



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3329 All Saints Catholic High School

Objector: A parent

Admission Authority: The Academy Trust for All Saints
Catholic High School, Sheffield

Date of decision: 13 September 2017

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2018 determined by the Academy Trust for All Saints Catholic High School, Sheffield.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which 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 the determination unless an alternative timescale is specified by the adjudicator. In this case, I specify a deadline of 28 February 2018.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a parent, (the objector), about the admission arrangements (the arrangements) for All Saints Catholic High School (the school) in Sheffield, an academy school having a designated Roman Catholic character for children aged 11 to 18, for September 2018. The objection concerns the fairness of the arrangements and the extent to which the school has followed the requirements of the School Admissions Code when constructing its faith-based

oversubscription criteria.

2. The local authority for the area in which the school is located is Sheffield City Council. The local authority is a party to this objection. As well as the academy trust, the other parties to the objection are the Roman Catholic Diocese of Hallam (the diocese), the objector, and the school's academy trust (the trust).

Jurisdiction

3. 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 trust, which is the admission authority for the school, on that basis.
4. The objector submitted his objection to these determined arrangements on 15 May 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 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 form of objection dated 15 May 2017;
 - b. the admission authority's response to the objection and supporting documents;
 - c. the comments of the local authority;
 - d. the comments of the diocese of Hallam which is the religious authority for the school;
 - e. the school's Academy agreement with the Secretary of State;
 - f. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2017;
 - g. a map of the area identifying relevant schools;
 - h. confirmation of when consultation on the arrangements last took place;
 - i. copies of the minutes of the meeting at which the trust

determined the arrangements; and

- j. a copy of the determined arrangements.

The Objection

- 7. The objector has complained that the admission arrangements for the school for September 2018 fail to have regard to guidance from the school's religious authority and that this is a breach of paragraph 1.38 of the Code. As a result of this failure, he maintains, the arrangements are not fair, and so do not comply with paragraph 1.8 of the Code, and may not comply with equality legislation because they are likely to result in indirect discrimination.

Other Matters

- 8. When I looked at the arrangements, I was concerned that they may be in breach of the requirements relating to admissions:
 - (i) in being unclear whether or not groups of children listed under three of the "categories" of place which act as oversubscription criteria within the arrangements, are given priority in the order shown. This may breach the requirements concerning the clarity of the arrangements in paragraph 14 of the Code, the requirement that oversubscription criteria are clear in paragraph 1.8 and that parents can easily understand how faith-based admission criteria will be satisfied, in paragraph 1.37;
 - (ii) in being unclear because parishes referred to in an oversubscription criterion are not named, and so are in breach of the same requirements as above;
 - (iii) in employing an oversubscription criterion giving priority to parents who are seeking a Christian environment for their child's education which is not capable of being assessed objectively, which may cause a breach of paragraph 1.8;
 - (iv) in using random allocation to re-order its waiting list and not the published oversubscription criteria, as required by paragraph 2.14; and
 - (v) in employing a supplementary information form which:
 - a. does not provide a definition of the terms "practising" or "regular" in relation to religious practice, which mean that the arrangements fail to make clear what is required to be given priority under the related oversubscription criterion giving priority to members of non-Catholic Christian denominations. This may result in a further breach of the requirement in paragraph 1.37 described above;
 - b. seeks information which is not directly related to the application of the oversubscription criterion, which may breach a requirement set out in paragraph 2.4 of the Code;
 - (vi) in employing a further supplementary information form which seeks information which is not directly related to the application

of the associated oversubscription criterion giving priority to “those seeking a Christian environment”, and so may cause a further breach of paragraph 2.4; and

- (vii) in requiring all applicants to complete an additional information form, since no additional information to that provided by the common application form (CAF) is required for those applying for a place who do not seek to have their application prioritised under the school’s oversubscription faith-based criteria, which would again be a breach of what is set out in paragraph 2.4 of the Code.

Background

9. All Saints Catholic High School is popular and heavily oversubscribed. Ofsted inspectors last visited the school in 2014, when it was judged to be good. On 7 December 2016 the school’s trust determined admission arrangements for September 2018 which set a published admission number (PAN) of 205 for admissions to Year 7. The oversubscription criteria give the highest priority to Catholic children, followed by children from other Christian traditions, then children whose parents “*are seeking a Christian environment for their child’s education*” and finally other children. The number of Catholic children is limited to 170, and that of the first two groups together to 200, leaving five places for which priority is given to those seeking a Christian environment. Catholic and non-Catholic looked after and previously looked after children are, appropriately, given first priority for admission within the first two groups respectively. The school received 275 first preference requests for a place for September 2017. The admission process resulted in 108 children being allocated places under the oversubscription criteria that give priority to Catholics, 83 to the places that give priority to those of other Christian traditions, and 13 children were admitted under the oversubscription that gives priority to those seeking a Christian environment. Each of this last group was a sibling of a child already at the school. One further child was admitted.

10. The oversubscription criteria give priority in the following order:

- (i) to looked after and previously looked after (as defined) Catholic children (as defined);
- (ii) to Catholic children (as defined) and then list:

a) are siblings of children already attending All Saints Catholic High School

b) attend the designated feeder schools of All Saints Catholic High School

c) *live in the parishes serving the designated feeder schools of All Saints Catholic High School*

d) *other Catholic children”*

(iii) *to looked after and previously looked after children who are not baptised Catholics*

(iv) *to “Children who are practising members of Orthodox Churches recognised by the Catholic Church or of Christian Churches which are full members of Churches Together in England at the time of application and **who have the written support of their minister (on Form MR1)**” followed by essentially the same list as a) to d) above*

(v) *to children whose “parents are seeking a Christian environment for their child’s education and **who are supported by an appropriate reference (on Form AR1)**” followed by the following list:*

a) *are siblings of children already attending All Saints Catholic High School*

b) *attend the designated feeder schools of All Saints Catholic High School and are active members of other World Faiths or other Christian denominations and have the written support of their religious leader*

c) *are active members of other World Faiths or other Christian denominations and have the written support of their religious leader*

d) *attend the designated feeder schools of All Saints Catholic High School*

e) *are other children with an appropriate reference.*

References for sub categories 5 a,d and e may be obtained from the child’s primary school or from an independent person with knowledge of the child.”

(vi) *to other children.*

11. The arrangements also say that:

“Each time a place (or places) becomes available at the school a new round of random allocation will take place to determine a child’s position on the waiting list, each time a place being allocated to the child that occupies top position on the waiting list” and also that:

“The school will maintain a waiting list of unsuccessful applicants, the order of priority being determined by the application of the oversubscription criteria.”

12. The objector is the parent of a child who was not successful in obtaining admission to the school for September 2017. When his

appeal against refusal of a place was heard, he put forward the view that this failure to gain a place resulted from the application being incorrectly given a lower priority than it should have been. The school gives a higher priority to members of Christian churches which are members of Churches Together in England than to applicants who are “seeking a Christian environment”. The objector believed that his application should have been given this higher priority because of the Christian Fellowship to which he and his family belong. It was not, because this congregation was not recognised as a member of Churches Together in England by the school. His further view at appeal was that the school should not have used this means for giving priority to some applicants in the first place, since Churches Together in England itself requests on its website that membership should not be used by schools in their admission policies, except in the form recommended by the Catholic Education Service in guidance which it issued in January 2017.

13. The objector’s appeal was unsuccessful. He subsequently made the objection to the school’s admission arrangements for September 2018, saying that they contained the same features as those which he believed had given rise to unfairness in his own case the previous year. His objection repeated the case he had put forward at appeal. He said that the school had failed to have regard to the advice of its religious authority by using membership of Churches Together in England as a means for giving priority to applications. He further stated that because they contained this feature, the arrangements would be likely to give rise to disadvantage to members of local independent churches, such as his own.
14. When the school responded to the objection, it stated that the arrangements had been determined in the form set out above on 7 December 2016. However, it had been informed at a meeting with the diocese on 15 March 2017 that the Catholic Education Service (CES) had recently issued policy guidance to all Catholic dioceses regarding the use of membership of Churches Together in England in admission arrangements. When it later became apparent that this advice had been given wide publicity, and that it was being quoted by some appellants for places at the school in the following September, the school sought advice from the diocese, which confirmed with the Office of the Schools Adjudicator that it was open to an admission authority to amend its arrangements in order to give effect to a mandatory requirement of the Code, The diocese issued revised guidance in May 2017 which recommended the removal of references to Churches Together in England and the use of a definition of children of other Christian denominations provided in the guidance it had received from the CES. The trust decided to vary its arrangements for September 2018 in order to comply with the guidance which had been issued by the diocese. In so doing it was complying with a mandatory requirement of the Code that it have regard to such guidance.

15. The arrangements were amended on 18 May 2017 and I have seen evidence of this determination. The revised arrangements give priority to those of other Christian denominations in the following terms:

*“Children who are practising members of Orthodox Churches recognised by the Catholic Church or other Christian denominations and **who have the written support of their minister** (on Form MR1)...”*

A footnote defines other Christian denominations in terms of key beliefs and practices, and goes on to say that:

“An ecclesial community which on principle has no creedal statements in its tradition, is included if it manifests faith in Christ as witnessed to in the Scriptures and is committed to working in the spirit of the above.

All members of Churches Together in Englandare deemed to be included in the above definition, as are other churches and ecclesial communities that are in membership of any local Churches Together Group (by whatever title) on the above basis.”

16. The school has provided me with a copy of the guidance provided to it by the diocese, which conveys the advice of the CES concerning references to Churches Together in England in admission policies. The diocese has also explained this sequence of events and has provided me with a copy of its guidance to schools which includes a revised model admissions policy. My view is that the changes made to the school’s admission arrangements for 2018 reflect the guidance issued by the diocese.

17. In response, the objector informed me that in spite of what the school and the diocese had said, his objection was to the school’s arrangements as they had been determined originally and that he was not withdrawing it. In further correspondence, the objector sought to clarify the points on which he raised his objection to these arrangements. He recognised that the school could not have had regard to the advice issued by the CES concerning Churches Together in England in January 2017 when it determined its arrangements for September 2018 in December 2016. Nevertheless Churches Together in England had for some time requested via their website that schools *“desist from naming them in admissions policies because membership of Churches Together in England is dependent on a church having national coverage, and that necessarily excludes many local independent churches”*, as the objector has put it to me. The objector wished me to consider that the clearly stated wishes of Churches Together in England should be seen as guidance to which the school had failed to have regard as it was required to under paragraph 1.38 of the Code. As a result of this failure, the arrangements failed to be fair, he says, to children who were members of independent churches which are not part of national denominations and that this was contrary to the

requirement as to the fairness of admission arrangements in paragraph 1.8 of the Code

18. Secondly, the objector provided me with information which the school had given him in response to a request which he had made to it in June 2017 in accordance with the Freedom of Information Act 2000. This information showed that for admissions in September 2017, the school had decided that applications from members of 19 named local Christian churches should be considered under the oversubscription criterion giving priority to those seeking a Christian environment, rather than that giving priority to members of churches in membership of Churches Together in England. The objector complained about the continued presence in the arrangements as originally determined for admissions in 2018 of this same way of giving priority to members of some Christian churches other than the Roman Catholic church. Referring to the information which he has obtained about admissions in 2017, he said that “many” of the 19 churches in question are “black majority churches” and that “most” of them have beliefs in line with mainstream Christianity which are consistent with the creedal statement in the recently published guidance from the CES to Roman Catholic dioceses. This was, he said, based on his own analysis of the websites of these churches. He said that in the form in which they were originally determined, the arrangements were therefore “likely to lead to more favourable treatment for children of white British backgrounds compared to children of Black African and Black Caribbean backgrounds”. He therefore said that it is “relevant to consider the likelihood that indirect discrimination on the grounds of race has occurred or is likely to occur” without stating whether or not it was his view that this was the case.

Consideration of Case

19. Paragraph 1.38 of the Code says:

*“Admission authorities or schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based admission arrangements to the extent that that the guidance complies with the mandatory provisions and guidelines of this Code.”*

20. The objector has complained that when the school originally determined its admission arrangements for September 2018, it failed to comply with this requirement since it should have had regard to the published wishes of Churches Together in England concerning schools which used their name in admission arrangements. The school has said that it was aware of the position of Churches Together in England, but that at the time of the original determination it was acting in accordance with the then current guidance from its own religious authority. The body or person to which a school with a Roman Catholic religious character must

have regard under paragraph 1.38 of the Code is the Diocesan Bishop or the equivalent in canon law for the diocese in which the school is situated.

21. It is plain, then, that the school was under no obligation to have regard to any view expressed by Churches Together in England when determining its admission arrangements, in terms of complying with paragraph 1.38 of the Code. Although it might be seen as inappropriate to disregard the expressed wishes of an organisation which for good reasons asks that its name not be used, a view to which the CES has indeed now responded, to continue to do so was not a breach of paragraph 1.38 of the Code. I do not uphold this part of the objection.

22. The second aspect of the objection is that the arrangements as originally determined are unfair to members of local Christian churches which are not part of national denominations. Paragraph 1.8 of the Code says:

*“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”*

and paragraph 14 that:

*“...admission authorities **must** ensure that the practices and the criteria used to decide the allocation of places are fair, clear and objective.”*

23. What these arrangements do is to give priority to members of some Christian churches other than the Roman Catholic church, but not to all. The school is under no obligation to give priority for admission to any of the places which it has on offer on this basis, and yet it does so. So the arrangements would not be unfair to any members of other Christian churches if no places were prioritised for them. Those non-Catholic Christians not included by the definition used by the school are at a relative disadvantage in comparison to those who are included in it, but do not suffer actual unfairness in my view. The arrangements as originally determined do not breach the requirements of paragraph 1.8 by being unfair, and I do not uphold this part of the objection.

24. I have considered very carefully whether the arrangements as originally determined have the effect of causing indirect discrimination on the basis of race in the way the objector says is possible. This is a different point from the one which I have just dealt with, namely unfairness. I have said that I do not consider the arrangements give rise to an actual unfairness to members of local Christian churches, but that they are at a relative disadvantage compared to members of churches which are full members of Churches Together in England.

25. Section 19 of the Equality Act 2010 sets out what constitutes indirect discrimination in law. To paraphrase what it provides, indirect discrimination would occur in a situation where the application of a general criterion put those with a particular characteristic, which is a protected characteristic under the Equality Act 2010, at a disadvantage compared to those not possessing it. In this case, the objector suggests that because many local churches have members predominantly from Black African and Black Caribbean backgrounds, the relative disadvantage which results from the application of the school's oversubscription criteria amounts to indirect discrimination on the basis of race. Race is a protected characteristic under the Equality Act.
26. The criterion which the school applied at the time the objection was made was that the church which a family attended had to be in full membership of Churches Together in England to gain priority. The objector has told me that the churches excluded by this definition have members who are disproportionately from Black African and Black Caribbean backgrounds, compared to the membership of the churches which the definition includes. No data has been provided to me which might support this assertion, however. While I have no reason to doubt the objector's belief on this point, neither do I have any evidence against which to test it.
27. If it were true that children from ethnic minority backgrounds were disproportionately disadvantaged by the arrangements in the way the objector suggests, a defence against a claim of indirect discrimination would nevertheless exist if it could be shown that this effect was "*a proportionate means of achieving a legitimate aim*", as provided for in section 19 of the Equality Act. The school seeks to ensure that some places are available to non-Catholic Christians, and that those accorded this status have legitimacy. This is, it seems to me, a legitimate aim for the school to pursue.
28. Guidance on the Equality Act for schools published by the Department for Education explains that for the means chosen to achieve an aim to be proportionate, that the aim "*could not reasonably be achieved in a different way which did not discriminate.*" When it determined its arrangements in their original form, the guidance provided to the school by the diocese was that it was appropriate to provide legitimacy to the decision as to which Christian churches those give priority to using the definition of full membership of Churches Together in England. Such has been the very common practice amongst schools with a religious character nationally until recently. So the school was pursuing a legitimate aim, and I think it would not have been reasonably possible for it to have achieved this aim by another means which did not discriminate prior to the existence of guidance as to how to go about this of the sort which has now been provided through the CES and the diocese. So my view is that even if there were evidence to support a claim of indirect discrimination, that the school's practice could be defended as a proportionate means of

achieving a legitimate aim. I do not uphold the objection which has been made on these grounds.

29. I note at this point that the school has responded in a timely fashion to the guidance from its faith body concerning the provision within its arrangements which was the source of the objector's complaints, and that it has revised its arrangements in the way I have described above.

30. I turn now to the matters of concern which I have raised with the school. These relate to both the arrangements as they were originally determined, and those determined by the school in May 2017, since these elements of the arrangements remained unchanged. The school, the diocese and the local authority have each responded to me about these points of concern.

31. The school has suggested that its oversubscription criteria should be introduced by a phrase which says that both the categories of applicant defined by them, and the sub-categories within these categories, are applied in the order shown. This would be a helpful change, since as originally determined and in their revised form, the arrangements at no point state that the "sub-categories" are sequential in their effect. This makes the arrangements as a whole, the oversubscription criteria which employ sub-categories of place, and the operation of these faith-based oversubscription criteria unclear in my view. The arrangements therefore breach the requirements of paragraphs 14, 1.8 and 1.37 of the Code respectively.

32. Both the school and the diocese responded to my initial concern about the absence from the arrangements of any identification of the "*parishes serving the designated feeder schools of All Saints Catholic High school*", on the basis that the concern which I had expressed was that parents would not know the boundaries of these parishes. This was not so, and so I wrote again explaining that I was concerned that a parent reading the arrangements would not know which parishes are relevant to the operation of the oversubscription, since they are not identified by name. The response of both the school and the diocese to this was to say that in most cases, although not all, the name of the parish was the same as that of the primary feeder school, and that parents could refer to the primary school in question if in doubt. I do not consider that this would be an adequate approach, since residence in the parish is used to give priority not attendance at the primary feeder school, and (to give an obvious example) parents may have no connection with the school if they are new to the area. It is in any case the admission authority's responsibility to make its own admission arrangements clear and the school has not done this. As a result, the arrangements fail to comply with the requirements of paragraphs 14, 1.8 and 1.37 of the Code.

33. When the school replied to me about the concern which I had

expressed that the oversubscription criterion which gives priority to those seeking a Christian environment may not be capable of being assessed objectively, it set out how the criterion operated and referred to the use of a reference form completed by a referee independent of the child. The diocese similarly responded by stating that the school is able to “categorise” children appropriately on the basis of what is stated on the reference form.

34. Neither of these responses appeared to me to have engaged with the basis of my concern, and so I wrote again setting this out in further detail. I explained that it was difficult to see how the reference provided about a parent could be an objective assessment since the arrangements do state what evidence the referee should take into account in making it. Neither could a parent look at the arrangements and understand whether or not they were likely to qualify for this elevated priority, since they would not know what a referee would take into account in making a statement about them. I said that this appeared therefore to breach paragraph 14 of the Code where the requirement concerning parents is set out in the following terms:

“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

35. I also noted that the use of this oversubscription criterion is in line with the model admission policy which the diocese provides for its schools. As I pointed out, however, the duty to have regard to guidance from the body or person representing the religious denomination when constructing faith-based admission arrangements applies only to the extent that such guidance complies with the mandatory provisions of the Code. I said that I was concerned that parents could not look at the arrangements and understand how this faith-based criterion will be reasonably satisfied, which was a requirement of paragraph 1.37 of the Code. As a result this was a further mandatory provision that the criterion appeared to breach.
36. The school replied saying that what was required was that “a *responsible, independent member of the community*” confirmed the parent’s wish to have their child educated in a Christian environment, and that this could not simply be assumed of all applicants for places since many were attracted by the school’s reputation, location and facilities. The school expected that the referee would have ascertained the parent’s wish to have a Christian education in discussion with them, and that the school’s practice was to seek confirmation of such a process having taken place.
37. The school has a religious character, and it may use faith-based oversubscription criteria in its admission arrangements. These must however operate as any other oversubscription criteria do, and be

clear, objective, and procedurally fair, as required by paragraph 1.8 of the Code. I cannot see how any of these requirements is capable of being satisfied by a criterion which gives priority to those said to be seeking a Christian environment for their child's education. What a referee is being asked to attest to by the school is a state of mind or desire on the part of the parent in question, and not to an objective fact which can be verified. Any parent might say that they wish to have a Christian education of course, since doing so provides some advantage in securing a place at the school. I imagine that the school sees that it would be open to abuse simply to require a parent to sign a form saying they have this wish, and if they do, I would agree. However the school appears comfortable in its practice of asking an independent person to hold discussions with any parent wishing to maintain such a position, in order to test its veracity. Such a discussion in the context set for it by the school's admission arrangements must in my view amount to an interview, something which is expressly forbidden by paragraph 1.9m of the Code. Although I have not raised this with the school, I note at this point that since parents are told that they may submit form AR1 via their primary school, which may itself conceivably be the source of the reference, the existence on the form of the question

"Please give any other information which you think could be relevant."

is open to the provision of information forbidden by paragraph 1.9g of the Code, which states that admission authorities must not:

"take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement or that of any other children in the family."

38. My view is that since there is no statement of what is required to satisfy it, the oversubscription criterion which gives priority to those seeking a Christian environment fails to be clear. It is not objective, since no testable material facts are used as a basis for deciding which parents meet its requirements. The school cannot verify the information which the form of reference submitted by every parent provides, and so the operation of the criterion is in practice open to abuse. It fails to be procedurally fair as a result, since children could be denied a place by another child's parent exploiting this weakness. For each of these reasons, the oversubscription criterion fails to comply with what the Code requires in paragraph 1.8. For the reasons I have set out above, it also breaches the requirements of paragraphs 1.4 and 1.37.

39. The school and the diocese have said that the wording concerning the school's waiting list in its determined admission arrangements is intended to describe the interaction of the tie-breaker which it uses when allocating places and the need to ensure that the waiting list is held in accordance with its oversubscription criteria, as required by paragraph 2.14 of the Code. It is apparent from what

they have told me that random allocation is employed if there are more applicants in the sub-category of place than remaining places, but this is not what the arrangements say, as they refer to “categories”, not “sub-categories”. So it seems to me that this inaccurate description of the operation of the tie-breaker adds to the lack of clarity which results from the two apparently contradictory statements in the arrangements which I have quoted above in paragraph 11. The school has suggested revised wording to me based on advice from the local authority, which would refer instead to sub-categories of place. However, I do not think that this wording would be clear since it refers to “appropriate” sub-categories of place, without saying what is meant. The school has explained to me that the waiting list is kept in the order dictated by the admission arrangements and that *“In practice, if a place becomes available, the applicant in the highest sub-category is allocated the place and where two or more applicants are in that sub-category then random allocation is used to allocate the place”*. This seems to me to be a clear statement. However, as they have been determined, the school’s admission arrangements fail to be clear and are in breach of paragraph 14 of the Code.

40. Parents seeking to have their application given priority because they are practising members of Christian denominations other than Roman Catholic are asked to complete the school’s Form MR1, which is what the Code defines as a supplementary information form and so subject to the provisions concerning such forms which are set out there. I have raised two issues with the school concerning this form, the first being that it asks a minister to state whether or not the child is a “regular” worshipper, but that it does not say what is meant by this term nor does it define what is meant by the term “practising” which is contained in the admission arrangements. The arrangements themselves do not define “practising”. The Diocese has agreed that neither term is defined *“as this is a matter for the individual Church Minister/Leader to define as part of his/her recognised norms within that particular church”*. In similar vein, the school told me that *“different churches have different definitions of regular attendance”*.

41. Paragraph 1.37 of the Code says:

*“Admission authorities **must** ensure that parents can easily understand how any faith-based oversubscription criteria will be reasonably satisfied.”*

The school has accepted the view I have put to it that paragraph 1.37 makes it incumbent on it as the admission authority to state what is required for a parent from a different Christian denomination to be regarded as practising if it wishes to give priority to them in its admission arrangements. However, it has added that *“if we set a criterion of weekly attendance at Sunday service, that would preclude some children whose churches do not offer a weekly service suitable for children and similarly would not allow for those*

at churches that meet midweek.”

42. In effect, both the school and the diocese have said that they are not able to define what is meant by the terms “regular” or “practising” as they are used in admission arrangements concerning other Christian denominations. Nevertheless, the arrangements do give priority to applicants on this basis, and so as a result they fail to comply with what the Code requires in paragraph 1.37.

43. Paragraph 2.4 of the Code says where a supplementary information form is used by an admission authority

*“.....they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria ...”*

I was concerned that two questions on the form MR1 did not meet this requirement. These are:

“To what extent is this child involved in the life of your church? Do they attend other acts of worship besides the weekly services?” and

“Please give any further information which you consider to be relevant.”

44. The diocese replied that these questions were intended to “draw attention to aspects which may be commented on in order to assist the person filling in the form and in turn the school in their decision making.” The school’s response was also that this was “information all of which we hope they will take into account when completing the reference.” These seem to me to be slightly incongruous statements, since the form and therefore the answers to these questions that a Minister of religion provides by completing it are themselves the “reference” for the child. The introductory notes on the form refer to it as a “testimonial” which the Minister is asked to provide. But neither the form nor the admission arrangements say exactly what use any information provided in response to these questions will be put to by the school other than to “classify” children as practising or not in an unspecified way. As I have said above, the Code requires that if priority is given on the basis of a child being a practising member of a Christian church, then the term itself must be defined so that parents can know what they must do to satisfy the criterion. No parent will know this from reading the school’s admission arrangements or from the Minister’s reference form. The information which is sought using the two questions above cannot have a direct bearing on the application of the oversubscription criterion to which the form relates since it is nowhere stated what information will or will not contribute to the school’s decision as to how to “classify” the application as having priority under the oversubscription criterion. My view is that the form is therefore in breach of paragraph 2.4 of the Code.

45. When I wrote again to the school and the diocese setting out in greater depth the background to my concerns about the information sought on form MR1, I referred them to paragraph 1.9i of the Code, which says that:

*“ It is for admission authorities to formulate their admission arrangements but they **must not**:.....*

i) prioritise children on the basis of their own or their parents’ past or current hobbies or activities (schools which have been designated as having a religious character may take account of religious activities, as laid out by the body or person representing the religion or religious denomination)”.

46. I asked the diocese to confirm that the recent briefing note and revised model admission policy for schools which it had provided to me in response to an initial request to provide a copy of its guidance to schools was the only current guidance from it to the school. I explained that my reading of this document was that it did not specify any religious activities which schools may take into account in giving priority to those applying for places. It appeared to me therefore that since form MR1 seeks information about religious activities, and since the school takes this information into account, that the school was in breach of the prohibition in paragraph 1.9i, unless other guidance of which I was unaware had been issued.

47. The diocese has confirmed that no other guidance has been offered to the school and I therefore conclude that for the reason set out above, the school’s arrangements fail to comply with paragraph 1.9i of the Code.

48. Applicants seeking to be given priority as a person seeking a Christian environment for their child are required to submit form AR1, which asks the person completing it to:

“give any further information which you think could be relevant”.

The diocese and the school responded to my concern by simply saying what the purpose of the form is but without responding to my concern that the information provided on it was not directly related to the application of the relevant oversubscription criterion in the arrangements. As with the same information sought in connection with applicants seeking priority as members of Orthodox or other Christian Churches, my view of this is that since it is nowhere stated what information will contribute to the school’s decision to include or to not include the child in the group being prioritised, this question cannot be said to be directly related to the application of an oversubscription criterion. For this reason, the arrangements cause a further breach of paragraph 2.4 of the Code.

49. The school has told me that all applicants are asked to complete an

“Additional Information Form (AIF) as this indicates what additional information they will be supplying (if any). Completion of the AIF is beneficial to the applicant as it also provides information to enable us to contact the parent/carer for a common application form (CAF) if one is not received from the Local Authority or if the information contained within the CAF requires clarification. Applicants with no additional information [form] are placed in category 6.”

50. The school’s academy agreement requires it to participate in and comply with requirements in relation to local authority co-ordination of admission arrangements. The local authority provides a Common Application Form for the use of all applicants for places at all the city’s secondary schools which complies with the requirements of paragraph 2.1 to 2.3 of the Code. A parent is therefore able to apply for a place at the school using only this form, by submitting it to the local authority. Paragraph 2.4 of the Code, which I have quoted above, makes it very clear that if additional information is required in order for an oversubscription criterion to be applied then a supplementary form can be employed. Since some applicants for places at the school may always be those to whom none of the oversubscription criteria in the arrangements apply, it is a breach of paragraph 2.4 for the arrangements to require all applicants to complete any form other than the local authority’s CAF.

Summary of Findings

51. I have explained the reasons why I do not uphold the objection which has been made to the school’s admission arrangements.
52. I have also set out my reasoning for coming to the view that the arrangements breach what is required by paragraphs 14, 1.8, 1.37, 2.4, and 1.9i of the Code.
53. The Code requires the admission authority to revise its arrangements within two months or by 28 February next, unless an alternative timescale is specified by the adjudicator. I have considered carefully what would be most appropriate in this case. In doing so I have been mindful of the need for the trust to re-examine its approach in a number of areas and also of the October 2017 deadline for applications for places at secondary schools in September 2018. Many parents will already have expressed their preferences based on the existing arrangements. As a result I have come to the view that it would be difficult for the trust to amend its arrangements in time for these to have effect for admissions in September 2018, but that if I specify that it must amend them by 28 February 2018 for admissions in September 2019 there will be time for the trust to work through these changes with the support of the diocese, and for these changes to be consulted upon locally. I favour this approach, and ask the trust to act in any way possible that will mitigate the impact for individual children of those matters which I have found not to comply with the requirements concerning

admission arrangements when making admissions for September 2018.

Determination

54. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2018 determined by the Governing Body of the Academy Trust for All Saints Catholic High School, Sheffield.
55. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
56. 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 the determination unless an alternative timescale is specified by the adjudicator. In this case, I specify a deadline of 28 February 2018.

Dated: 13 September 2017

Signed:

Schools Adjudicator: Dr Bryan Slater