



Determination

Case reference:	VAR814
Admission authority:	The Governing Board of St Bernadette's Catholic Primary School, Farnborough
Date of decision:	21 March 2019

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 of St Bernadette's Catholic Primary School, Farnborough for September 2019.

I determine that for admissions in September 2019 the published admission number shall be 33.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements for 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 St Bernadette's Catholic Primary School (the school) has referred a proposal for a variation to the admission arrangements for the school, for September 2019 to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 4 to 11 in Farnborough and is designated as having a religious character. Hampshire County Council is the local authority for the area and is a party to the referral. The Diocese of Portsmouth (the diocese) is the religious authority for the school and a party to the referral.
2. The proposed variation is to reduce the Published Admission Number (PAN) from 45 to 33.

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.

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.

Procedure

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

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

- the referral from the board of governors sent on 31 January 2019, supporting documents and further correspondence;
- the determined arrangements for 2019 and the proposed variation to those arrangements;
- a copy of the local authority’s booklet for parents seeking admission to schools in the area in September 2019;
- a copy of the minutes of the meeting of the Admissions Committee of the school on 5 March 2018 which recorded the determined admission policy for 2019/2020 had been sent to the local authority and the diocese in advance of the deadline of 28 February 2018;
- a copy of the email from the Chair of Governors confirming agreement to apply for the variation;
- a copy of the email notifying the appropriate bodies about the proposed variation;
- a copy of the email notifying the appropriate bodies about a consultation on the school’s admission arrangements for 2020/2021; and
- comments received on the proposed variation from the other parties.

Other matters

8. When I considered the arrangements, I noted a number of ways in which they appeared not to conform with the requirements relating to admissions. I raised these with the school. The school, to its credit, responded swiftly and made a number of revisions to its determined arrangements (as permitted by paragraph 3.6 of the Code which provides so far as is relevant here for admission authorities to revise arrangements to conform with the mandatory provisions of the Code) in order to ensure that the arrangements conformed. In relation to those matters where the school has revised its arrangements, I have not referred to those matters or discussed them in this determination. However, some matters remained in the revised arrangements which I consider did not or might not conform with the Code and these were:

- a. The school gives some priority to children of other faiths and the relevant oversubscription criterion states that *“Applications under this criteria must be supported by a baptismal / dedication certificate or supporting letter from your faith leader confirming membership.”* Baptism is a Christian rite so it seems rather odd to feature it in relation to priority for children from non-Christian faith traditions and may make the arrangements unclear (1.8 and 14).
- b. The arrangements contain a statement in relation to children potentially joining the school at Year 3 which reads as follows: *“The Governors reserve the right to alter this number in KS2, by 2 as appropriate”*. The school has confirmed that it does not have a separate PAN for admission at Year 3 and that Year 3 is not a normal year of entry for which a PAN must be set. This could make the arrangements unclear (14).

Background and consideration of the case

9. The governing board determined the admission arrangements, including the PAN, for September 2019 on 26 February 2018. The school has had a PAN of 45 for some years with the exception of 2016 when this was increased to 60 and a ‘bulge’ class was created because of the demand for places in the area. The school was inspected by Ofsted in February 2018 and received a Requires Improvement (RI) assessment.

10. The governing board has applied for a variation to reduce the PAN to 33 in 2019 as it says *“the school is having serious trouble balancing the budget due to the number of unfilled places throughout the school (currently 17, most of which are in the lower school).* The request for a PAN of 33 is because that is the number of first preference applications to the school for admission in September 2019.

11. The governors say that *“the variation for 2019/2020 would result in the following: reduction of [Year]Y1 deficit from -£62k to -£9k and reduction of Y2 deficit from -£216k to -£191k, with initial calculations, and more cost savings are expected with further analysis. Better curriculum and teaching group provision earlier than anticipated.”*

12. The school sent me the following information about applications to the school.

September	PAN	Number of first preferences	Number of places allocated
2019	Tbc	32 (now 33)	

September	PAN	Number of first preferences	Number of places allocated
2018	45	39	41
2017	45	42	45
2016	60	56	60
2015	45	45	45

The local authority's forecast for the number of places expected to be required at the school in the next three years.

	Number of places forecast to be required
2019	42 (actual 32, now 33)
2020	44
2021	41

13. I shall consider the case made by the governors for the reduction to its PAN and also comments and information from the local authority and the diocese. I shall bring in other information which is relevant to this request but refers to the PAN for 2020. The Admissions Committee of the governing board met on 30 October 2018 to review the numbers on roll and also a proposed reduction in PAN to 30 from September 2020. At that time, the governing board had also sought the views of the diocese on its wish to consult on a reduced PAN for 2020. After statutory consultation the governing board agreed a PAN of 30 for 2020/2021.

14. The school's business manager wrote to the diocese on 23 January 2019 to request agreement to apply for the variation of the PAN for 2019; at that time 32 was proposed. She reported *"Disappointingly we have had only 32 first preference on time applications. The local authority have said that they would support us in applying to the Office of the Schools Adjudicator to apply for a Pan variation to 32. This would avoid us paying for an extra class teacher and the associated costs for a half empty class. We currently have 39 in Year R and 40 in Year 1 and nobody on the waiting list. As long as we do not have a rush on applications we could vertically arrange the classes for September into 4 of the maximum infant class size of 30, with 9 places spare."* The Director of Education for the Catholic Academies and Schools Office at the diocese replied on 29 January 2019 that she was happy for the school to apply formally to reduce the PAN.

15. The minutes of the meeting on 30 October 2018 give some background to the governing board's concerns about pupil numbers. *"VR [Business Manager at the school] had produced various figures to demonstrate the need to reduce the PAN from both a catholicity perspective and a budgetary perspective. Figures from HCC [Hampshire County*

Council] show that the number of children starting school in the area in the next few years is to drop which is likely to mean there are more unfilled spaces at the school. Single year classes are also beneficial given that the school has received a RI judgement.”

16. The local authority commented on the governors’ application for a reduction in PAN: *“ I cannot comment on the demand for Catholic places at St Bernadette’s as we do not forecast that, but can confirm that this would cover the first preference on time applications made within the admissions round, so I would have no concerns from that perspective.”* The local authority wrote that it forecast 39 for the school for 2020/2021 and 38 for 2021/2022. *“We had forecast 42 for September 2019, but the school has only received 33 first preference applications so this forecast may be a little too high.”* The local authority also submitted detailed forecasts for the North Farnborough Planning Area, in which the school is situated, which indicate sufficient places.

17. The Director of Education at the diocese supported the application for the reduction writing *“I fully support the request made by the school for an in year variance to its PAN. The school has already had approval to reduce its PAN in 2020, it is merely a case of bringing that date forward. The applications for Reception 2019 do not warrant a PAN of 45 and leaves the school vulnerable to part filled classes which would prove a drain on the financial resources of the school.”*

18. I am very clear that the application for the variation applies to admission in September 2019 only but the governors carried out a consultation to reduce the PAN to 30 from September 2020. I have found it helpful in considering the case to look at the school’s website, which sets out the rationale for the reduction in September 2020. The statutory consultation ran from 27 November 2018 to 8 January 2019. It sets out *“ A PAN of 45 currently results in mixed age classes. A reduction of the PAN to 30 will result in single form entry which will enable teachers to plan more effectively for age related expectations, leading to improved outcomes for all.....The school is struggling to fill the 15 extra places and therefore does not receive the level of funding as for a full cohort. This is putting the school under significant financial pressure. There has been a significant drop in the number of Catholic families seeking places at St Bernadette’s in the last two years. A reduction in the PAN would preserve the religious nature of the school.”* Governors have agreed a PAN of 30 for entry to YR in 2020 following statutory consultation.

19. I turn now to the ways in which I considered the arrangements did not or might not conform with the Code. For ease of reference I begin by setting out below the revised oversubscription criteria for 2020/2021 sent to me by the school:

- 1. Baptised Catholic looked after children or Baptised Catholic children who were previously looked after but immediately after being looked after became subject to an adoption, child arrangement or special guardianship order.*
- 2. Baptised Catholic siblings who at the time of application, have a baptised Catholic brother or sister on roll at the school and who will still be on roll at the time of the sibling’s admission.*
- 3. Baptised Catholic children living within the North East Hampshire Pastoral area (see <http://www.st-bernadettes.hants.sch.uk/admissions/> for details of the NE Hampshire Pastoral area).*
- 4. Baptised Catholic children living outside the Pastoral area named in category 3.*

5. *Other looked after children or children who were previously looked after but immediately after being looked after became subject to an adoption, child arrangement order or special guardianship order.*
6. *Children of families who are members of other Christian denominations with priority given to siblings who at the time of application, have a brother or sister on roll at the school and who will still be on roll at the time of the sibling's admission. (Applications under this criteria must be supported by a baptismal/christening certificate or supporting letter from your faith leader confirming membership.)*
7. *Un-baptised children of a baptised Catholic parent, supported by a Baptismal Certificate of the parent.*
8. *Children from other faiths. (Applications under this criteria must be supported by a baptismal/christening certificate or supporting letter from your faith leader confirming membership.)*
9. *All other children.*

20. The school gives an element of priority to children from non-Christian faith traditions in its category 8. It is clear that this category is restricted to non-Christians as Christian children who are not Catholic are given a higher priority under category 6. However, the first means of demonstrating membership of a faith in category 8 is "a baptismal/christening certificate". Baptism is a Christian rite and while other faiths do, of course, have ceremonies to welcome infants and children to membership they would be highly unlikely to refer to them as baptism and even less likely to use the term "christening". The wording used by the school makes the arrangements unclear and potentially confusing to parents. For other faiths, a letter from the relevant faith leader confirming membership of the faith should be sufficient.

21. The arrangements contain a statement in relation to children potentially joining the school at Year 3 which reads as follows: "*The Governors reserve the right to alter this number in KS2, by 2 as appropriate*". The school has confirmed that it does not have a separate PAN for admission at Year 3 and that Year 3 is not a normal year of entry for which a PAN must be set. Should applications be made to join the school at Year 3, these would fall to be treated as in-year admissions. With very limited exceptions, parents have a right to express a preference for a place at a school at any time. The school has a duty to comply with the application for a place at the school unless to do so would prejudice the provision of education or the efficient use of resources (section 86 of the School Standards and Framework Act 1998). The school cannot limit its consideration of the application by any number in the way suggested. The statement does not conform with the requirements relating to admissions

22. I note that the school sent me revised admission arrangements for 2020/2021 on 14 February 2019 as set out above in paragraph 19. The arrangements listed nine oversubscription criteria. However, on the school's website, the school listed not only the admission arrangements for 2020/2021 above but another heading about the 2020/2021 arrangements titled "*DRAFT (2)*" which lists ten oversubscription criteria. In this version a further oversubscription category has been inserted as criteria number 7 which reads "*Baptised/Dedicated' Christian children of other Christian denominations*" and the lower numbered categories have been renumbered accordingly as 8, 9 and 10. Clearly, having two versions of the arrangements for 2020/2021 is confusing and not clear to parents and not in conformity with paragraphs 14 and 1.8 of the Code

23. The Code requires the admission authority to revise its arrangements to address the matters set out above and to do so within two months of the date of this determination.

Summary

24. I have considered the school's request to reduce the PAN at this point before applications are considered for admission in September 2019 and agree the case they have made which is supported by the local authority and the diocese.

25. There are a number of aspects of its arrangements, which the school needs to amend. Paragraph 3.6 of the Code states that admission authorities can revise their arrangements to give effect to a mandatory requirement of the Code, admission law or a determination of the adjudicator. Not all the issues I have raised are now relevant for the admission year 2019/2020 but the school must amend the date when waiting lists must be held. However, the school has determined arrangements for 2020/2021 and the changes need to be made for that year within two months of the date of this determination.

Determination

26. 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 of St Bernadette's Catholic Primary School, Farnborough for September 2019.

27. I determine that for admissions in September 2019 the published admission number shall be 33.

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

Dated: 21 March 2019

Signed:

Schools Adjudicator: Lorraine Chapman