequent comments;
- d. the funding agreement between the Secretary of State for Education and the trust for this school;
- e. a map of the area identifying relevant schools;
- f. the LA's composite prospectus for parents seeking admission to schools in the area in September 2016;
- g. confirmation of when consultation on the arrangements last took place;
- h. the minutes of the meeting of the school governing body on 15 March 2016 at which the arrangements for September 2017 were determined for this school; and
- i. a copy of the determined arrangements for 2017.

The Objection

7. There are five parts to the objection within my jurisdiction. The first is that the arrangements for Year 7 (Y7) admissions refer to children with an EHC plan which names the school and goes on to say that "*the child will be admitted unless contested by the governing body*" and for Year 12 (Y12) admissions there is no reference to EHC plans. The objection is that this is contrary to paragraph 1.6 of the Code.

8. The second part of the objection concerns the consultation process that took place between 4 November 2015 and 31 January 2016 and questions whether it complied with paragraphs 1.42 -1.45 of the Code because neither the LA nor the diocese appears to have picked up the point made above in the first part of the objection.

9. The third part of the objection is that the SIF for Y7 and Y12 applicants was not included in the consultation process.

10. The fourth part is that although paragraph 1.39 of the Code permits an admission authority to give priority to children of staff, in this case the objector draws attention to the diocesan guidance that advises diocesan schools not to do so.

11. The fifth part of the objection is that the SIF for admission to Y12 asks for information that is not permitted by the Code. I have included the detail of these points in the discussion below.

Other Matters

12. When I reviewed the arrangements as a whole in the course of considering the objection, I noted that there were other matters that did not comply with the Code and raised these with the school.

13. There is a lack of clarity concerning the geographical area used in the arrangements as required in paragraph 14 of the Code. Since the objection was made, and my attention was drawn to this matter, the school has put a map of the area on its website.

14. The school appears to have 14 feeder schools which must comply with paragraph 1.15 of the Code which says "*the selection of a feeder school or feeder schools **must** be transparent and made on reasonable grounds.*" The published admission number (PAN) of the secondary school is 180 and the combined PANs of the named feeder schools total 465. I give further consideration to this matter below.

Background

15. The school is a Catholic academy school established by the Diocese of Clifton. It became an academy school in 2011. The school serves 17 parishes that are listed in the arrangements and it also says that it serves families in two further parishes for whom the school is the closest Catholic

secondary school. It has a PAN of 180 for Y7. The school is usually oversubscribed.

16. If the number of preferences for the school exceeds the number of places available at the school in 2017, the arrangements that were determined in March are set out in the oversubscription criteria summarised below:

- i Catholic looked after children or previously looked after Catholic children.
- ii Catholic children from the parishes the school serves who reside in the St Bede's geographical area of prime responsibility and attend the schools in the list below:
 - Corpus Christi, Weston-super-Mare
 - Holy Family, Patchway
 - Our Lady of Lourdes, Kingswood
 - Our Lady of the Rosary, Lawrence Weston
 - St Augustine's, Downend (dependent on home address)
 - St Bernard's, Shirehampton
 - St Bonaventure's, Bishopston
 - St Teresa's, Monks Park
 - St Francis, Nailsea
 - St Joseph's, Portishead
 - SS Peter & Paul, Redland
 - St Mary's, Bradley Stoke
 - St Nicholas of Tolentine, Lawford's Gate
 - Christ the King, Thornbury.
- iii Other Catholic children within the prime area of responsibility.
- iv Other Catholic children.
- v Looked after children and previously looked after children who are not Catholic
- vi Children with siblings already registered for a place at the college at the start of the academic year for which the admission is sought.
- vii Children of a member of St Bede's Catholic College staff, employed by the Governing Body.
- viii Children of another Christian church.
- ix Children of a Catholic parent.
- x Other children.

If there are more applicants than places available within one of the criteria, the following priorities will be applied in order:

- Siblings who have made their first holy communion

- Other siblings
- Children who have made their first holy communion
- Other children

If a further tie breaker is required, this will be done by drawing lots.

In the last three years all the available places at the school were allocated to children considered under criteria ii, iii and iv. above.

Consideration of Factors

17. I shall now consider the five parts to the objection. The first is that the arrangements for Y7 admissions refer to children with an EHC plan which names the school and goes on to say that “*the child will be admitted unless contested by the governing body*” and for Y12 admissions there is no reference to EHC plans. The objection is that this is contrary to paragraph 1.6 of the Code. The arrangements state that such children will be admitted “*unless contested by the governing body*”. The school has clarified that this means that there is a period of negotiation where the governing body considers whether or not it can make any necessary reasonable adjustments before a statement or EHC plan is agreed. Once the school is named in the plan the governing body is clear that the child will be admitted. The objector considers that the wording used does not comply with paragraph 1.6 of the Code. I agree and I note that the period of negotiation referred to by the school comes before a school is named on a statement or plan. Once a school is so named the child must be admitted. I therefore uphold this aspect of the objection on the grounds that the wording is not clear that pupils with a statement or EHC plan naming the school will be admitted. I also uphold the aspect of the objection that there is no reference to those with a statement or an EHC plan naming the school being given a place in respect of admission to Y12.

18. The second part of the objection concerns the consultation process that took place between 4 December 2015 and 31 January 2106 and questions whether it complied with paragraphs 1.42 -1.45 of the Code because neither the LA nor the diocese appear to have picked up the point made in the first part of the objection. These paragraphs specify who should be consulted and the responses from the diocese and the LA are evidence that the consultation was carried out in line with the requirements of the Code. I do not uphold this aspect of the objection because the content of any responses made to a consultation are not the responsibility of the consulting body.

19. The third part of the objection is that the SIFs for Y7 and Y12 applicants were not included in the consultation process. I have carefully considered the process that was used. I am satisfied that the proposed changes were communicated to the parties specified in paragraph 1.44 of the Code. The objector has pointed out that the school did not include the map of the area and the SIFs used by the school with the proposed changes to the arrangements and that it therefore failed to comply with paragraph 1.45 of the Code that says “*for the duration of the consultation that admission authorities*

must publish a copy of their full proposed admission arrangements on their website.” I note the point that the objector makes. However, the school has explained that although it circulated the proposed changes to the arrangements and it did not circulate the map and the SIFs, it did say that they were available for reference upon its website. If this had been the case, I would not consider that the consultation was in breach of the requirements of the Code in this respect. However, at the time the objection was made the map was not available on the school website and was only available for inspection by visiting the school office. The map was added to the website after the objection was made in May 2016. For this reason, I uphold this element of the objection on the grounds that the map was not readily available for any interested party to see. I observe that the map that was placed on the website was of low resolution and lacked detail. As a result, its use is limited because it does not show the boundaries of the area clearly.

20. The fourth part of the objection is that although paragraph 1.39 of the Code permits an admission authority to give priority to children of staff, in this case, the objector draws attention to the guidance from the Clifton diocese which the objector considers advises diocesan schools not to do so. Paragraph 1.38 of the Code says that “*admission authorities for schools designated as having a religious character must have regard to any guidance from the body or person representing the religion when constructing faith-based admission arrangements...*”. As it happens, the diocese does not – as the objector maintains – advise schools not to give priority to children of staff. Rather, it says in its guidance that “*admission authorities can give priority...to children of staff in certain circumstances. However, the diocese advise its schools not to do so if it would lead to Catholic families in the local parishes ...not gaining places...*” and “*Priority to staff should only be given to all staff after all of the criteria for Catholic children/parents.*” The objector says that the school has not had regard to this guidance. The school and the diocese have responded to say that the school has had regard to the guidance and after discussing the matter at the governors meeting the governing body decided that it would include the staff criterion as a lower priority below the criteria for Catholic children and this is in line with the advice in the last sentence of the diocesan guidance. I do not uphold this part of the objection.

21. The fifth part of the objection is that the SIF for admission to Y12 asks for information that is not permitted by the Code. Specifically:

- it asks for information about a statement of special needs or an education, health or care plan. This is not required in order to consider the application for admission of that child and is specifically not permitted by virtue of paragraph 2.4c of the Code;
- it asks if an applicant is entitled to extra time in examinations which again is information that is not required for admission purposes and so cannot be sought by virtue of paragraph 2.4c of the Code;
- If the applicant receives extra general learning support in their present school which is also not permitted for the same reason;

- if English is their first language which is prohibited by paragraph 2.2b of the Code;
- to provide details of mother and father which is prohibited by paragraph 2.4e of the Code;
- information about the applicant's current school which is prohibited by paragraph 1.9g of the Code;
- a personal statement about why they are applying to the school which is prohibited by paragraphs 1.9i and 1.9m;
- a section for a "reference" to be completed by the current head of year which is prohibited by paragraph 1.9g; and
- the statement that an applicant would be interviewed which may not comply with paragraph 1.9m.

The school has acknowledged that it is requesting information that is not permitted by the Code and has agreed to review this to ensure that it complies. I uphold this element of the objection.

22. In addition to the objection, I noted that the school appears to have 14 feeder schools. Paragraph 1.15 of the Code says that "*the selection of a feeder school or feeder schools must be transparent and made on reasonable grounds.*" Paragraph 1.15 also requires that feeder schools be named. The PAN for Y7 at the school is 180 and the combined PANs of the named feeder schools total 465. The school is a Catholic school and all the named schools are also Catholic schools. I consider that the school has been transparent in naming the schools and in declaring its intention that it wishes to give priority to Catholic children who live within the priority area. The objective of providing places for children who live in the priority area (or to use the term from paragraph 1.14 the Code – catchment area) is reasonable and compliant with the Code. It is, however, achieved by defining that catchment area (as the school has done) and it is not necessary to name feeder schools as well. I do not consider that it is reasonable to name 14 schools that have a combined PAN that is nearly three times the PAN of the secondary school as highlighted in the table below:

| Name of school | PAN |
|---|------------|
| Corpus Christi, Weston-super-Mare | 30 |
| Holy Family, Patchway | 30 |
| Our Lady of Lourdes, Kingswood | 30 |
| Our Lady of the Rosary, Lawrence Weston | 30 |
| St Augustine's, Downend (dependent on home address) | 45 |
| St Bernard's, Shirehampton | 30 |
| St Bonaventure's, Bishopston | 60 |
| St Teresa's, Monks Park | 30 |
| St Francis, Nailsea | 30 |
| St Joseph's, Portishead | 30 |
| SS Peter & Paul, Redland | 30 |

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|--|-----|
| St Mary's, Bradley Stoke | 30 |
| St Nicholas of Tolentine, Lawford's Gate | 30 |
| Christ the King, Thornbury | 30 |
| Total PAN | 465 |

23. The Catholic primary schools have admission criteria that typically give priority to Catholic children and the secondary school also gives priority to children who are Catholic. The school uses the argument that it wishes to prioritise children whose parents have chosen to send them to a Catholic primary school. However, it will not be obvious to the secondary school if there are parents who wished to do this but were unable to obtain a place at Year R or who have moved into the area after their children started school and been unable to secure a place at one of the Catholic schools. I see little purpose in having both a catchment area as well as feeder schools if the objective is to prioritise places for Catholic children from the named group of parishes that define the catchment area. In consequence, I consider that the selection of 14 feeder schools is unreasonable and does not comply with the Code.

Summary of Findings

24. I have upheld three of the points made in the objection concerning EHC plans; the availability of the SIF and a map during the consultation period and the information requested in the SIF. I have not upheld the other parts to the objection. The points are covered in detail above.

25. In reviewing the arrangements as a whole, using my power under section 88I of the Act, I have drawn attention to aspects of the arrangements that I do not consider comply with the Code and these are set out above. The school has already addressed the need for a catchment area map upon its website. It now needs to review whether or not it should specify feeder schools and if it has them, how it will ensure that the selection of the schools can be considered reasonable as required by the Code.

26. Paragraph 3.1 of the Code says that "*admission authorities must, where necessary, revise their admission arrangements...within two months of the decision unless an alternative timescale is specified...*". I consider that two months should be sufficient for the governing body to review its arrangements in the light of this determination.

Determination

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for admission to Year 7 in September 2017 determined by the governing body of St Bede's Catholic College, Bristol.

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

29. 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 arrangements within two months of the date of this determination.

Dated: 18 August 2016

Signed:

Schools Adjudicator: David Lennard Jones