

# Report

on an investigation into complaints nos  
04/A/15754 and 04/A/17998 against  
the Governors of Islamia Primary School

8 February 2006

Millbank Tower, Millbank, London SW1P 4QP

# **Investigation into complaints nos 04/A/15754 and 04/A/17998 against the Governors of Islamia Primary School**

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## **Key to names used**

**Mr Khan and Mr Kassam: the complainants**

# Report Summary

## Subject

During 2003 the Ombudsman received three complaints about the administration of admissions and subsequent appeals by the Governing Body of Islamia Primary School, with regard to entry into the School in September 2003. He found maladministration and injustice and issued a report in December 2004 and a further report in November 2005, as he was not satisfied that the Governors had taken sufficient action on the recommendations he had made.

During 2004/05 the Ombudsman received three similar complaints from different families. These were that the Appeal Panel established by the Governing Body of the School had not properly considered their appeals against the Governors' decision to refuse their children admission into the reception class in September 2004. In particular, the complainants alleged that the Governing Body had failed to ensure the published admission arrangements were implemented correctly and that the Appeal Panel had rejected their appeal even though, in the view of the complainants, the decision not to admit their child was one which no reasonable Admission Authority would have reached. This report sets out the findings of the Ombudsman's second detailed investigation into the School's admission arrangements.

## Finding

Maladministration causing injustice to two complainants. Although the Governing Body has since taken some steps to improve the admissions process, the Ombudsman remains concerned about the number of faults found. The most serious are:

- the admissions criteria, the contents of the application form, and the way the applications are scored, are still not clear, fair and objective, and to date the Ombudsman has not seen details of the revised admissions policy and criteria;
- the unreasonable delay in making the decision to refuse a place at the School and then in arranging both the original appeals and the fresh appeals agreed by the School.

## Recommended remedy

The fresh appeals which the Ombudsman recommended have now been heard by a new Appeal Panel, one of which was upheld. The Governors should complete their review of the admission criteria and admission arrangements in the light of the findings of his reports and pay the sum of £500 to Mr Khan, who won his appeal, and £100 to Mr Kassam.



## **Introduction and background to the complaints**

1. Islamia Primary School is a voluntary aided primary school with a published admission number of 30 pupils per year. It has received public funding since 1998. The School is very heavily oversubscribed and gets several hundred applications for the 30 places available each year.
2. The current legal background is included in appendix A to this report.
3. During each of the past five years my office has received several complaints from parents applying for a place at Islamia Primary School about faults in the admissions and appeal process.
4. My Investigators considered 11 complaints between 1999 and 2002 and, in many of these cases, found fault in the administrative process. Where appropriate we recommended that the School offer the parents a fresh appeal in order to settle their complaints. It agreed to do so and we then discontinued our investigations into those complaints. My office was later contacted by a number of these families, as a fresh appeal had not yet been established after several months, and we pressed the School to make the necessary arrangements promptly.
5. During late 2003 three new families made complaints about the Governors' decision to refuse their children admission to the school in the reception class in September 2003. In particular they complained that the Appeal Panel established by the Governors of Islamia School had failed to consider properly their arguments that the Governing Body had not implemented the published admission arrangements correctly.
6. Following an investigation of these three complaints I issued a report in December 2004 (reference nos 03/A/11014, 11388 & 16838). I concluded that there had been significant maladministration:
  - the published admission criteria lacked objectivity and transparency and did not properly explain to applicants how their applications would be assessed or what evidence they needed to provide;
  - the Governors' admission decision letters to unsuccessful applicants contained incorrect information about the appeals process;
  - the information sent to appellants by the Clerk to the Appeal Panel contained serious flaws which made the soundness of the whole appeal process questionable;

- the Governors' evidence to the Appeal Panel appeared insufficient to allow the Panel to satisfy itself that class-size prejudice had been demonstrated or that the admission arrangements had been properly implemented;
  - the Governors unreasonably delayed holding the appeals for admissions in September 2003 and, although the school had offered to hold fresh appeals for the complainants in December 2003, it had yet to make any such arrangements one year later.
7. I found that these administrative failings had caused injustice to the complainants, including time and trouble and anxiety. They were deprived of proper information about the appeals process and of a proper opportunity to prepare and present their appeals. However, I could not conclude for certain that they had been unfairly deprived of a place to which they should have been entitled, or that, but for the failings in the appeals process, they should have won their appeals.
  8. I recently issued a further report on these three cases, as the Governing Body had still not responded satisfactorily to all my recommendations (November 2005, references as above).
  9. In the winter of 2004/05 three other families made very similar complaints to my office. Two of these are the subject of this report and the third is also referred to briefly (paragraphs 42-43). The complainants said that the Appeal Panel, established by the Governors of Islamia Primary School, had failed to consider properly their arguments that the School had incorrectly implemented the published admission arrangements. They each alleged that the decision not to admit their child was one which no reasonable Admission Authority would have reached and that the Appeal Panel thus should have upheld their appeal.
  10. The published admission criteria for Islamia Primary School (see Appendix B for the full statement) state that the policy "gives importance to parents and pupils" on the basis of:
    - (1) (a) Basic Practice of Islamic Faith; and (b) Active Commitment to Islam;
    - (2) Social and Welfare Needs;
    - (3) Siblings;
    - (4) Proximity to the School (measured in a straight line from school to home);
    - (5) Non-Muslims who, along with their parents, support the high moral values of the Islamic faith.
  11. Priority is given according to points awarded on the basis of answers given by parents/guardians to questions on a standard application form (see Appendix C). The questions are arranged in groups under each of the first four criteria above; there are

no questions relating to the fifth criterion. The form indicates the maximum number of points that can be awarded in respect of each question and explains that applicants must provide details and documentary evidence to support their answers to certain questions.

12. The “Important Notes” on the reverse of the Admissions Policy (see Appendix D) state, among other things, that questions must be answered fully, “as the application form is the sole basis on which you will be awarded or denied a place at the school”. The notes also say that “both parents may be asked to attend the School to verify the contents of the form”, but no details of the verification process are included.
13. Places are allocated by the school’s Admissions Committee (comprising the Head Teacher and two Foundation Governors) which screens all applications. One member of the Committee initially scores each application based solely on the information given by applicants on their forms. The scores are then reviewed by another member and any changes are marked on the application form. This review may include checks on certain answers made and points are often deducted at this stage.
14. After the initial scoring of the applications, the School invites the top-scoring applicants to meet the Admissions Committee and bring specific documents with them to verify the information provided (see Appendix E). It usually invites between 35 and 40 families, given there are 30 places available. The Committee then makes its final decisions on which of these applicants to offer a place.
15. The lowest-scoring applicant who was offered a place in the School for September 2004 scored 37 points. The applications of the three families who complained to my office were given 30 points, 32 points and 34 points. They each felt they should have been given a higher score, which would have meant they got enough points to have been offered a place.
16. The law generally requires me to report without naming or identifying the complainant or other individuals.<sup>1</sup> The names used in this report are therefore not the real names, apart from that of the School, which I must name.

## **Investigation**

17. In addition to written correspondence with the Clerk to the Governing Body about these complaints, one of my investigators has inspected the school’s records, including the application forms of the successful applicants for September 2004 marked with the respective scores for each question. She has talked to the complainants or their solicitor and interviewed the Clerk to the Governors and the Clerk to the Appeal Panel. We invited the complainants and the Governors to

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<sup>1</sup> Local Government Act 1974, Section 30(3)

comment on a draft of this report and have taken account of their comments in preparing the final text and my conclusions.

## **The complaint by Mr Khan**

18. In March 2004 Mr Khan applied for a place in the School's reception class for his son in September 2004. He sought help from the School in completing the application form, as English is not his first language. In an attempt to be helpful, the Head Teacher filled in his application form on the basis of the answers given to him by Mr Khan.
19. The Head Teacher, who is on the School's Admissions Committee and scores many of the applications, gave this application 38 points as his initial score. That was above the threshold (which later emerged at 37 points) for an offer to be made. The score was then checked and revised down to 32 points by another member of the Admissions Committee (see paragraphs 30 and 31 for the explanation of this). Mr Khan was not one of the top scoring applicants who were invited in to the School to provide verification of the application. His total was later revised up to 36 points (see paragraph 23).
20. On 2 June 2004 the Admissions Committee sent a rejection letter to Mr Khan, saying his application did not score enough points to secure an interview and was thus unsuccessful. The rejection letter said Mr Khan could appeal within 21 days, but it said that the Panel "cannot take into account the circumstances of the individual children and their families". (This is the repeat of an incorrect statement about the grounds for an appeal, with which I found fault in my report of December 2004. The wording had previously been provided to the School by the Local Education Authority.)
21. Mr Khan appealed against the decision to reject his application on the grounds that it was not one which a reasonable Admission Authority would make (see ground (i) in paragraph 13 of Appendix A) and that the Governors had not awarded his son's application any points under Question 5 (Have you helped your child to learn the Qur'an?), Question 16 (Are you severely physically disabled?), and Question 18 (Do you have full refugee status?).
22. With the help of a solicitor, he sent four pages of further detailed representations to the Appeal Panel, claiming that he should have been awarded more points under four questions, making a total of 46. Mr Khan is paraplegic, uses a wheelchair and is doubly incontinent. He enclosed supporting documents about his disability and being awarded higher rate Disability Living Allowance for life. His wife had died in the previous year.
23. The School sent the Panel a brief statement on behalf of the Admissions Committee, which did not refer to the qualifying measures that would be required to allow the School to accept a further pupil or to how such measures would cause prejudice. This statement is less than half a page long and says that this application had been given

36 points, when the number required was 37 (see Appendix F). The increase from 32 to 36 points is not explained.

24. It was not until the week beginning 13 September 2004 that the School asked the agency, which it usually uses to administer its appeals, to set up the Appeal Panel. That agency then arranged the appeals as quickly as it could. The panel heard the three appeals referred to in this report, and 14 other appeals, on 30 October 2004. This was after the School had opened for the new school year in September 2004.
25. The Appeal Panel members and the Clerk to the Panel were the same people as those who had considered the appeals in the previous year. All the appellants were invited to a grouped session at the start of the day.
26. The School's representative, who that year was the Head Teacher, presented the Admissions Authority's general case. He explained that the applicants were ranked in order of priority according to points scored as a result of the published questionnaire, that the admissions limit had been filled, and further admissions were not possible as the School was full. Some appellants raised questions, but these were mainly related to their individual case.
27. In respect of infant applications, an admissions authority can refuse to admit a child to a school if it decides that in order to do so it would have to take "qualifying measures" to ensure compliance with the statutory class size limit, for example, employing an additional teacher or providing an additional classroom. This is known as "class size prejudice". There are restricted grounds on which an Appeal Panel can uphold an appeal concerning infant admissions (See appendix A). No details about class size prejudice were presented by the School, other than the statement that it was full.
28. The Clerk to the Appeal Panel told my Investigator that the Panel did not discuss the brief statements made by the School. He sensed that its members took the view that the statements were sufficient, given the number of appeals and that the School was represented and could answer any detailed questions which they had.
29. The Panel then heard the individual appeals in turn. The Clerk to the Panel made detailed notes of Mr Khan's appeal hearing. At the start of the minutes he records that the score was 32 points and then reflects the detailed discussions around the number of points which were awarded for certain questions. At question 5 "Have you helped your child learn the Qur'an?", the Head Teacher had written nothing on behalf of Mr Khan on the form, but he had included the three points for this question in his original score. Mr Khan said in his appeal that he provided details relating to that question and thinks that the Head Teacher inadvertently left them out. Mr Khan signed the form, but did not check it through. The School explained to the Panel that, in assisting a parent to complete an application form, it could only translate or explain the questions and then record the answers; it could not prompt as that would be giving an unfair advantage to that applicant.

30. At question 16 four points had originally been awarded for severe physical disability by the Head Teacher, but on review they were disallowed as the medical condition was “not of a level that was locally interpreted as severe” according to the Admissions Committee. The Head Teacher said at the Appeal that the criterion used is “total immobility”. It was agreed that the minutes of the relevant Admissions Committee meetings would be made available if possible to the Appeal Panel, as evidence to support the definition being used by the School. The Admissions Committee was unable to find any minutes, but later wrote to the Panel and said the Clerk to the Governors and all three members of the Committee remembered this definition, which they had tightened up some years earlier. The School has since commented that it applies this definition fairly to all applicants.
31. At question 18 two points had originally been given for refugee status, but had been disallowed by the Admissions Committee on review. Mr Khan had not provided evidence of his status with his application form. His application was not one of the top scorers, so the School did not check Mr Khan’s status. At the appeal Mr Khan produced a copy of a letter of March 2000 from the Home Office about his immigration status, confirming he had been granted indefinite leave to remain in the UK as a refugee. The Clerk to the Governing Body told my Investigator that they count only those seeking asylum, not those who now have permanent residency. In another unsuccessful application on the files my Investigator saw that the school’s Admissions Committee had not apparently counted this as qualifying for full refugee status.
32. However she could find no evidence in the documents relating to three successful applicants that they had provided papers to verify their answer about their refugee status. Another successful applicant was given points for both refugee status and severe physical disability, but there is no verification evidence on the files. The Clerk to the Governing Body has since explained that the School does not always retain evidence during the verification process, but says that it is certainly sighted. Where no evidence is submitted, that is usually indicated on the form with a brief comment.
33. Between one and three points are potentially awarded for question 21, on proximity to the School. The Clerk’s typed note records that the “proximity was not in the admissions criteria and was only considered if the points score brought the applicant into the contested area”. (His original note says “Proximity. Added only if it gets critical.”) Mr Khan then left the meeting. Following further discussion, the Panel agreed that if all the factors had been positively taken into account this would have been a high scoring application and possibly entered into contention. The School has since confirmed that Proximity is a criterion in its admissions policy.
34. The Clerk to the Appeal Panel has told my Investigator that there was a lot of confusion about Mr Khan’s points level. His minutes record that, at the time of refusal of a place, “the critical level was 39 points” – although from our interviews it seems possible that this was a misunderstanding and the level was always 37 points. The minutes also say that it was “overtaken by tie breakers who were contacted to analyse their points”; however, the Clerk to the Governing Body did not think there were any tie

breakers that year and we could find no evidence of any in the files. (Where the School needs to decide between equal scoring applicants, it applies the tie-breaker criterion in paragraph (q) of its Important Notes – appendix D)

35. The Panel felt that it needed more information about the sequence of events and the associated movement of the critical points level, which the Admissions Authority was asked to provide. The Panel was adjourned, having agreed that it might be possible to reach a decision without a further formal meeting. The decision to adjourn was recorded in the minutes.
36. The School's Admissions Committee sent a response to the Panel on 18 November 2004, which was sent by the Clerk to the Panel to the appellant's solicitor. This did not include any minutes or documents in support of how it had interpreted the criteria on disability and refugee status, or on how the critical points level had moved. The solicitor sent further detailed representations to the Panel on 7 December in response to the School's points. Further detailed written comments were then sent by the School's Admissions Committee to the Panel Chairman, dated 16 December. One of the comments made by the School was that it "tries to balance out between the different criteria (i.e. single parents, refugees, disability) so that we do not have a preponderance of any particular sector of the criteria area and this is in order to ensure balance and fairness". That is not mentioned in the admissions policy. The School has commented that this could perhaps have been better stated and it should not be interpreted to mean that it purposefully selects a set number of applicants from each of the various categories.
37. The Clerk advised the Panel Chairman on 18 December 2004 that he felt enough consideration had been conducted and that he should draw a line now and determine if an opinion could be made on the written evidence or whether another hearing should be called. There was some urgency, as there was apparently a possibility that the child might be taken into care if the appeal was unsuccessful – as the father had not yet found an alternative school place for his son.
38. The Chairman replied the same day to the Clerk saying that the Panel had reached a decision on this case, but he felt that the submission of further evidence just received from the School on 17 December necessitated that they reconsider their decision in the light of this. The Panel Chair then contacted the Clerk on 20 December to say the Panel had decided to reject the appeal and asking him to send a decision letter to Mr Khan. He did so on 21 December 2004. The letter did not contain any detailed reasons for the decision.
39. The Clerk has no written record of the Panel's deliberations after the adjournment in October and he does not think that the Panel met again. We have seen no evidence that all three members of the Panel saw all the information presented by both parties.
40. Mr Khan's solicitor asked the Chair of the Panel for more information about the reasons for the decision, although none was forthcoming. She had expected the

appeal to succeed as she had been involved in a similar appeal the year before, where the same panel members and Chair had upheld an appeal where the father needed knee replacement surgery and was temporarily on crutches and thus disabled. She says in that previous case the Panel decided that the application should have been awarded four points for disability.

41. She is also convinced that the Panel had initially decided to uphold Mr Khan's appeal and only changed its mind after considering the final evidence from the School – which neither she nor Mr Khan had a chance to comment on. Only the panel members would know if that was the case.

### **A similar complaint**

42. Another family also complained to us that the Governors had not awarded any points in respect of Question 16 – Are you severely physically disabled?. The father in that case suffers from end stage renal failure, secondary to polycystic kidney disease, and needs dialysis three times a week until a transplant is available. He also has some other health problems. In response to our enquiries about that complaint, the School said no points had been awarded on the form “however a further review might decide that the maximum four points are deserved.”
43. We discontinued our investigation into that case because, as the School had pointed out, even if the family had been awarded four points for disability, they would not have been close to the threshold for receiving an offer of a place at the School. I mention it here as another example of the difficulties which arise in the Admissions Committee applying some of the key admissions criteria such as disability, which are not clearly defined, published or objective.

### **The complaint by Mr Kassam**

44. Mr Kassam appealed on 9 July 2004, after he had been refused a place for his daughter. His appeal was on the grounds that he should have been awarded points under questions 9 and 11 on his application form (Have any of your children attended Islamia Primary School prior to the school achieving Government funding and Fundraising support for the school?). He feels that, if his application had been scored according to the published criteria, it should also have been awarded four additional points for question 9. It would then probably have reached the 37 point threshold required for his daughter to have been offered a place.
45. The initial score he was given by the representative of the School's Admissions Committee was 40 points. The score was then checked and revised down to 27 points by another member of the Admissions Committee. The School's brief Appeals Statement said that the application had received 34 points (similar to example in Appendix F).

46. Mr Kassam provided a letter to the School and then to the Panel showing evidence of his fundraising work. The minutes of the Panel made by the Clerk record that the appeal focused mainly on the perceived improper scoring. The notes say that the School had agreed he should have four points reinstated for question 8b and two points for question 11, making a total of 33 points. Mr Kassam lives very close to the School and it seems that he should have been given the maximum 3 points for proximity in part 4, especially given that he was close to the threshold. It is not clear if those three points were included in the total of 33 discussed by the Panel.
47. Following our enquiries into this complaint the School has since provided a detailed breakdown of the points given to this case, which add up to 34 points, including 3 for proximity. It has said that his total score was below the threshold for an offer.
48. The Clerk's minutes record that the situation with question 9, about another of his daughters attending the School in the past, was less clear and that, after the appellant left the meeting, the Panel felt that the claim of past attendance was not convincing, as there appeared to be no evidence. It says if the other daughter had attended the School "four points would be added bringing the score to 37, still not enough to enter the contested area ...the appeal was not upheld". However, 37 points was the threshold for making an offer. The School has commented that the answer given by Mr Kassam was vague and insufficient for the Admissions Committee to award any points. Any evidence later provided was after the admissions process had been concluded.
49. We discovered from the response of the School to our investigation of this complaint that its Admissions Committee had sent a much more detailed written statement to the Appeal Panel after the date of the hearing. The Clerk's typed minutes simply state that the appeal was not upheld. He has since told my Investigator that this record is flawed and has apologised for the confusion his minutes caused, which he says were only in draft. The Panel had in fact asked for further information and this appeal was also adjourned. The Clerk can recall that the Panel members felt it prudent to check on the other daughter's past attendance at the School.
50. The Clerk to the Appeal Panel has confirmed that Mr Kassam was not sent a copy of the detailed statement, which says that the School had been unable to ascertain whether one of his daughters had attended in the past having checked its records and spoken to two teachers. While in one sense it did not doubt his veracity, and agreed that evidence may eventually be found that his daughter did attend the School, the Admissions Committee felt the onus of proof should be on Mr Kassam, the applicant, and it had to adhere to deadlines.
51. After the adjournment the Panel considered the School's detailed statement and then decided not to uphold the appeal. The Clerk sent the decision letter to Mr Kassam on 20 December 2004.

52. The School says Mr Kassam did not provide any documentary evidence and he named the witnesses only after the deadline had expired. At question 9 on his application form Mr Kassam only said “my daughter attended Islamia year 19..” and gave no further details, whereas the question clearly says “please give their names and the number of years they were at the School”. In his appeal statement he said that she attended in 1991.
53. He told us that he is distressed that the School at no point asked him to provide detailed evidence of these matters. The School’s statement to the Appeal Panel, which was sent to the appellant, is very brief and, unlike the statement made to the Panel after the hearing, makes no mention of the loss of points due to the lack of evidence on this matter. However, the question on the form does ask for the names and the dates of the child(ren) attending the School in the past.
54. Since we started investigating the complaint Mr Kassam has provided four letters from different witnesses stating that his daughter went to Islamia Primary School in 1991/1992.

## **Local settlements proposed**

55. Following her investigation my Investigator concluded that there had been a number of faults which had caused injustice. On 19 May and 10 June 2005 respectively, my Investigator proposed that the Governors offer Mr Khan and Mr Kassam a fresh appeal. In Mr Khan’s case we said it was urgent and asked that it be held before the end of the summer term in July.
56. Given I also had outstanding concerns about the School’s delay in acting on my report of December 2004, I held a meeting with representatives of the Governing Body and the Head Teacher on 23 June. I was pleased that, in early July, the School then confirmed in writing its agreement to arrange another appeal for both these families. We stressed that this should be done urgently, before the start of the school year in September. The School contacted the Local Education Authority about making the administrative arrangements for these appeals. The Local Education Authority said it could possibly set up the appeals between 18 July and 5 August 2005.
57. The School then told us in late July there had been some unavoidable obstacles and it now planned to hold the hearings in the first week of September. These obstacles included the difficulty in getting new members to make up a new independent Appeal Panel and the need to prioritise the safety and security of the School community, given the recent serious incidents in London.
58. The hearings for these two complainants were not held during September, as the School had not provided the Local Education Authority with the necessary documentation to set up their appeals. The School did so later, but only notified the parents of the proposed appeal date of 28 November by a letter it sent to them on

23 November. The Council cancelled the appeals, as it could not contact one of the appellants in time to check if they were willing to waive their right to 10 working days notice of a hearing date and whether they were able to attend at short notice.

59. The appeals were rearranged for 15 December 2005. The new panel, set up by the Local Education Authority, heard these two appeals and several others on that date.
60. The decision letters written by the Clerk to the Panel on 13 January 2006 record what happened in the second appeals. In Mr Khan's case the Panel and his representative questioned the Head Teacher (the School's representative) about the scoring of the criterion which relates to physical disability. The Head Teacher explained that the Admissions Committee used a particular definition of disability, although it was not set out in the admission form. He confirmed that, upon reviewing the case, the School would award Mr Khan the points for disability and conceded that he had been awarded a points level above the threshold for an offer.
61. On that basis the Panel found that the admission arrangements had not been properly implemented and that the child would have been awarded a place if they had been properly implemented. It allowed Mr Khan's appeal and I understand that his son started at Islamia School in mid January 2006.
62. In Mr Kassam's second appeal the new Panel looked at his original application form and considered the points which the School had awarded him for the questions which he disputed. Its decision letter records that the Panel considered his case carefully, but concluded that it accepted the School's arguments and it could not find in his favour. It took into account that Mr Kassam had provided insufficient information in response to one of the questions on the form. The panel did not uphold his appeal.
63. In response to seeing a draft of this report, the School said that it has always endeavoured to be objective and transparent in applying its complicated criteria. It has processed over 1,000 applications in the past five years and believes that in the overriding majority of cases the admission policy has been administered correctly and fairly. The Governors do not accept that the School was negligent in the way it processed and assessed the applications of Mr Khan and Mr Kassam and do not agree that the admission criteria lack objectivity, because the answers are all measurable.
64. The Governors do accept that there is room for administrative improvement and they commissioned an outside agency to carry out a review of the School's administration of admissions in October 2005. They agreed in December 2005 to implement a number of recommendations, including the appointment of additional administrative staff by April 2006 and a new procedure for Admission Appeals with the person responsible and a timescale identified at each stage of the process, with a view to avoiding undue delay in the future.

65. The Governing Body has reviewed its admissions policy since my report of December 2004. It told us on 1 July 2005 that it had agreed to reduce and simplify the criteria (to siblings, children in care, special circumstances and distance from School; in that order) and it had earlier sent us a paper by the Head Teacher discussing these criteria. The Governors also agreed in future to provide more explanation to applicants about how their application would be assessed. The School was discussing the revised policy with the Local Education Authority, but said it should be in place for the intake in 2006/07. It has not yet sent us a copy of the revised policy and the School says in the Council's guide to Primary Schools, as published in December 2005, that the final admissions criteria were not available at that time. I am pursuing this with the Governors as a follow up to my further report.

## Conclusions

66. The investigation of these complaints has again highlighted a number of ongoing serious administrative faults relating to both the Governor's published admission criteria and the way in which they administer the appeals process. Most have already been referred to in my report on three other cases in December 2004.
67. I have found clear evidence of maladministration in the handling of these two applications and subsequent appeals. The main faults, many of which would apply to other families applying for a place at the School, are as follows:
- i) The published admission criteria lack objectivity and transparency. Some fresh examples were found in this investigation of the School defining or interpreting the criteria in ways which are not mentioned in the policy (see paragraphs 30 – 32 & 36).
  - ii) Another newly identified fault is that neither the application form nor the policy explains that one criterion (proximity) is only scored when the application is borderline – with a score at, or very close to, the threshold level for the previous three criteria. It was said at one of the appeals that proximity is not in the admissions criteria, whereas it is listed as number 4 in the School's Admissions policy (see paragraph 33).
  - iii) As in past years, the School did not properly explain to applicants how their applications would be assessed or what evidence they needed to supply for certain questions, and did not offer equality of access to the verification process (see paragraphs 11 – 14).
  - iv) The Head Teacher, who is on the Admissions Committee and was also the representative of the School at the appeal hearings, completed the application form on behalf of one of the complainants (see paragraphs 18 – 19).

- v) The Admissions Committee seemed to confuse the Panel about the points threshold level required for an offer to be made (37 or 39 points?), which was then not explained to the Panel by the School following the adjournment requested by the Panel (see paragraphs 34 & 36).
- vi) The Governors' admission decision letter to unsuccessful applicants still contained incorrect information about the appeals process, and failed to fully explain the reasons the applications had not succeeded (see paragraph 20).
- vii) The Governors' evidence to the Appeal Panel was insufficient to allow the Panel to satisfy itself that class-size prejudice had been demonstrated or that the admission arrangements had been properly implemented. It contains no reference to Infant Class Size Prejudice and contains even less information than the equivalent statement provided to the Panel in the previous year (see paragraph 23 and Appendix F).
- viii) There was very considerable delay by the Governors in handling the admissions process: the School did not notify the parents of the decision on their application until early June 2004 and then did not ask the agency it uses to set up the Appeal Panel to do so until mid September 2004. The appeals could not then be heard until October 2004, after the new School year had started. This was even later than they were held in the previous year (see paragraph 24). The Code of Practice says that Admission Authorities should arrange their appeals timetable so that appeals in the normal admissions round can be heard *within 30 school days of the specified closing date for receipt of appeals and well before the end of the term preceding entry* (my italics; see paragraph 14 Appendix A). That timetable is generally followed by Local Education Authorities and Governing Bodies across the country.
- ix) The School did not provide the Panel with all the information requested on one of the cases following the adjournment and the Appeal Panel reached a final decision on these two appeals following the adjournment, without meeting again and without a chance for the appellants to comment on the final submission by the School (see paragraphs 36 – 37).
- x) There was further delay by the Panel in reaching a final decision and the decision letters were not sent until late December 2004. If the appeals had been upheld, that was too late for children due to start School during the Autumn term (see paragraph 38).
- xi) The Governors have since delayed making the arrangements for fresh appeals which they agreed to do in July 2005 and they were not held until mid December 2005. The complainants applied to the School on time for a place starting in September 2004, but had still not had a properly administered appeal well over a year later. This very lengthy delay in offering

and holding the appeal hearing has caused additional anxiety and inconvenience to both the complainants (see paragraphs 56 – 59).

68. The maladministration has caused both complainants some injustice, in that the faults and delays caused doubt, confusion and a sense of grievance, as well as time and trouble. The complainants were deprived of proper information about the appeals process and of a proper opportunity to prepare and present their appeal cases.
69. While I cannot conclude that both children were unfairly deprived of a place, it seems very likely that, but for the faults and delay, Mr Khan's son would have been offered a place at the School at an earlier date, and at least by September 2005. As a result I consider that he has been caused additional and more serious injustice.
70. The Governors have been revising the school's published admission criteria with a view to simplifying them, but I have yet to see evidence of the final outcome of this review.
71. To remedy the injustice I have identified above, I again recommend that the Governors should:
  - i) finalise their review of their admission criteria, the school's admission arrangements and the associated documentation, in the light of my findings in both this and my previous reports. They should take into account the guidance given in the Department for Education and Skills Codes of Practice on Admissions and Appeals and, if necessary, take advice on those matters from a suitably qualified person. This should be completed as a matter of urgency.
  - ii) if the review cannot be fully implemented in time, they should take note of the failings identified in this report when administering their admission and appeals process for entry during 2006, pending the full implementation for admissions to the School in September 2007.
  - iii) pay the sum of £100 to Mr Kassam and £500 to Mr Khan in acknowledgement of the injustice they sustained.

**Tony Redmond**  
**Local Government Ombudsman**  
**Millbank Tower, Millbank**  
**LONDON SW1P 4QP**

**8 February 2006**

## Legal Background

1. Islamia Primary School is a voluntary aided primary school with a published admission number of 30 pupils per year.
2. In general terms, the Schools Standards and Framework Act 1998 sets out the principal responsibilities of school admission authorities (including voluntary aided schools) in terms of admissions and appeals. Government guidance on admissions and appeals is set out in the Code of Practice on School Admissions and the Code of Practice on School Admission Appeals respectively. Both Codes were updated in February 2003 and apply to arrangements for admissions in September 2004. Admission authorities and appeal panels must have regard to the Codes of Practice in force at the time<sup>2</sup>.
3. Admission authorities must publish information each year about the arrangements for admissions<sup>3</sup>. The published admission arrangements must include the criteria for determining which pupils should be admitted if a school is oversubscribed with applications<sup>4</sup>. The admission authority must apply the oversubscription criteria in its published admission policy in deciding which parents' preferences it should meet<sup>5</sup>.
4. It is a matter for the admission authority to determine the oversubscription criteria, provided those criteria are objective, clear, fair and compatible with admissions and equal opportunities legislation.<sup>6</sup>
5. Parents are entitled to express a preference about the school at which they wish their child to be educated<sup>7</sup>. The governing body of a voluntary aided or foundation school has a duty to comply with the parents' preference unless one or more of two exceptions apply<sup>8</sup>:
  - (a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources;
  - (b) if the arrangements for admission to the preferred school are wholly based on selection by reference to ability or aptitude, and compliance with the preference would be incompatible with selection under those arrangements.

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<sup>2</sup> Schools Standards and Framework Act 1998, Section 84

<sup>3</sup> Ibid, Section 92

<sup>4</sup> Code of Practice on Admissions, paragraph 3.2

<sup>5</sup> Ibid, paragraph 3.3

<sup>6</sup> Ibid, paragraph 3.4

<sup>7</sup> Schools Standards and Framework Act 1998, Section 86(1)

<sup>8</sup> Ibid, Section 86(3)

6. Where a child has been refused admission to a school, the admission authority should write to the parents giving full reasons why the application was unsuccessful against the published criteria<sup>9</sup>.
7. Parents of children who are not offered a place at a voluntary aided or foundation school of their preference have the right to appeal to an independent appeal panel established by the school's governors<sup>10</sup>. The decisions of appeal panels are binding on the admission authority<sup>11</sup>.
8. The procedure for appeals requires, among other things, that the appeal must be made in writing setting out the grounds on which it is made; that there should be an opportunity for the appellant to appeal and make oral representations; and that the decision, and the grounds on which it is made, should be communicated to the appellant in writing<sup>12</sup>.
9. At least seven days before an appeal hearing, the admission authority should supply the clerk with documents for circulation to panel members and parents:
  - a) a written statement summarising how the admission arrangements apply to the parents' application;
  - b) a written statement summarising the reasons for the decision; and
  - c) copies of any information or documents which are to be put to the panel at the hearing<sup>13</sup>.
10. Each appeal panel should have a clerk, who has an important part to play in ensuring that relevant factors are established and that the appeal is fair. The clerk should be an independent source of advice on procedure, and should record the proceedings, decisions and reasons<sup>14</sup>.
11. An appeal panel must take into account, among other things, the parents' views as to the school the child should attend, and the published admission arrangements<sup>15</sup>.
12. With regard to appeals in respect of infant admissions, the Schools Standards and Framework Act 1998, together with the Education (Infant Class Sizes) (England) Regulations 1998, impose a limit, subject to certain exceptions, of 30 pupils in infant classes taught by one teacher in maintained schools<sup>16</sup>. Parents' preference of school must be met unless (among other things) compliance would prejudice the provision of

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<sup>9</sup> Code of Practice on Appeals, paragraph 4.4

<sup>10</sup> Schools Standards and Framework Act 1998, Section 94(2)

<sup>11</sup> Ibid, Section 94(6)

<sup>12</sup> Education (Admission Appeals Arrangements) (England) Regulations 2002, Schedule 2

<sup>13</sup> Code of Practice on Appeals, paragraph 4.28

<sup>14</sup> Ibid, paragraphs 4.21 to 4.23

<sup>15</sup> Education (Admission Appeals Arrangements) (England) Regulations 2002, Schedule 2, paragraph 6

<sup>16</sup> Schools Standards and Framework Act 1998, Section 1

efficient education or the efficient use of resources (see paragraph 5 above). “Prejudice” in that sense may arise by reason of measures required to be taken in order to ensure compliance with the duty to comply with the infant class size limit of 30 pupils<sup>17</sup>.

13. In an appeal against a decision to refuse admission on the grounds of class size prejudice, an appeal panel may only uphold the appeal if it is satisfied:
  - i. that the decision was not one which a reasonable admission authority would make in the circumstances of the case; or
  - ii. that the child would have been offered a place if the published admission arrangements had been properly implemented<sup>18</sup>.
14. Hearings should be held within a reasonable time – normally within 30 school days of the closing date for the receipt outstanding appeals, for appeals made during the normal admissions round.<sup>19</sup> Admission Authorities should arrange their appeals timetable so that appeals, following the normal admissions round, can be heard well before the end of the term preceding entry.<sup>20</sup>
15. Where an Admission Authority is unable to provide information requested by an appellant the Panel should decide whether the information is necessary for the hearing to proceed. The Panel may choose to adjourn until the information has been provided<sup>21</sup>.
16. The guiding principles for Appeal Panels is that should be, and be seen to be, both independent and impartial. One of the three principles of natural justice most relevant to appeals is that written material must have been seen by all parties. If a new issue arises parties should be offered an opportunity to consider and comment on it.<sup>22</sup>
17. In *R v. Richmond upon Thames London Borough Council and Another, Ex parte J C (Judgement 31 July 2000)*, the Court considered, among other things, whether the appeal panel considering a reception infant appeal could reconsider the admission authority’s admission decision, or only review it, and whether it could consider fresh

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<sup>17</sup> Ibid, Section 86(4)

<sup>18</sup> Education (Admission Appeal Arrangements) (England) Regulations 2002, Schedule 2, paragraph 6(2)

<sup>19</sup> School Admission Appeals Code of Practice, paragraph 4.7

<sup>20</sup> Ibid, paragraph 4.9.

<sup>21</sup> Ibid, paragraph 4.32

<sup>22</sup> Ibid, paragraph 4.42

evidence. The Court took the view that the appeal panel could not conduct a rehearing, but could have regard to powerful evidence of a highly significant change of circumstances which for one reason or another could not have been placed before the original admission authority.

## Islamia Primary School (Voluntary-Aided)

**Admissions policy**

The aim of the School is to produce total Muslim personalities through the training of the child's spirit, intellect, feelings and bodily senses. Education at Islamia caters for the growth of students in all their spiritual, intellectual, imaginative, physical, scientific and linguistic aspects, both individually and collectively, motivating all these aspects towards goodness. The ultimate aim of Islamic education is the realization of complete submission to Allah on the level of the individual, the community and humanity at large.

**Islamia Primary School Ethos**

Islamia Primary School was founded by Muslims and is part of the growth and evolution of Islam in Britain. It strives to provide the best education in a secure Islamic environment through the knowledge and application of the Qur'an and the Sunnah (example) of Prophet Muhammad (peace be upon him). The school aims to serve the community by encouraging and promoting moral values and self-development within the context of the Islamic faith, catering for the spiritual, intellectual, imaginative, physical, psychological and linguistic development of individual pupils and society at large. Religious education and worship will, at all times, be in accordance with the teachings of Islam, improving and contributing to the society that we live in through the qualities of mercy and justice, promoting positive and constructive interaction: 'Thus We have made you a justly balanced nation.' (Qur'an 2:143). The school will preserve and develop its religious character in accordance with these principles.

**Special Educational Needs**

Islamia Primary promotes the view that all children with special educational needs have a right to a broad and balanced curriculum that meets their respective individual needs. This accords fully with the spiritual and educational principles of Islam as taught in the school. In particular, admission for children with a statement of Special Education Needs (Stage 4 & 5) are carefully and fairly considered. If the Head teacher and Governors feel that the child's educational needs could be met without compromising on issues of space, overcrowding or available resources then the child is admitted.

The admissions policy of Islamia Primary School (Voluntary-Aided) gives importance to parents and pupils in the following order:

1. (a) Basic Practice of Islamic Faith
- (b) Active Commitment to Islam

All applicants will be required to submit a written reference supporting their application from either the Imam of the local Mosque, a representative of a Muslim organization, or a recognized member of the Muslim community.

2. Social & Welfare Needs

- (a) Orphans/foster children
- (b) Parents who are severely physically disabled
- (c) Divorcees, widows or widowers
- (d) Refugees who have full refugee status
- (e) Converts/reverts to Islam

3. Siblings

4. Proximity to the School (measured in a straight line from school to home)

5. Non-Muslims who, along with their parents, support the high moral values of the Islamic faith.

Applicants are required to complete a set application form and points are awarded by the school based on the answers given. The highest scoring applicants will be offered a place at the school.

**Note: this document was retyped by the CLAE, with no changes to the text.**

**ISLAMIA PRIMARY SCHOOL (VOLUNTARY-AIDED)  
Application for Admission**

<b>The family name</b>	<input style="width: 95%;" type="text"/>	<b>For office use only</b> Reference*  Sibling's ref:  1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____
<b>Child's name</b>	<input style="width: 95%;" type="text"/>	
<b>Name of father</b>	<input style="width: 95%;" type="text"/> <div style="border: 1px solid black; padding: 2px; font-size: 8px; margin-top: 2px;">                     For office use only                      .....                      s.a.c / Ref  <input type="checkbox"/> <input type="checkbox"/> </div>	
<b>Name of mother</b>	<input style="width: 95%;" type="text"/>	
<b>Address</b>	<input style="width: 95%;" type="text"/>	
<b>Child's Date of birth</b> (copy of certificate required)	<input style="width: 95%;" type="text"/>	<b>Male/Female</b> (delete)
<b>Guardians name</b> (if not parent)	<input style="width: 95%;" type="text"/>	
<b>Father's religion</b>	<input style="width: 95%;" type="text"/>	<b>Mother's religion</b>
	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<b>Father's job</b>	<input style="width: 95%;" type="text"/>	<b>Mother's job</b>
	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<b>Main language spoken at home</b>	<input style="width: 95%;" type="text"/>	
<b>Telephone (home)</b>	<input style="width: 95%;" type="text"/>	<b>Telephone (work)</b>
	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<b>Name and address of school previously attended (if any)</b>		
<input style="width: 95%;" type="text"/>		
<b>Signature of parent/Guardian</b>	<input style="width: 95%;" type="text"/>	<b>Date</b>
	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>

Return your completed application and all supporting documentation to:  
 Islamia Primary School (VA), [

]

*\*Please enclose a stamped self-addressed envelope if you wish to receive confirmation of your reference number.*

**PLEASE REFER TO THE 'IMPORTANT NOTES' SECTION AT THE BACK OF THIS FORM**

## QUESTIONNAIRE

Note: Only **ONE** person should give answers on the application form,  
either the mother, father or a guardian

### Part 1a Basic Practice of Islamic Faith (max. 16 points)

- Tick Yes (√) or No (x)
- 1 Do you pray regular Salah (not including Jumu'ah)?  4
- 2 To whom do you normally make your annual Zakah payments (indicate below)? 3
- I pay my Zakah to a UK charity
  - I pay my Zakah to an overseas charity
  - I pay my Zakah personally to needy individuals
  - I am not eligible to pay Zakah
- Please note that your application will not be penalised if you are not eligible to pay Zakah, but you must indicate this above.
- 3 Do you fast in the month of Ramadhan?  3
- 4 Have you performed pilgrimage (Hajj)? If so, when? \_\_\_\_\_ (date)  3
- If you have not performed Hajj, please give your reasons. Please note that your application will not be penalised if you have not performed Hajj but have a valid reason for not having done so.
- \_\_\_\_\_
- \_\_\_\_\_
- 5 Have you helped your child to learn the Qur'an? Please give details.  3
- \_\_\_\_\_

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### Part 1b Active Commitment to Islam (max. 26 points)

*(In this section we are looking for evidence of your practical involvement in Islamic activities, other than those areas already covered in Part 1a. Please give as much detail as you can.)*

- 6 What Islamic learning activities are you currently attending on a regular basis (i.e. study circles etc.)?  4
- \_\_\_\_\_
- \_\_\_\_\_
- 7 Are you affiliated to an Islamic organisation or association, either in the UK or abroad?  3
- \_\_\_\_\_
- 8 (a) Have you ever worked – paid or voluntary – at Islamia Schools? If so, in what capacity and when? **If you have answered 'Yes' to this question, please now go to question 9 and continue from there.**  7
- \_\_\_\_\_

(b) Have you ever been a paid employee at a Muslim organisation (not Islamia)? If so in what capacity and when?  4  
**If you have answered 'Yes' to this question, please now go to question 9 and continue from there.**

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(c) Have you, **in the past year**, carried out any official voluntary or da'wah work on behalf of a Muslim organisation? If so, in what capacity and when?  2

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4

9 Have any of your children attended Islamia Primary School prior to the school achieving Government funding (Grant-Maintained Status)? Please give their names and the number of years they were at the school.

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10 Have any of your children attended any other Muslim school? Please give details.  2

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11 Have you supported Islamia Primary in any way prior to it attaining Government funding? If so, in what way (tick appropriate box below)?

- Fundraising  1
- Lobbying local MP for VA or GM status  1

12 Do you exert any control over what your children watch on TV / Internet / or what they read in books and magazines?  2

13 Are you observant with regards to checking the ingredients on food packages?  2

14 Please provide a separate written reference supporting your application from either the Imam of your local mosque, a representative of a Muslim organization, or a recognized member of the Muslim community. Your application **will not** be considered otherwise.

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## Part 2 Social & Welfare Needs (max. 17 points)

Please indicate if you or the child falls in to one or more of the following categories. You must provide, **at the time of application**, documentary evidence to support your case:

- 15 Is the child an orphan / foster child?  4
- 16 Are you severely physically disabled?  4
- 17 Are you at present:
- A widow, widower or divorced  2
- 18 Do you have full refugee status?  2
- 19 Are you a convert/revert to Islam?  5

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## Part 3 Siblings (brothers/sisters at the school) (max. 10 points)

- 20 Does the child have any brothers or sisters currently attending Islamia Primary School? If so, please give the full name and year group of the child that has been at the school for the longest depending period.  4-10  
group on year
- \_\_\_\_\_

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## Part 4 Proximity (max. 3 points)

- 21 Please give your full permanent address including the post code:  1-3  
depending on distance
- \_\_\_\_\_
- \_\_\_\_\_

End of questions.

**Note: this document was retyped by the CLAE, with no changes to the text.**

## Important Notes

By completing and signing this application form ALL applicants confirm and understand that:

- (a) only **ONE** person should give answers on the application form, either the mother, father or a guardian;
- (b) they have received and understood the school's latest admissions policy in its entirety, and have understood the procedure by which the application will be assessed;
- (c) this application supersedes all other applications previously submitted for this child;
- (d) the application form will be scored and the highest scoring applicants will be awarded places. Scores that can be achieved for each question are shown on the application form;
- (e) in completing this form, questions are to be answered fully as the application form is the sole basis on which you will be awarded or denied a place at the school;
- (f) incomplete questionnaires will lead to a loss of points;
- (g) failure to provide the supporting documentation requested will nullify the application;
- (h) parents are aware of the deadline for applications and that applications received beyond the deadline will not be considered;
- (i) Islamia Primary is a one-form entry school admitting 30 pupils per age group;
- (j) both parents may be asked to attend the school to verify the contents of the form.
- (k) the information submitted in the form is correct and that any misleading information or contradictions will have negative implications on the application and, if the child has already been admitted to the school, could lead to expulsion;
- (l) language support in Arabic, Urdu or Somali is available (please ask for other languages). Please book an appointment for this. However, the application form must be completed in English;
- (m) only children of the correct school age will be admitted into each respective year;
- (n) unsigned applications will not be accepted;
- (o) the school no longer holds a Wait List and the date order of application will not be a criteria;
- (p) membership or support for any organization deemed illegal within the UK or whose conduct is detrimental to the aims, objectives and ethos of the school may lead to immediate disqualification of the application or exclusion from the school;
- (q) in the event of two or more applications having equal scores, the applicants scoring highest in **Part 1a** will be awarded a place, then those scoring highest in **Part 1b**, and so on through all the sections of the form;
- (r) applications should be delivered to the school address.

**Note: this document was retyped by the CLAE, with no changes to the text.**

## Islamia Primary School (VA)

Dear Brother/Sister in Islam,

Date: \_\_\_\_\_

Ref No: AA \_\_\_\_\_

The Admissions Committee of the Governing Body has had an opportunity to assess your application; based on this assessment I would like to invite you to meet the Admissions Committee on \_\_\_\_\_ at \_\_\_\_\_.

If the above appointment is inconvenient, please telephone the school on ( ) as soon as possible to rearrange the appointment. However, please note this is not a guarantee that your child will be accepted. Furthermore, failure to attend without a valid reason will automatically disqualify your application.

For this stage, please bring your child/ren's Birth Certificate and written evidence to support the following:

**NB this information must provide by the parent or guardian who completed the application form.**

- That you are regularly attending Islamic learning activities ↑
- That you are affiliated to an Islamic organisation or association, either in the UK or abroad ↑
- You have ever worked-paid or voluntary-at Islamia Schools ↑
- You have been a paid employee at a Muslim organisation (not Islamia) ↑
- In the past year you have carried out any official voluntary or da'wah work on behalf of a Muslim organisation ↑
- That any of your children have attended any other Muslim school ↑
- The child is an orphan/foster child ↑
- You are severely physically disabled ↑
- You are at present; a widow, widower or divorced ↑
- You have full refugee status ↑

- You are a convert/revert to Islam

1

Please provide the information denoted by a tick.

Wa Salaam

Admissions Administrator  
(Signed on behalf of the Admissions Committee)

***Note: this document was retyped by the CLAE, with no changes to the text.***

**Appeals Statement on behalf of the Admissions Committee  
of Islamia Primary School**

-----  
Appeal by (Family Name):  
On behalf of (child name):  
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The family is appealing against the decision not to give a place in Reception class to their child. Entry is requested for the academic year 2004/05.

Islamia Primary School is a one-form entry school. The Approved Admission Number for the school is 30 children for entry into Reception class. The School received 189 applications for 30 places.

This year the lowest scoring applicant that was admitted gained 37 points. The appellant in question received 36 points and were thereby considered to have scored insufficient points.

For on and behalf of the Admissions Committee of Islamia Primary School

*Note: this document was retyped by the CLAE, with no changes to the text other than to omit the name and reference number.  
It was sent to the Appeal Panel in September 2004.*