

## DETERMINATION

Case reference: ADA/000685

Objector: Derby City Council

Admission Authority: Saint Benedict Catholic School and Performing Arts College

Date of decision: 27 May 2005

### Determination

**In accordance with section 90 (3) of the School Standards and Framework Act 1998, I determine that the objection to the admission arrangements of Saint Benedict Catholic School and Performing Arts College is upheld.**

**I determine that the admission arrangements for the school year 2006-2007 should conform to the 'equal preference' scheme as proposed by Derby City Council.**

### The Referral

1 The Director of Education for Derby City Council ('the Council') wrote to the Office of the Schools Adjudicator ('the OSA') on 1 April 2005 objecting to the admission arrangements of Saint Benedict Catholic School and Performing Arts College ('the school'). The Council did not believe the admission criteria determined by the governing body of the school 'showed due regard to the agreed Derby City co-ordinated admission scheme'.

### Jurisdiction

2 The arrangements were determined under section 89(4) of the School Standards and Framework Act 1998 ('the Act') by the governing body of the school as the admissions authority. I am satisfied that the objection has been properly referred to me in accordance with section 90 of the Act and that it falls within my jurisdiction.

### Procedure

- 3 I have considered all the papers and documents sent to me including:
- The initial letter from the Council dated 1 April 2005 and subsequent correspondence, including the council's correspondence with the school

- Copies of the Admissions Forum minutes for 25 January 2005
- Letter from the Diocese of Nottingham dated 26 April 2005
- Letter and enclosures from the school to the OSA dated 15 April 2005
- The determined admissions policy of the school for 2006/2007
- The Derby School Organisation Plan 2003/04 – 2007/08
- The Derby Admissions Handbook 2005-2006

4 In addition I held a meeting at the school with representatives of the school, the Diocese and the Council on 9 May 2005, at which I received further written submissions from the Council and the Diocese, as well as hearing from the parties.

5 In coming to my conclusions I have had full regard to the Act and Regulations made there under, the Code of Practice on School Admissions ('the code') and all the evidence presented so far as it is relevant to the objection. I have also had regard to the Human Rights Act 1998, and, as required by Schedule 5 to the Act, to the relevant provisions of:

- The Sex Discrimination Act 1975;
- The Race Relations Act 1976;
- The Disability Discrimination Act 1995.

### **The School's Admission Arrangements and the objection**

6 The school consulted on its admissions arrangements and determined them on 1 March 2005. These are for a 'first preference first' scheme rather than the 'equal preference' scheme promoted by the Council.

7 The Council objects to the school's determined arrangements essentially on three grounds. First, that the 'first-preference-first' scheme is not the one agreed between the Council, the Admissions Forum, the neighbouring Local Education Authority, and all Foundation and Voluntary Aided Schools in Derby. Second, that the 'first-preference-first' scheme is not as fair as the alternative 'equal preference' scheme. Third, that by having a different scheme operating in this school when other schools have adopted the 'equal preference' scheme, admissions are made unnecessarily complicated for parents.

### **Consideration of factors**

8 Saint Benedict Catholic School and Performing Arts College is a large school of some 1600 pupils. As well as taking Roman Catholic pupils it has attracted the parents of practising Anglicans and Methodists and is also an Enhanced Resource School for the Sight Impaired and Severely Physically Impaired. Its 'catchment area' is wide, embracing the city of Derby, parts of Derbyshire, East Staffordshire, North Leicestershire and Nottinghamshire,

though the vast majority are from the city and adjacent county. It is often oversubscribed.

9 Regulations require local authorities to co-ordinate their admission arrangements. Following consultations with the Admission Forum, the neighbouring authority and Derby schools, the City Council adopted an 'equal preference' admission scheme, based on the model scheme outlined in the code. The Council adopted the scheme in the belief that it would make the process of applying for schools easier for parents. An alternative scheme of 'first-preference-first' was considered and rejected.

10 All Foundation and Voluntary Aided Schools in Derby agreed in writing to adopt the scheme. The Governors of Saint Benedict accepted it in a letter to the Council on 23 January 2003; they subsequently changed their mind.

11 Under the Derby 'equal preference' scheme, parents are invited to express a preference for up to three schools, ranked in order, with an option for a fourth and final preference for their normal area or designated school where this is not included in their first three. The ranking is used to discriminate between preferences if two or more schools are able to offer a place; the highest preference is offered.

12 The rejected 'first-preference-first' scheme asked parents to express preferences in ranked order with first preferences being satisfied first. Under such a scheme it would be possible for schools to be filled with out-of-area first preferences with in-area pupils not being considered because they had not placed the in-area school first. It would also mean that if a parent's first preference could not be met, a second or third preference for an oversubscribed school would also be unlikely to be met. Some pupils could find themselves having to travel considerable distances to a school for which they had not expressed any preference.

13 The Council believes that if one school in the city is allowed to adopt a quite different scheme – 'first-preference-first' – this complicates matters for parents who then have a more difficult task in weighing the likely consequences of their preferences.

14 In addition, the Council argues that if the school's scheme stands, it could result in non-Roman Catholics who had the school as their first preference taking places ahead of Roman Catholics, which would undermine part of the denominational school's *raison d'être*.

15 The Admission Forum have broadly agreed with the views of the Council.

16 The Roman Catholic Diocese of Nottingham, while being fully supportive of the school, does not accept the school's preferred option. They state, rather emphatically, that 'to consider first choice applicants first regardless of faith undermines the basic purpose of Catholic education'. In other words, they accept the council's view that the 'first-preference-first'

scheme has the potential to disenfranchise Roman Catholic pupils even though they might have named a denominational school among their preferences. It could undermine the first principle of Roman Catholic education that Roman Catholic schools should in the first place be for Roman Catholic pupils. This seems to be the view taken by other dioceses across the country. The solution of the diocese is for Saint Benedict to work within the agreed scheme but to encourage Roman Catholic parents to give the school as first choice. This should give Roman Catholic parents their first preference, or failing that, their neighbourhood school.

17 The governors take the Council's arguments and invert them. They believe that the 'first-preference-first' scheme is the fairest way of meeting the preference of those parents who want Saint Benedict's School before any other. This fulfils their primary obligation that the 'first priority in considering new pupils or students is those who are Catholic'. It also ensures that others who are admitted are those who want Catholic education or the type of education Saint Benedict's uniquely provides. The governors believe that the effect of their proposals will be to increase not diminish the number of Roman Catholic pupils at the school since Roman Catholic parents will need to put Saint Benedict as first preference, knowing that if they do not, they might not have a denominational place.

18 Furthermore, the governors argue that without the 'first-preference-first' scheme, non-Roman Catholic parents who want Saint Benedict for their child will have difficulty having their preference met if they live at a distance.

19 The governors point out that because the school is a denominational school, drawing across a wide area, it does not have a neighbourhood catchment area in the way that other schools do. If it did so, they concede that there would be merit in the Council's arguments. However, although the school is denominational and does not have a neighbourhood catchment area in quite the way that other schools do, it does have within its arrangements a list of Roman Catholic parishes from which pupils are drawn; it does have a catchment.

20 The governors also argue that for one school to depart from the general scheme would not fatally prejudice the working of the scheme as a whole. In support of their argument they point to a determination by the Adjudicator who allowed a Derbyshire school to operate a 'first-preference-first' scheme even though other Derbyshire schools were adhering to an 'equal preference' proposal. I am not convinced that the example they cite is particularly helpful since the school concerned is not a denominational one. It is the fact that some Roman Catholic pupils may be denied denominational education altogether as a result of a 'first-preference-first' criterion at Saint Benedict that may be the more decisive issue.

21 At a meeting I held at the school the Council also began to raise other concerns about the complexity of the admission arrangements. I have decided not to comment on them here since they did not form part of the original

objection, they do not affect the main point of principle at issue, and the school was not given much time to respond. No doubt the school will want to reflect on the matters raised for another time.

## **Conclusion**

22 Any admission arrangements, including co-ordinated schemes, are bound to satisfy some parents and disappoint others, particularly at the point of oversubscription. The task is to find a set of proposals that enable most parents to have their preference met while disadvantaging the fewest number. The Council has put forward a scheme that it believes maximises parental preference; this has been accepted by the Admissions Forum and all other Derby schools.

23 However, I am not being asked to adjudicate on the scheme for the city as a whole but on the admission arrangements of one school that does not want to follow the generally agreed scheme. The question, therefore, is whether allowing this one school to adopt alternative arrangements is in the best interests of parents and pupils.

24 I accept the desire of the school to recruit as far as possible Roman Catholic pupils and thereafter pupils whose parents want Saint Benedict's School before others. I do not believe, however, that this points inexorably in the direction of a 'first-preference-first' set of arrangements. On the contrary, the Diocesan Authorities are clear that the 'equal preference' scheme can do just this, as long as Roman Catholic parents are encouraged to put Saint Benedict as a first preference.

25 I agree with the Council that for this school – which has a sizeable annual intake – to have different arrangements from other Derby schools would introduce an unnecessary complication for parents. For some parents, calculating the most likely consequences of their preferences would become complex and difficult.

26 But my main reason for rejecting the school's proposal is its possible effect on Roman Catholic parents. I am persuaded by the arguments of the Diocesan Authorities that it could lead to a breach of the principle that Roman Catholic schools should in the first place be for Roman Catholic pupils. Although at first glance a 'first-preference-first' criterion may look as if it maximises parental preferences, an examination of how it would work in practice, and how the alternative scheme would work, forces a different conclusion. I believe the objection has merit.

## **Determination**

27 In accordance with section 90 (3) of the School Standards and Framework Act 1998 I determine that the objection to the admission arrangements of Saint Benedict Catholic School and Performing Arts College is upheld.

28 I determine that the admission arrangements for the school year 2006-2007 should conform to the 'equal preference' scheme as proposed by Derby City Council.

Dated: 27 May 2005

Signed: 

Schools Adjudicator: Dr Alan Billings