



Office of
the Schools
Adjudicator

Determination

Case references: VAR2186 and VAR2187

Admission authority: governing board for Holy Cross Roman Catholic Primary in the local authority area of Bristol City Council

Date of decision: 13 October 2021

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by the governing board for Holy Cross Roman Catholic Primary School for September 2021 and 2022.

I determine that the catchment area for the school should include the parish for St Pius X Catholic Church.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with 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.

The referral

1. The governing board for Holy Cross Roman Catholic Primary School (the school) has referred proposals for variations to the admission arrangements for September 2021 and 2022 (the arrangements) for the school to the adjudicator. The school is a voluntary aided school for children aged four to eleven in the local authority area of Bristol City Council (the local authority). The school has a Catholic religious character and its faith body is Clifton Diocese (the faith body).

2. The proposed variations are that the catchment area for the school should be extended to include the catchment area of a previous Catholic school which closed on 31 August 2021.

Jurisdiction and procedure

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which deals with variations to determined arrangements. Paragraphs 3.6 and 3.7 of the School Admissions Code (the Code) say (in so far as relevant here):

“3.6 Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it must consult the governing body of the school before making any reference.

3.7 Admission authorities **must** notify the appropriate bodies of all variations”.

4. The governing board has provided me with confirmation that the appropriate bodies have been notified. I find that the appropriate procedures were followed, and I am satisfied that the proposed variations are within my jurisdiction. I am also satisfied that it is within my jurisdiction to consider the determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention and determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

5. In considering these matters I have had regard to all relevant legislation, and the Code.

6. The information I have considered in reaching my decision includes:

- a. the referrals from governing board dated 2 September 2021, supporting documents and further information provided at my request;
- b. the determined arrangements for 2021 and 2022 and the proposed variations to those arrangements;
- c. comments on the proposed variations from the faith body and further information from the faith body including the guidance provided to Catholic schools on

admissions; a map showing the catchment areas for the relevant areas; and further information in response to my enquiries; and

- d. information available on the websites of the local authority, the school and the Department for Education (the DfE).

The proposed variations

7. The arrangements for the school have oversubscription criteria which include a catchment area based on the parish of Holy Cross Church. The governing board has requested that its catchment area be extended in order to include the parish of St Pius X Catholic Church. The parish of St Pius X Catholic Church was the catchment area for another Catholic school, St Pius X Roman Catholic Primary School, which closed on 31 August 2021. The catchment area would, if I agree the variations, include the area covered by the two parishes. The proposed variations are for the arrangements for both 2021 and 2022. The governing board said it wishes to extend its catchment area so that every Catholic child in the area of the Clifton Diocese lives in the catchment area for a school with a Catholic religious character.

8. The existing oversubscription criteria for the school are, in summary:

- 1) looked after and previously looked after Catholic children
- 2) Catholic children living in the parish of Holy Cross Church
- 3) other Catholic children
- 4) other looked after and previously looked after children
- 5) children who are catechumen
- 6) other children.

9. The variations would simply add to category 2) so that it gave priority to Catholic children living in the parishes of Holy Cross or St Pius X.

10. If the school were to be oversubscribed within any category, then those with a sibling at the school will have the higher priority. If there is still oversubscription then for criteria 1), 2), 3) and 5) priority will be decided through random allocation. The faith body explained that this was so that Catholic children meeting the relevant criterion would be treated equally and not advantaged or disadvantaged by, for example, how far they lived from the school. Where there is oversubscription within criteria 4) or 6), and therefore amongst children who are not Catholic, then children living closest to the school are given priority. There is a tie-break of random allocation if necessary for criteria 4) and 6).

11. The governing board for another Catholic primary school, the School of Christ the King Primary (SoCKP) has made a similar request for variations which I mention here as

the proposed variations also include extending the catchment area for SoCKP to include the parish of St Pius X Catholic Church. I am also the adjudicator for these cases (case references: VAR2184 and VAR2185).

12. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variations requested are justified by the change in circumstances.

Consideration of proposed variations

13. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Clearly it is desirable that changes to admission arrangements are made via the process of determination following consultation as the consultation process allows those with an interest to express their views. It also allows for objections to the adjudicator as the date for objections has passed. None of these options is afforded by the variation process.

14. The governing board said in its proposal that it wished to extend the catchment area so that it included the parish of St Pius X Catholic Church because “The closure of St Pius X School, will mean that the Catholic children of St Pius X Catholic Parish will no longer have a designated Catholic school serving their parish. It would then be the only Catholic parish within the Diocese without a designated school – meaning that the Catholic children of the parish would be at a disadvantage when applying for an alternative Catholic school.”

15. Paragraph 1.38 of the Code says, “Admission authorities for 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 the guidance complies with the mandatory provisions and guidelines of this Code.” The guidance laid out by the faith body provides the pattern for the oversubscription criteria described above. The guidance also says, “It is the responsibility of Catholic schools, in co-operation with each other and other admission authorities, and with the assistance of the diocese, to ensure that the maximum number of Catholic children are able to take advantage of a Catholic education provided by a local Catholic school. Catholic schools should therefore work with each other to ensure that places are provided equitably for all local Catholic communities (including Eastern Catholic Churches and ethnic chaplaincies)”.

16. The faith body has given its clear support to the proposals made by the governing board as the proposals to extend the catchment area are in line with its guidance. The faith body also provided me with a map of the relevant catchment areas for the school, SoCKP and that previously used by Pius X Catholic Primary School. The map shows that the existing catchment area for the school borders the parish of St Pius X Church for most of the north/south edge. It would therefore appear that some of those families seeking a

Catholic education for their children who live in that parish would reasonably look to the school for a place for their child now that St Pius X has closed.

17. The effect of the extension of the catchment area is that all Catholic children who live in the proposed catchment area will have a similar chance (unless a sibling of an existing child at the school) of being admitted. If the catchment area were not to be extended then Catholic children living in the parish of St Pius X would have a lower chance of being admitted to the school or any other Catholic school and this would not be in line with the guidance provided by the faith body.

18. As I said above, there are also proposed variations to the SoCKP in order to extend the catchment area of that school to include the parish of St Pius X Catholic Church. Every determination of an adjudicator is made upon its own merits and no determination sets a precedent for another determination. I do note, however, that the catchment area for SoCKP borders the parish of St Pius X Catholic Church on part of its west/east edge. It would therefore appear that the two schools, SoCKP and the school, would be closer to different parts of the parish of St Pius X Catholic Church. I further note that there would be additional benefits to those Catholic children living in this parish if all the variations were agreed as these children would have a high priority for both schools.

19. However, the map shows that the parish of St Pius X Catholic Church is based largely around the town of Withywood and there is no suggestion that it would be beneficial to split the parish for the purposes of school admissions so that part of it would be within the catchment of the school and part within the catchment of SoCKP. While this would avoid a situation in which some children lived within two catchments, there is nothing in the Code that prevents an area being in the catchment area for more than one school. Moreover, the proposals from the school and from SoCKP, which are endorsed by the faith body, are that the parish of St Pius X Catholic Church should be included in the catchments of both schools.

20. Paragraph 1.14 of the Code says, "Catchment areas **must** be designed so that they are reasonable and clearly defined." The purpose of the proposed catchment area in this instance is clearly in line with the faith body's guidance as described above and so the proposed catchment area is reasonable. In addition, the maps provided to me indicate that the proposed catchment area is clearly defined.

21. According to the DfE website, 'Find and compare schools in England,' there are nine other schools that admit children to reception year within one mile of the school so there are clearly several options for parents when stating their preferences. These variations are proposed so that every Catholic child lives in the catchment area for at least one Catholic school. It is desirable in many cases that there is some sort of match between the number of children living in a catchment area and the number of places available at the school. The faith body has provided me with information on the number of Catholic children admitted to the three schools (the school, SoCKP and St Pius X) in recent years and it is clear that, as the school has a PAN of 30, that even if all the Catholic children living in the proposed

catchment area were to have sought admission to the school, the school would not have been oversubscribed within that criterion. This is an indication that such oversubscription is unlikely to occur for 2021 or 2022. I also note that living in a catchment area for a school does not guarantee admission to the school in question.

22. I have considered carefully the information provided to me. The major change of circumstances in this case is the closure of St Pius X Catholic School. In response, the governing board wishes to extend the catchment area so that every Catholic child lives in the catchment area for at least one Catholic primary school. This is in line with the faith body's guidance and has the faith body's support. I have considered all the information provided to me and I approve the proposed variations.

Consideration of the arrangements

23. Having considered the arrangements as a whole it appeared to me that the following matters may not conform with requirements of the Code and so I brought them to the attention of the governing board. Paragraph 14 of the Code says, "In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated." The matters I brought to the attention of the governing board were as below (with the relevant paragraph of the Code in brackets):

- 23.1. The supplementary information form (SIF) on the school's website is dated 2021. The SIF is part of the admission arrangements for the school for 2022 and this should be clear (14).
- 23.2. The SIF says it, "can be used to clarify the evidence required if you wish your application to be considered on religious grounds i.e. under 1.1-1.6 of our admission criteria." There is a further reference to "1.6". As these numerals are not used in the oversubscription criteria and do not appear to relate to it, this could make the arrangements unclear (14).
- 23.3. A SIF is permitted to request further information necessary to apply oversubscription criteria but admission authorities "**must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria." The SIF asks for information on "Current School/Nursery". This does not meet the requirements of the Code (2.4).
- 23.4. A new Code came into force on 1 September 2021. The Code now requires that "those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted" are considered as a first priority with looked after and previously looked after children (noting that the Code permits children of the

faith priority before looked after and previously looked after children not of the faith). This priority for those described is not yet clear in criteria 1 and 4 of the arrangements (1.4 and 1.7).

24. The governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the governing board has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.

Determination

25. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by the governing board for Holy Cross Roman Catholic Primary School for September 2021 and 2022.

26. I determine that the catchment area for the school should include the parish for St Pius X Catholic Church.

27. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.

28. 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.

Dated: 13 October 2021

Signed:

Schools adjudicator: Deborah Pritchard