



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2120

Admission authority: The Governing Board for Thrapston Primary School, Northampton

Date of decision: 14 October 2021

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board for Thrapston Primary School for September 2021.

I determine that the published admission number for admissions in September 2021 shall be 60.

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 board of governors of Thrapston Primary School (the school) has referred a proposal for a variation to the admission arrangements for the school for September 2021 to the Office of the Schools Adjudicator. The school is a foundation school for children aged three to eleven and the local authority is North Northamptonshire Council (the local authority). The admission authority for the school is the governing board although the referral was made through the local authority. I note also that the local authority is a new unitary authority which came into being on 1 April 2021.

2. The proposed variation is that the published admission number (PAN) be reduced from 90 to 60.

Jurisdiction

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that:

“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

4. I am satisfied that the proposed variation is within my jurisdiction. The governing board determined the arrangements for 2021/22 seven months later than the statutory deadline. However, that does not affect my jurisdiction to consider the arrangements. Although the application for a variation was submitted by the local authority, the chair of governors has confirmed that the governors support the application and agree that the local authority can act on their behalf.

5. 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.

6. A revised Code came into force on 1 September 2021, which means that the 2014 Code no longer has any effect. I have used the references in the new Code unless the context would make it appropriate to refer to the 2014 Code.

Procedure

7. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

8. The documents I have considered in reaching my decision include:

- a. the referral from the governing board, supporting documents and further information provided at my request;
- b. correspondence with North Northamptonshire Council who submitted the application at the request of the governing board;
- c. the determined arrangements for 2021 and the proposed variation to those arrangements;
- d. a map showing the location of the school and other relevant schools;
- e. a copy of the email notifying the appropriate bodies about the proposed variation; and

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

Aspects of the arrangements that may not conform with the Code

9. Paragraph 14 of the Code sets out that:

“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.”
10. Having considered the admission arrangements as a whole, it appeared to me that the following matters, which were included in the admission arrangements on the date of submission to the OSA, did not conform with the requirements relating to admissions as follows:
 - i. The admission arrangements on the school’s website do not make clear that they are for admission in 2021/22. The arrangements for 2022/23 should have been determined by 28 February 2021 and are also required to be on the school’s website now. Paragraph 1.47 of the Code refers.
 - ii. Paragraph 1.6 of the Code sets out that “All children whose Education, Health and Care (EHC) plan names the school **must** be admitted.” The oversubscription criteria at the school state that children with an EHC plan that names the school are oversubscription criterion 2, that is after the first oversubscription criterion which is for looked after and previously looked after children. This does not meet paragraph 1.6 as children with an EHC plan must be admitted before any oversubscription criteria are applied.
 - iii. The arrangements do not appear to inform parents of children starting school of their right to request part-time education or to defer admission until the child reaches compulsory school age. These rights, and the requirement to tell parents about these rights, are set out in paragraph 2.16 of the 2014 Code and 2.17 of the new Code.
 - iv. The section titled “Requests for admission outside the normal age group” does not include all the relevant information set out in Paragraphs 2.17, 2.17A and 2.17B of the 2014 Code and repeated in paragraphs 2.18 – 2.20 of the current Code including the admission of summer born children once they reach compulsory school age and the process for making a request for a child to be admitted outside the normal age group.
 - v. The detail of Rule 2 is not clear as it includes children with an EHC plan (but see ii above), children who have been adopted from state care outside of England and children with social and medical needs. The additional information requested under this criterion sets out the information that may be necessary to consider the application. However, these are three separate groups and the arrangements have not made clear the specific information necessary for each group.
 - vi. The definition of siblings in Rule 3 is not clear as required by paragraph 1.11 of the Code.

- vii. Rule 5 refers to a priority area. A priority area is another name for what the Code refers to as a catchment area. Paragraph 1.14 states that catchment areas must be clearly defined but the arrangements are not sufficiently clear.
- viii. Paragraph 1.8 of the Code requires that there is a clear tie-breaker “to decide between two applications that cannot otherwise be separated.” The example given in the arrangements is not effective if two addresses are the same distance and they are not in a block of flats.
- ix. Paragraph 1.13 of the Code sets out more detail about how the “distance from home to the school will be measured, making clear how the ‘home’ address will be determined and the point in the school from which all distances are measured.” The arrangements do not include this detail.
- x. Paragraph 2.14 of the 2014 Code and 2.15 of the new Code sets out that admission authorities **must** maintain a waiting list until at least 31 December of each school year of admission. This information does not appear to be included in the arrangements.

The proposed variation

11. The school is situated in the town of Thrapston; the DfE database shows two other schools which admit to the Reception year (YR) within two miles of its postcode. The admission arrangements, including a PAN of 90, for 2021/22 were determined by the governing board, who are the school’s admission authority, on 8 October 2020. This is some seven months after the statutory deadline for determining arrangements for 2021 which was 28 February 2020.

12. The local authority said, “A drop in demand for primary school places in this area of the county has led to surplus capacity significantly exceeding DfE recommended limits and this change will allow the school to structure appropriately in response to this demographic change.” I was also told, “Consecutive low intakes in the recent academic years, combined with larger cohorts leaving the school at the end of Year 6 having resulted in a significant decrease in the number of pupils on roll at the school and this is now impacting on the school’s budget.”

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

14. Paragraph 3.6 of the Code also requires that the appropriate bodies in the relevant area are notified of a proposed variation. The local authority has provided me with a copy of the notification, issued on behalf of the governing board, on the proposed variation. I am satisfied that all appropriate bodies have been notified. I find that the appropriate procedures were followed.

Consideration of proposed variation

15. The governing board had hoped to reduce the PAN at the school for admissions in 2020 “and for successive years” and agreed to request the reduction at a meeting on 10

October 2019. The request was subsequently forwarded to the local authority for action. I am not clear why this approach was taken and indeed that is not a matter for me, but I do note that, as the school is a foundation school, the governing board is the admission authority and in law it was (and remains) its responsibility to make any application to the adjudicator for a variation to its arrangements. In any case, no application was submitted at that time to the OSA although the chair of governors told me that the school asked for regular updates about the progress of this request. It is also the case that in October 2019 the school could have consulted on a reduced PAN for 2021 but it did not do so. In short, the PAN remained at 90.

16. I have scrutinised the data to consider if there will be sufficient school places in the local area if the PAN is reduced from 90 to 60 for September 2021; the demand for places at the school; the reasons given for the change; the potential effect on parental preference; and whether the change is justified in the circumstances.

17. The local authority has a duty to make sure that there are sufficient places for the children in its area and will assess the future number of places likely to be needed and how it will meet that need. Planning areas, groups of schools in the same area, are in place across the local authority. The school is located in the Prince William primary planning area of East Northants district. The data provided to me sets out the number of places in the planning area, the number of children in 2021 and the number forecast in future years.

Table 1: number of places for admission to YR in the Prince William planning area with forecast of demand based on existing PANs of schools admitting to YR

	2021	2022	2023	2024	2025
Sum of PANs	295	295	295	295	295
Number of children admitted/expected to be admitted	223	221	189	204	204
Number of vacant places	72	74	106	91	91
Number of vacant places as a percentage	24%	25%	36%	31%	31%

18. Table 1 provides evidence that across the planning area there will be a high number of YR vacant places in 2021 and beyond. It does not take account of the proposed reduction in the school’s PAN for 2021. The local authority wrote, “Sufficient levels of surplus capacity in other ‘Prince William Primary’ planning area schools that will be more than sufficient to meet demand from September 2021 and for as long as projections are available. Pupil projection forecasts indicate a large and increasing level of surplus capacity within the Reception cohort that is anticipated to start school in the planning area in future academic years.”

19. In the notification of the proposed reduction in PAN, the local authority wrote, “This PAN reduction is being proposed, as the level of surplus capacity in the planning area in which the school is located is in excess of Department for Education (DfE) recommended limits. The DfE recommends that between 5 and 10% of the total capacity in any given planning area be retained as surplus, to allow for the placement of ‘In Year’ applicants requesting a school place, whilst allowing existing schools in the area to maintain financial viability.”

20. I turn now to the numbers at the school.

Table 2: number of first preferences and places allocated for the school

September	PAN	Number of first preferences	Number of places allocated
2021	90	56	57
2020	90	59	63
2019	90	52	52
2018	90	70	73
2017	90	59	59
2016	90	63	65
2015	90	64	69

21. Clearly the school has not admitted to its PAN of 90 for a number of years and from 2017 the number of first preferences are, with one exception in 2018, below the proposed PAN of 60 and the reduction in PAN will have little impact on parental preference. This is particularly the case given that the number of YR places expected to be needed across the area is continuing to fall. The local authority told me, “Pupil numbers will be stabilised and the school will be able to implement a suitable staffing structure for this lower number of pupils. This will allow more robust financial planning and put the school on a sounder financial footing which will inevitably benefit all pupils that attend the school.”

22. The governors had hoped to reduce the PAN for 2022 as well as 2021. As the arrangements including a PAN of 90 have already been determined for 2022, my decision in relation to 2021 can have no effect on the 2022 arrangements. This means that a further variation request would be required in order for a reduction in the PAN for 2022 to be considered. The number of places applied for at the school will be known early in 2022 and places will be offered in mid-April 2022. The school will have until the end of May 2022 to set its staffing levels based on the number of children that it expects to have on roll. If at that time, there is a need to adjust the PAN then an application could be made, and a decision taken based on the circumstances at the time. Furthermore, there would be an opportunity for the governing board to undertake a full consultation with parents and others later in 2021 about the admission arrangements for 2023 before the arrangements are determined early in 2022. On this basis, I am content to approve the variation for 2021.

Consideration of the arrangements

23. I set out above the ways in which I considered the arrangements might not conform with the Code. Although I did not receive a response from the school to my concerns about the admission arrangements, I note that the most recent arrangements posted on the school’s website have been amended to address most of them. However, the arrangements still do not explicitly state which year they apply to and, at this time of year, both the arrangements for admission in September 2021 and 2022 are required to be present. The arrangements on the website state that they were approved by the Full Governing Board on 23 September 2021 with the next review on 1 September 2022. However, paragraph 1.46 of the Code sets out that admission authorities must determine admission arrangements by 28 February in the determination year. Consequently, the arrangements for entry in September 2022 should have been determined by 28 February 2021. More importantly at

this stage, the arrangements for 2023 are required to be determined by 28 February 2022; something that seems incompatible with a review date of September 2022.

24. The normal year of entry to the school is the Reception year (YR). For each year which is a normal year of entry a PAN must be set. The PAN represents the minimum number of children who must be admitted if enough apply. If the school was intended regularly to admit more children (perhaps on transfer from an infant school) it would also be required to set a PAN for the appropriate year – likely to be Year 3 (Y3). There are junior schools in North Northamptonshire and their normal point of admission is Y3 so the concept of Y3 admissions is not unusual in the area. For any particular school, however, admissions to any point in the year to year groups which are not normal points years of entry are in law “in-year” admissions even if they occur in September. For such admissions there is no PAN and the test for whether or not a child who seeks a place should be admitted is whether or not the admission would cause prejudice to the efficient provision of education or efficient use of resources.

25. In the section of the arrangements for the school explaining how to apply for a place in the normal admissions round, the arrangements refer to the ‘normal point of entry (Reception, Year 3)...’ My understanding is that Y3 is not a normal point of entry for this school. It is accordingly confusing to include Y3 as a normal point of entry for this school as it is not. The Code, at paragraph 1.2, refers to the ‘relevant age group’ and adds ‘This is the age group at which pupils are or will normally be admitted to the school...’ As the only normal year of entry to this school is to YR, any reference to Y3 is misleading and should be removed.

26. The arrangements continue to have a catchment area (see paragraph 10ii) but instead of ‘priority’ area it is now referred to as a ‘defined’ area. However, the reference to Thrapston and Denford as the defined area is not sufficiently clear without more detail – whether through the inclusion of a clear map or list of postcodes or streets for example.

27. Under the heading ‘In-year Admissions’ there is a statement ‘If the school’s published admission number has been reached in a child’s year group, we will not be able to offer a place at the school.’ The PAN of course applies only to the relevant year of entry and not to other year groups. The references to waiting lists are still not correct as the Code sets out in paragraph 2.14 that admission authorities must maintain a waiting list until at least 31 December of each school year of admission. That date is beyond the end of the autumn term.

Determination

28. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the Governing Board for Thrapston Primary School for September 2021.

29. I determine that the published admission number for admissions in September 2021 shall be 60.

30. 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.

31. 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: 14 October 2021

Signed:

Schools Adjudicator: Lorraine Chapman