



Office of
the Schools
Adjudicator

Determination

Case reference: VAR885

Admission authority: Interim Executive Board for Raine's Foundation School, Tower Hamlets, London

Date of decision: 24 October 2019

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the Interim Executive Board for Raine's Foundation School for September 2020.

I determine that the published admission number for September 2020 will remain at 150 for Year 7.

The referral

1. The Interim Executive Board (IEB) for Raine's Foundation Church of England School (the school) has referred a proposal for a variation to the admission arrangements for September 2020 to the Office of the Schools Adjudicator (OSA). The school is a voluntary aided secondary school for children aged 11 to 18 in the London Borough of Tower Hamlets, which is the local authority for the area. The London Diocesan Board for Schools (the diocese) is the religious authority for the school.
2. The proposed variation is to reduce the published admission number at Year 7 to zero in 2020. It was also proposed that the PAN at Year 12 should be reduced to zero. I shall say more about that later in this determination.

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 and I note that the late determination of the arrangements (which I discuss below) does not affect my jurisdiction to consider the proposed variation.

Procedure

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

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

- a. the referral submitted by the local authority, supporting documents and further information provided at my request;
- b. the determined arrangements for 2020 and the proposed variation to those arrangements;
- c. the consultation document relating to the possible closure of the school, and
- d. a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2020.

The proposed variation

7. The admission arrangements for 2020/21 were determined by the IEB on 24 June 2019. The PAN for the school was set at 150 for Year 7 (Y7). The arrangements were determined some four months after the deadline for determination. In this context, there were changes made to the senior leadership of the school, following Ofsted's judgement in 2015 and 2017 that the school 'Requires Improvement', with the replacement, by the Regional Schools Commissioner and the local authority, of the governing board of the school with the IEB. I note that the IEB was put in place in October 2018 and should therefore have been able to determine the arrangements for 2020 by the deadline of 28 February 2019 rather than nearly four months late. In seeking the variation, the local authority (on behalf of the IEB) wrote:

"The LA I [is] seeking for the OSA to agree an in-year variation to Raine's School's 2020/21 admission arrangements, whereby there would be a zero intake to the Year 7 and 12 for Sept 2020.

Raine's Foundation School was first judged to 'Require Improvement' in November 2015 and this judgement was repeated in 2018 [which must refer to monitoring visits in 2018

rather than a full inspection, the last of which was in 2017]. Pupil numbers were falling prior to both inspections and this has continued at significant rate (see table below).

Improvements to standards have been made over this academic year, but unfortunately pupil numbers have continued to fall. The school is currently half full and there are now only 6 children whose parents have confirmed their acceptance of a place in Year 7 for September 2019. The Raine's pupil roll will therefore decrease further from September.

The School's income has been falling in line with pupil numbers and has now reduced considerably. Such significant a reduction in its funding has had a detrimental impact on the ability of the School to provide a high quality education. Council officers and the Diocese have been monitoring the situation closely, but the financial position and its impact on the quality of education has reached the stage whereby the LA and Diocese have agreed to consult on the closure of the School from as early as August 2020.

Staff and parents have been informed of the proposal and that the LA/Diocese will be applying to the OSA for an in-year variation to the School's admission arrangements whereby there would not be an intake to the Year 7 and 12 for Sept 2020."

8. The local authority on behalf of the IEB also requested a reduction to zero for the PAN at Year 12 (Y12). As there is no reference in the admission arrangements to a PAN at Y12 I asked the local authority on 20 September 2019 for more information. The Secretary to the OSA had written to the local authority on 19 August 2019 *"I should make the point that so far as the PAN for Y12 in concerned, this is only relevant to those students applying for a place from other schools. The PAN does not apply to students progressing from Y11 at Raine's and any decision by an adjudicator to approve a proposal for a PAN of zero for Y12 does not allow the admission authority to prevent students in Y11 from moving to Y12."* The local authority confirmed that a PAN had not been set for Y12 in 2020/21 and told me that in relation to Y12 places it would add the following on the school's website *"Raine's Foundation will only consider applications for external students, if places remain after applications for internal student have been considered. However, please note that the School is subject to proposals for it to close in August 2020 and is therefore not yet able to confirm whether there will be a 6th form intake for entry in the 2020/21 school year."* As there is no PAN at Y12 I am unable to consider the request to reduce it to zero.

9. The local authority also submitted a request on 3 May 2019 again on behalf of the IEB to reduce the PAN at Y7 to zero for admissions in 2019. I did not have jurisdiction to consider the variation as the admission arrangements had not been determined.

10. 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.

11. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The local authority told me that it had notified the admission authorities

of the other schools in the relevant area and neighbouring local authorities about the proposed variation for 2020. It has also notified the headteachers and governing bodies of schools in the LA. I am satisfied that all relevant bodies have been notified and I find that the appropriate procedures were followed.

Consideration of proposed variation

12. The local authority, the IEB and the diocese have been considering the closure of the school. As I am given to understand it, the intention would be that pupils currently attending the school would transfer to Oaklands School, a nearby secondary community school, which would expand from four to seven forms of entry. The local authority published a consultation document on the closure of the school setting out the various stages of the process to close a maintained school. The document includes information about the low number of pupils attending the school, the financial implications of low numbers, the need for high quality education and the performance and capacity of Oaklands School. A consultation has taken place during June and July 2019 involving parents, the wider community and other interested groups. The Cabinet of the local authority will meet on 30 October 2019 to consider a paper setting out the results of the consultation and the local authority will take the decision about whether to move to the next stage of the process. If the local authority decide to move forward with the closure, it will publish a statutory notice and proposals (the proposals). Immediately following the publication of the proposals, there is a four week representation period during which any body or person can comment on or object to the proposals. The local authority then has two months to make a decision whether or not to approve the proposals. If they do not make a decision, the proposals are referred to the OSA for a decision. It is possible therefore that proposals to close the school may come to an adjudicator.

13. The local authority has placed information about the possibility that the school will close in August 2020 on both the school's website and in its prospectus "*Starting Secondary school in September 2020*".

14. The local authority has not yet made the decision to publish a statutory notice and proposals to close the school, let alone taken the formal decision to approve any such proposals to close the school. If the proposals are published and approved in the form currently envisaged, the school will close in August 2020. It will not therefore be in a position to admit any children in September of that year. If, on the other hand, proposals are not published or are published but not approved (by the local authority or the adjudicator as the case may be) the school will be open in September 2020 and able to admit pupils. Against this background, my judgement is that it is not therefore appropriate to approve the application to reduce the PAN for 2020. This is, it seems to me, inappropriately to pre-empt the statutory process for the closure of a maintained school. The school's future is not yet clear. If the local authority decide to publish a statutory notice and proposals, and following the representation period, to make a decision to close the school, there is no need to reduce the PAN for the school as it will close in August 2020. If the school is to remain

open, there is no reason why parents should not have the opportunity to seek places there for their children if they wish. There is a further possibility: that proposals may be published but with a closure date of September 2021 or some later year. In that case, I can see that the local authority might not wish children to start at the school only to have to move in one or two years. However, that is not what the local authority tells me it plans and, in any case, is not in my view justification for pre-empting the statutory closure process. I do not, therefore, agree that the PAN may be reduced as requested.

Summary

15. The local authority is carrying out the statutory process to close the school but until that decision has been made it is not appropriate to determine a reduction in PAN which would not be necessary if the school does close and which may not be appropriate if it remains open.

Determination

16. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the Interim Executive Board for Raine's Foundation School for September 2020.

17. I determine that the published admission number for September 2020 will remain at 150 for Year 7.

Dated: 24 October 2019

Signed:

Schools Adjudicator: Lorraine Chapman