



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3274

Objector: Cheshire East Council

Admission Authority: St Thomas More High School Governing Body
on behalf of The South Cheshire Catholic Multi-
Academy Trust

Date of decision: 20 July 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the Governing Body for St Thomas More High School, Crewe.

I have also considered the arrangements for both 2017 and 2018 in accordance with section 88I(5). I determine that there are matters in both years 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 unless an alternative period is specified. In this case, I determine that the arrangements must be revised within three months.

The objection

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by Cheshire East Council (the objector) about the admission arrangements (the arrangements) for September 2018 for St Thomas More High School, Crewe (the school), a Catholic mixed secondary academy for children aged 11 to 16. The school is located in Crewe, Cheshire. The local authority for the area is East Cheshire Council. The school is within the Catholic Diocese of Shrewsbury (the diocese).
2. The objection concerns the consultation that took place before the

arrangements were changed. It also says that some elements of the arrangements are unclear and the arrangements are unnecessarily complex.

3. The parties to this objection are the school, the local authority and the diocese.

Jurisdiction

4. The terms of the funding agreement between the South Cheshire Catholic Multi-Academy Trust and the Secretary of State for Education require that the admissions policy and arrangements for the school are in accordance with admissions law as it applies to maintained schools. The school's governing body determined these arrangements in December 2016 on behalf of the academy trust, which is the admission authority for the school, on that basis. The objection to these determined arrangements was submitted on 12 April 2017. 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 reviewed the 2017 and the 2018 arrangements as a whole using my power to do so under section 88I of the Act as the arrangements had been brought to my attention by the objection.

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 local authority's email and form of objection dated 12 April 2017 and subsequent correspondence;
 - b) the school's response to the objection and supporting documents, and subsequent correspondence;
 - c) the comments from the diocese concerning the objection and supporting documents, including the Diocesan guidance on school admissions;
 - d) a map of the area; and
 - e) a copy of the determined arrangements.

The Objection

7. The Local Authority says that it was not consulted by the school about its proposed changes to its admission arrangements and as a result did not respond to the consultation. It observes there are 16 oversubscription criteria and that this makes it hard for parents to understand how the arrangements work and that in its opinion the arrangements are complex and unclear.
8. The objection reports a discrepancy between a need for children not of the catholic faith or not baptised to have a "*wish to have a Catholic education*" in criteria 13 and 16, but not in criteria 10, 11, 14 and 15. The objection

continues with the detailed comment that an additional school (St Winefride's) has been included as a parish for residency purposes in the fourth criterion, which was not included in the school's policy for 2017-18. This part of the objection was withdrawn following clarification with the school that there is a local Catholic primary school and a parish of this name and that the school was referring to the parish and not the school.

9. The objection also reports that the detail in the footnotes concerning the closing date for applications is incorrect; the footnote about in-year applications is incorrect in suggesting that criteria will be applied if places are available in-year; and it questions whether families of nursery age children had been consulted on the proposed changes.

Other Matters

10. While considering the objection, I looked at the 2017 and the 2018 arrangements as a whole and found that there are other matters that do not appear to comply with the Code. I have raised these concerns with the school and the school has agreed to revise the arrangements so that they conform with the Code.
11. The school gives priority to children from three named Catholic primary schools. However, it also gives priority in its oversubscription criteria in 2017 and 2018 to children who "*attended other Catholic or non-Catholic primary schools*", which are not named. Paragraph 1.9b of the Code says that schools may not take into account any previous schools attended unless they are named feeder schools.
12. Oversubscription criteria refer to "*baptised children of another Christian denomination*" and the supplementary information form (SIF) uses different wording with no reference to baptism. The last two boxes on the SIF refer to a letter of support from a Priest/Minister/religious leader to confirm that either a child belongs to a practicing Christian family and attends church frequently or is a worshipping member of a faith. It is not clear whether providing such a letter satisfies the criteria referred to above.
13. The Code in paragraphs 1.36, 15d and 2.8 is clear that any school must be willing to offer any unfilled places to any child who applies. This is not clear within the published arrangements.
14. In the event of a tie between two applicants for the final available place there is no tiebreaker included in the arrangements as required by paragraph 1.8 of the Code.
15. Paragraph 1.47 of the Code requires the school to publish a copy of the determined admission arrangements for the whole offer year. The 2017 arrangements are published but not the 2018 arrangements.
16. The first criterion refers to "*looked after children in the care of the local authority*". This does not comply with the definition set out in paragraph 1.7 of the Code and "*looked after children in the care of the local authority*" could be interpreted as excluding those looked after children who are not being

provided with accommodation by the local authority or are in the care of another local authority.

Background

17. The school is an 11-16 Catholic academy within the South Cheshire Catholic Multi-Academy Trust. It is located in the Diocese of Shrewsbury which is the designated faith body for the school. The published admission number (PAN) for the school is 128. For 2017 admissions the school received 162 first preference applications for admission, One child was admitted to the school on the basis of having an Education Health and Care Plan which named the school. The oversubscription criteria in place for admissions in 2017 are summarised below together with the number of children admitted under each criterion:

1. Looked after and previously looked after Catholic children – 1 child ,
2. Catholic children with a sibling in the school – 12 children
3. Catholic children from the three named feeder primary schools – 23 children
4. Catholic children from other Catholic primary schools - 6 children
5. Other children with a sibling at the school - 9 children
6. Other children from Catholic primary schools – 34 children
7. Children of other Christian faiths – 6 children
8. Other children – 29 children.

18. For 2018 admissions, if the school is oversubscribed, places will be allocated according to the following criteria, given in priority order. Wherever baptised Catholic is written, the arrangements say that this should also be taken to include children who have been formally received into the Catholic Church.

1. Baptised Catholic looked after children who are in the care of the local authority and previously looked after Catholic children
2. Baptised Catholic children who have a sibling in the school at the time of application
3. Baptised Catholic children from the Catholic partner primary schools of:
 - St Mary's Catholic Primary School, Crewe
 - St Anne's Catholic Primary School, Nantwich
 - St Gabriel's Catholic Primary School, Alsager
4. Baptised Catholic children resident in the parish of St Mary's, St Anne's, St Gabriel's, or St Winefride's

5. Baptised Catholic children from other Catholic primary schools
6. Baptised Catholic children from non-Catholic primary schools
7. Other looked after children who are in the care of the local authority and previously looked after children
8. Baptised children of another Christian denomination who have a sibling in the school at the time of application
9. Baptised children of another Christian denomination from the Catholic primary schools named in criteria 3
10. Other children who have a sibling in the school at the time of application
11. Other children from a Catholic primary school named in criteria 3
12. Baptised children of another Christian denomination from other Catholic primary schools
13. Baptised children of another Christian denomination who wish the child to have a Catholic education
14. Other children from other Catholic primary schools
15. Children of staff, provided that they have been employed for a minimum of two years and/or are recruited to fill a vacant post for which there is a demonstrable skills shortage
16. Other children whose parents wish them to have a Catholic education

The arrangements then include an extensive list of explanatory notes and several paragraphs that explain the arrangements for children with a statement of special educational needs or an education, health and care plan which names the school.

Consideration of Case

19. The first part of the objection is that the Code in paragraph 1.44d requires the admission authority to consult with the local authority and it did not do so. In response to this, the school explained that it had placed the consultation on its website from 24 October 2016 until 12 December 2016 and consulted with the diocese. It also informed parents of present pupils, placed a copy of the letter in all four parish newsletters and sent a copy of the letter to all local schools, primary and secondary on the local authority mailing list. The school believed this included nurseries. The consultation was also advertised in school reception, on facebook and on twitter.
20. In considering this response, I can accept that the school complies with many aspects of the requirement to consult. However, the school did not advise the local authority that it had placed a consultation document upon its website and

the local authority cannot be expected to monitor all its schools' websites. The Code is clear that the school had to consult the local authority and it did not do so. I therefore uphold this part of the objection.

21. The objection continues that there is:

1. a discrepancy between a need for children not of the Catholic faith or not baptised to have a "*wish to have a Catholic education*" in criteria 13 and 16, but not in criteria 10, 11, 14 and 15.
2. that an additional school (St Winefride's) has been included as a parish for residency purposes.
3. that the detail in the footnotes concerning the closing date for applications is incorrect,
4. that the footnote about in-year applications is incorrect in suggesting that criteria will be applied if places are available and
5. concerns as to whether families of nursery age children had been consulted on the changes.

22. The school explained that it had decided to review the school admissions policy because it wanted to ensure that it was inclusive and clear. It had received feedback from parents and staff that the original criteria needed a clearer format with explicit definitions. It had tried to achieve this in the revised arrangements.

23. The school responded to these points in the objection by confirming that it will amend the wording in response to the comments made. It accepted the discrepancy in point one. It clarified that the reference to St Winefride's is to the parish and not the school of the same name, a point that the objector accepts and this part of the objection has been withdrawn. The school has confirmed that it will correct the erroneous data in the notes raised in points three and four.

24. The school believed that it consulted with families of nursery age children because it thinks they were included on the local authority list that it used for advising groups about the consultation raised in point five. It has provided evidence of the emails it sent advising other schools of the changes proposed and it had assumed that nursery schools were included on the mailing list. The local authority says this was not the case and parents were not informed and therefore not consulted. With the exception of the element of the objection that has been withdrawn, I uphold this part of the objection and require the arrangements to be revised to address these points.

25. The last part of the objection is that the arrangements are not clear and the objector considers that the arrangements are complex. Paragraph 14 of the Code says arrangements must be "*clear*" and "*parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*". The Code does not make reference to complexity and so while the objector may consider that the arrangements are complex, the Code simply requires them to be clear and easy to understand. The school

previously had eight oversubscription criteria and the data for 2017 admissions referred to above show how these criteria were applied. The school comments that it thought the eight criteria were complicated and hard for parents to understand. In my view, the introduction of an additional eight criteria have not made the arrangements any clearer or easier for parents to understand. I uphold this part of the objection on these grounds. The Code requires the arrangements to be revised to conform with the requirement for the arrangements to be clear and easy for parents to understand.

26. Having considered the objection, I used my power under section 88I of the Act to review the arrangements as a whole for both 2017 and 2018. There are some matters that do not comply with the Code that I list below. The school has acknowledged that it needs to look at these again and ensure that the arrangements comply with the Code. There are some points within the 2017 arrangements that must be addressed because these arrangements will be used until at least 31 December 2017 for the waiting list the school must have. Paragraph 2.14 of the Code says that “*each admission authority **must** maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.*” The 2017 arrangements will also be used if there are in-year applications for the school.
27. Some of the oversubscription criteria in both years refer to children who attended Catholic or non-Catholic primary schools. Paragraph 1.9b of the Code says that “*schools may not take into account any previous schools attended unless they are named feeder schools.*” A reference to a type of school – in this case Catholic or non-Catholic schools – is plainly not a reference to named schools so these criteria do not comply with the requirements of the Code. In addition, paragraph 1.9I of the Code prohibits the naming of independent fee-paying schools as feeder schools and paragraph 1.15 requires that feeder schools are to be selected on reasonable and transparent grounds. As the arrangements stand, priority could be given to children on the basis of attending a fee paying school and this is not permitted. As the arrangements refer to Catholic and non-Catholic schools, the feeder schools have not been selected on reasonable grounds. The school must amend the arrangements to conform with the Code’s requirements relating to feeder schools.
28. Oversubscription criteria refer to “*baptised children of another Christian denomination*”. The diocese suggests the use of the phrase “*children of other Christian Denominations*” in its guidance to schools. The school use different wording in its SIF with no reference to baptism. The last two boxes on the SIF refer to a letter of support from a Priest/Minister/religious leader to confirm that either a child belongs to a practicing Christian family and attends church frequently or is a worshipping member of a faith. It is not clear whether providing such a letter satisfies the criteria referred to above. The school must review and amend this wording and consider that not all children in other Christian denominations will have been baptised as not all Christian denominations practise infant or child baptism.
29. The Code in paragraph 1.36 is clear that any school must be willing to offer

any unfilled places to any child who applies. This is not clear from the published arrangements for 2018 which refers to “*other children whose parents wish them to have a Catholic education*”. I note that in the 2017 admissions year 29 children were admitted in the category “*all other applicants*”. The Code requires that the 2018 arrangements be amended to address this point.

30. In the event of a tie between two applicants for the final place there is no tiebreaker included in the arrangements as required by paragraph 1.8 of the Code. One must be included for the arrangements to conform with the Code.
31. Paragraph 1.47 of the Code requires the school to publish a copy of the determined admission arrangements for the whole offer year on its website. The 2017 arrangements are published but not the 2018 arrangements and these must be added to the school website and the 2017 arrangements retained until the end of the relevant school year.
32. The first criterion in both sets of arrangements refers to “*looked after children in the care of the local authority*”. This does not comply with the definition set out in paragraph 1.7 of the Code and must be amended.
33. There are eight paragraphs setting out the arrangements for children with a statement of special educational needs or and education, health and care plan. The school rightly states that where these name the school, the child will be admitted, having said this, the additional paragraphs in the arrangements appear unnecessary and make it more difficult for parents to understand the arrangements.
34. Overall, the arrangements include faith, feeder schools, siblings, parishes, children of staff and parents who wish their children to have a Catholic education as criteria for dealing with oversubscription. Distance is also used to establish priority within a criterion where there are more applicants than places available. In 2017, 29 children have places as “*other children*” who fell outside the previous seven criteria in use at the time. The school needs to review its arrangements and consider how to ensure that they are clear and can be easily understood by parents. This must be amended.

Summary of findings

35. The objection draws attention to matters within the arrangements for 2018 that do not comply with the Code. I have upheld this objection and as a result, there are matters that the school must address and the arrangements must be amended in order to comply with the Code in respect of its arrangements for 2018.
36. In addition to the matters raised in the objection, when I reviewed the arrangements for 2017 and 2018 as a whole, I have raised further matters. In consequence, the school has further matters to address, and amend, within its arrangements, which have been set out in detail in the section above. The school may wish to consider seeking the support of the local authority and the diocese in order to review the arrangements as a whole and to achieve clarity and a set of arrangements that parents will find easy to understand how they

area applied and which comply with the Code.

37. The School Admissions Code requires the admission authority to revise its arrangements within two months of the date of this determination unless an alternative period is specified. In this case, I determine that the arrangements must be revised within three months. My reason for giving this timescale is that in order to resolve the matters raised, a review of the arrangements is required and the school may wish to seek the advice and guidance of both the diocese and the local authority in achieving this. I am conscious that the summer holidays are beginning. However, the closing date for applications for 2018 is 31 October 2017 and it is important that changes should have been made and determined at a meeting of the governing body at the latest by that date. Changes must be made to the 2017 arrangements to meet the requirements of the Code. The same timescale of three months applies to these changes although the school may be able to make these changes more quickly than the changes to the 2018 arrangements.

Determination

38. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the Governing Body for St Thomas More High School, Crewe.
39. I have also considered the arrangements for both 2017 and 2018 in accordance with section 88I(5). I determine that there are matters in both years as set out in this determination that do not conform with the requirements relating to admission arrangements.
40. 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 unless an alternative period is specified. In this case, I determine that the arrangements must be revised within three months.

Dated: 20 July 2017

Signed:

Schools Adjudicator: David Lennard Jones