

Note for Children and Families Scrutiny Committee

Brent Council's Policy Regarding Admissions for Faith Schools

The Council does not set admissions policies for faith schools. The framework for oversubscription criteria and admission policies for all schools are set out by law in the School Standards and Framework Act 1998 and associated regulations. These regulations state the requirements for admissions to all schools including faith schools. Faith schools are classed as Voluntary Aided schools and are their own individual admission authority. This means the Governors at the school determine the admissions criteria for the school and are responsible for applying their criteria. Faith Schools give priority to pupils based on faith based criteria.

The Local Authority is responsible for setting admission arrangements for all Community schools in the borough and the council is the admissions authority for these community schools. The only community schools in Brent are primary and nursery schools. The admission arrangements for Voluntary Aided and Foundation schools are set by the Governors of the school. In Brent there are 15 secondary schools in the following categories:

4 Academies, 7 Foundation Schools and 4 Voluntary Aided schools

All admissions arrangements set must be consulted upon and determined by 15 April the year before they are due to come into effect, i.e. the admission arrangements that will determine how places will be allocated for places starting in September 2011 have to be determined by 15 April 2010. The legislation changed last year regarding consultations of admission arrangements which means that admissions arrangements only have to be consulted upon every three years unless the admission authority are proposing major changes to the admissions arrangements agreed for the previous year. The duty of the local authority is set out in the School Admission Code of Practice and states:

Local authorities have a duty under section 13A of the EA 1996 (as substituted by the EIA 2006) to ensure fair access to educational opportunity and have a key role in ensuring that school admission arrangements are lawful and comply with the mandatory provisions of this Code. They must ensure that admission arrangements for schools in their area for which they are the admission authority comply with all statutory requirements, are clear, objective and fair.

The Local authority is required to have an Admissions Forum:

Section 85A of the SSFA 1998 requires all local authorities to establish an Admission Forum. Admission Forums provide a vehicle for admission authorities and other key interested parties to discuss the effectiveness of local admission arrangements, consider how to deal with difficult admission issues and advise admission authorities on ways in which their arrangements can be improved. Their main focus is to consider the fairness of arrangements in their local context. Admission authorities of all maintained schools and Academies, when exercising their functions, must have regard to any advice offered by the Forum. Local authorities may establish a joint

forum with one or more other local authorities to consider and advise on admissions in more than one authority area.

It is important that Admission Forums reflect the needs of their local community. Their membership must reflect the types of schools in the locality: a representative from each faith group represented by schools in the area, parent and community representatives, up to two local authority representatives (as the admission authority for community and voluntary controlled schools), local employers, other representatives e.g. Choice advisers.

The Brent Admissions Forum is made up of Councillors, Headteachers, School Governors, Parent Governors and Diocesan Board Representatives.

The statutory role of the Admissions is:

Admission Forums have a key role in ensuring a fair admissions system that promotes social equity and must, under section 84 of the SSFA 1998, act in accordance with this Code. Part of their role is to advise local authorities and admission authorities on matters relating to school admissions – any advice that they give must then be made available to any person with an interest.

Admission Forums must:

- a) consider how well existing and proposed admission arrangements serve the interests of children and parents within the area of the local authority;
- b) promote agreement on admission issues;
- c) review the comprehensiveness, effectiveness within the local context, and accessibility of advice and guidance for parents by the local authority, both through the published composite prospectus and the delivery of Choice Advice within the area of the Forum;
- d) consider the effectiveness of the authority's proposed co-ordinated admission arrangements, and advise on whether the authority's proposed co-ordinated admission arrangements differ substantially from the previous year;
- e) consider the means by which admissions processes might be improved and how actual admissions relate to the admission numbers published;
- f) monitor the admission of children who arrive in the authority's area outside a normal admission round with a view to promoting arrangements for the fair distribution of such children among local schools, taking account of any preference expressed in accordance with arrangements made under section 86(1) of the SSFA 1998 and in accordance with the Code.
- g) promote the arrangements for children with special educational needs, children in care and children who have been excluded from school;
- h) monitor the effectiveness of local authority Fair Access Protocols and
- i) consider any other admissions issues that arise.

The Jewish Free School's previous policy

Previous JFS policy applied a faith test which was validated by the Office of Chief Rabbi of the United Hebrew Congregation of the Commonwealth (OCR). Applicants completed a Supplementary Information Form which was sent to the OCR who determined whether the pupil was recognised as being Jewish.

Their policy read:

1.1 JFS ('the School') seeks to admit, up to the planned admissions number, children who are recognised as being Jewish by the Office of the Chief Rabbi of the United Hebrew Congregation of the Commonwealth (OCR) and children who are converting to Judaism under the auspices of the OCR (or an authority acceptable to the OCR) and the OCR is satisfied that the child has reached an advanced stage such that completion of the conversion is expected in the course of the school year in which the child would be admitted.

Why/how it was challenged

This was challenged by a family whose son was not offered a place by JFS as the OCR did not consider their child to be Jewish in line with their requirements. Even though the father was considered to be Jewish, the child's mother was not born Jewish. She had undergone a conversion however her conversion was not recognised by the OCR as being valid as it had been undertaken in a non Orthodox Synagogue. The family initially made a formal objection to the Office of the Schools Adjudicator (OSA) in July 2007 the outcome of this initial objection regarding 1.1 of the policy was not successful. The family took the decision of the OSA to court via a Judicial Review. The case was heard in July 2008 and again went in favour of JFS. The family appealed this decision at The Court of Appeal where on 10 July 2009 determined that 1.1 of JFS' admissions policy for 2007/8 was unlawful and the school were instructed reconsider the admission of the appealing families' child.

This decision was challenged by the school and was heard by the Supreme Court in October 2009. The Supreme Court decision was delivered on 16 December 2009. The majority of the judgements upheld the decision of the Court of Appeal.

The Council's stance during the legal battle

The Council were not directly involved in the legal case, but were kept informed of progress as an interested party.

The final outcome

The courts ruled that use of criterion 1.1 is unlawful. (See last paragraph on page 2)

What it now means for JFS and other schools

JFS and other Jewish schools cannot use "children who are recognised as being Jewish by the Office of the Chief Rabbi of the United Hebrew Congregation of the

Commonwealth (OCR) and children who are converting to Judaism under the auspices of the OCR (or an authority acceptable to the OCR) and the OCR is satisfied that the child has reached an advanced stage such that completion of the conversion is expected in the course of the school year in which the child would be admitted.” to determine who is recognised as being Jewish. They have to use a test of practice, similar to that used by other faith schools.

Is there anything we have done or need to do as a result of the final judgement?

Other Jewish faith primary schools in Brent have used very similar if not the same criteria. These schools have been notified and have amended their admissions policies to ensure that they are not unlawful in accordance with the judgement. The Local Authority has ensured that the schools have reworded their policies in accordance with the judgement. The Local Authority will monitor future admission policies and oversubscription criteria to ensure compliance with the judgement.

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