



## DETERMINATION

**Case reference:** VAR694

**Admission Authority:** The governing body of Cardinal Wiseman Catholic Technology College, Birmingham

**Date of decision:** 14 December 2016

### Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements for 2016 and 2017 determined by the governing body of Cardinal Wiseman Catholic Technology College, Birmingham.

I determine that for admissions in September 2016 and 2017 the Published Admission Number shall be 120.

### The referral

1. The governing body of Cardinal Wiseman Catholic Technology College, Birmingham (the school) has referred a variation to the Adjudicator about the admission arrangements for the school for September 2016 and 2017. The school is a secondary voluntary aided technology college in Birmingham. The school has a religious designation as a Roman Catholic School and is within the Archdiocese of Birmingham. The variation request is for a reduction to the Published Admission Number (PAN) from 129 to 120.

### Jurisdiction

2. 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”.*

I am satisfied that the proposed variation is within my jurisdiction.

## **Procedure**

3. In considering this matter I have had regard to all relevant legislation, guidance and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:
  - the Chair of Governors' letter of referral of 20 October 2016 and supporting documents;
  - the determined arrangements for September 2016 and 2017 and the proposed variation to those arrangements;
  - correspondence from Birmingham City Council (the local authority);
  - correspondence from the Archdiocese of Birmingham (the diocese);
  - further correspondence from the school concerning the consultation and determination process including governing body minutes;
  - a copy of the council's booklet for parents seeking admission to schools in the area in September 2016; and
  - a copy of the letter notifying the appropriate bodies about the proposed variation.

## **Background and consideration of factors**

4. The school is a voluntary aided secondary school for 11 to 16 year olds in the Kingstanding area of Birmingham. The governing body of the school is the admission authority. In the past three years the school has been consistently undersubscribed and therefore the oversubscription criteria have not been implemented. Currently there are 545 pupils on roll and the DfE net capacity is calculated at 697.
5. The published admission arrangements for September 2016 and 2017 indicate a PAN of 129 and the variation requests that this is reduced for both admission years to 120. The main reason given by the school is to ensure that class sizes do not rise above 30 pupils which would disadvantage other children in the classes. Falling rolls in the past few years has resulted in a reduction in the number of forms of entry to four. The school suggests that September admissions in the past two years have been accommodated in four classes but in-year admissions have been arranged up to the PAN of 129 and this has caused issues with larger classes. The school has informed me that initially it planned to determine its arrangements with a PAN of 110 but was not able to do so because the local authority did not undertake on its behalf the consultation required before changes can be made to arrangements. The school says that it did ask the local authority to do this and the local authority had agreed to do so. Whatever the circumstances, the arrangements can at this stage only be changed by means of a variation approved by the adjudicator.

6. The school has consulted the diocese on the proposed variation and has notified the appropriate bodies in line with the Code.
7. In its response to the variation the local authority stated that it agreed with the proposed variation and that the determined PAN of 129 does not allow the school to support its curriculum model within the available resource. It suggested that the reduced PAN would enable the school to continue with their school improvement journey by providing stability in resources and curriculum delivery. The local authority goes on to say that if the variation is agreed, the reduced PAN will be captured within the local authority's school place planning. However, it suggested that this was relevant only for the 2016-17 arrangements as it states that the 2017-18 arrangements have a PAN of 110.
8. The diocese stated that there was some discrepancy between the school and the local authority on the PAN for the 2017-18 arrangements but nevertheless fully supported the school's variation request.
9. The process of determining PANs for the two years has been confused because of a lack of understanding of the timeframes on the part of the school and a lack of effective communication between the school and the local authority.
10. I have investigated the processes undertaken to arrive at this confusion and will explain this separately for each of the two admission years. According to the Code, for admissions in September 2016 any consultation was required before 1 March 2015 and the arrangements had to be determined by 15 April 2015. The governing body minutes show that the arrangements for September 2016 were determined with a PAN of 129. At a subsequent governing body meeting a paper was put to governors suggesting a reduction in PAN to 110; the paper was discussed and agreed. The governors decided to ask the local authority to conduct a consultation on their behalf reducing the PAN to 110 for September 2016. There is also mention in the minutes of this meeting of contact with the diocese and a proposal to reduce the PAN to 110 for admissions in September 2017. I have not seen the documentation which went from the governing body to the local authority and therefore I do not know if the request for consultation was for 2016 or 2017 admissions. The deadline for consultation and determination on the 2016 arrangements had already passed at that time therefore the local authority was not in a position to arrange consultation to impact on the September 2016 arrangements. The determined arrangements including a PAN of 129 therefore stands. However, I have seen evidence which shows that the local authority did undertake a consultation on behalf of the school for a reduction in PAN from 129 to 110 for admissions in September 2017.
11. For admissions in September 2017 the consultation process should have been concluded by 31 January 2016 and the arrangements determined by 28 February 2016. At the meeting on 11 May 2015 the governing body agreed to request consultation by the local authority to

reduce the PAN from 129 to 110. There is confusion in the minutes as to which year this refers to and therefore the local authority conducted the consultation for admission in 2017. I have seen a series of emails between the school and the local authority which confirm the following timeline for this consultation. In November 2015 the school asked if the consultation had been undertaken and the local authority said that it had not but that the reduction in PAN to 110 for September 2017 would be the subject of consultation imminently. The appropriate consultation did take place in November and December 2015. In February 2016 the reduction in PAN to 110 was recorded in the minutes of the local authority's cabinet meeting. This was inappropriate and inaccurate as it is for the admission authority, in this case the governing body, to determine the arrangements including the PAN and not the local authority. It would seem that the results of the consultation carried out by the local authority on the school's behalf was not communicated to the school and the school determined a PAN for September 2017 of 129.

12. A series of communications between the school and the local authority in April 2016 (after the deadline for consultation and determination of arrangements) shows that the school asked whether consultation had taken place and was told that it had and that the PAN for 2017 was agreed at 110. However, as noted above, this was not the case as the local authority had no power to set the PAN. The school and the local authority then agreed that the PAN should in any case be set at 120 for 2017. The local authority informed the school that a variation was not necessary as this would be an increase in PAN from 110 to 120 which, according to paragraph 1.3 of the Code, does not require a variation request. This paragraph states that "*own admission authorities are not required to consult on their PAN where they propose either to increase or keep the same PAN*". It is clear that the school were unaware of the consultation and its outcome in time to determine the 2017 arrangements with a PAN of 110 and therefore the published PAN remains at 129 and does therefore require a variation to set it at 120 as it is a reduction in PAN.
13. I am of the view that the school has shown a lack of understanding in terms of the timeframes required for consultation and determination and that the local authority has been lax in its communication with the school concerning the timing and outcomes of the consultation.
14. The current determined arrangements show a PAN of 129 for both intake years and all the parties agree that the optimum PAN for the school is 120. I therefore agree this variation request.

## **Conclusion**

15. It is clear from the governing body minutes that a reduction in PAN has been properly considered and agreed. The local authority and the diocese are in agreement with the reduction and the reasons for the reduction are valid. There has clearly been a lack of understanding on the part of the school in terms of required timeframes for consultation

and determination of admission arrangements and a lack of effective communication from the local authority concerning consultation and its outcomes which have led to both parties publishing different PANs for the school. The published arrangements determined by the governing body set the PAN for 2016 and 2017 admissions at 129 and these are the statutory arrangements. I therefore agree the variation to reduce the PAN to 120 for 2016 and 2017 arrangements in line with the request.

### **Determination**

16. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the governing body of Cardinal Wiseman Catholic Technology College, Birmingham.

17. I determine that for admissions in September 2016 and 2017 the Published Admission Number shall be 120.

Dated: 14 December 2016

Signed:

Schools Adjudicator: Ann Talboys