



Office of
the Schools
Adjudicator

Determination

Case reference: VAR1960

Admission authority: The governing board for Yarmouth Church of England Aided Primary School, Isle of Wight

Date of decision: 2 November 2020

Determination

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

I determine that the catchment area is extended to include the parishes of Freshwater and Totland and that an oversubscription criterion is added to give priority to children living in those parishes after those living in the parish of Yarmouth and before other children as described in this determination.

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

The referral

1. The board of governors of Yarmouth Church of England Aided Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2021 for (the school), to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 2 to 11 in Yarmouth on the Isle of Wight (the local authority).

2. The proposed variation is to clarify and then extend the school's catchment area to include the parishes of Freshwater and Tolland and to add an oversubscription criterion to give children living in those parishes priority for admission after those living in the parish of Yarmouth and before other children.

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 have seen evidence that the appropriate bodies in the relevant area have been notified of this proposed variation and 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:

- a. the referral from the board of governors dated 16 October 2020 and supporting documents;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. a map showing the location of the school and other relevant schools;
- d. a copy of the notification to the appropriate bodies about the proposed variation;
and

- e. comments received on the proposed variation from the Diocese of Portsmouth (the diocese) which is the representative religious body for the school.

Consideration of the arrangements

- 8. When I received the arrangements, I noted that:
 - a. The arrangements referred to residence orders which have been replaced by child arrangements orders and so the arrangement may not be clear as is required by paragraph 14 of the Code.
 - b. The arrangements did not meet the requirements of paragraph 2.17 of the Code to make clear the process for requesting admission outside of the normal age group.
 - c. In the case of a primary school, children will be three or four years old at the time the supplementary information form (SIF) is completed. These arrangements allow for the child to sign the form, not only does this appear irrational, but asking a child to complete a SIF is prohibited by paragraph 2.4 of the Code.
- 9. When I raised these matters with the governing board it undertook to revise the arrangements accordingly and the diocese offered its support to the school in addressing these issues. I will not discuss these matters again in this determination.

The proposed variation

- 10. The school is a voluntary aided school for children aged 2 to 11 situated in Yarmouth on north west edge of the Isle of Wight. It is federated with a voluntary controlled Church of England school in Newport. The school has a published admission number (PAN) of 15 and the oversubscription criteria can be summarised as:
 - 1. Looked after and previously looked after children
 - 2. Children with a serious medical, physical or psychological condition that makes it essential that they attend the school.
 - 3. Children living in the catchment area
 - i. Active members of a Christian church
 - ii. Siblings of children at the school
 - iii. Other children
 - 4. Children not living in the catchment area
 - i. Active members of a Christian church

- ii. Siblings of children at the school
- iii. Other children

The arrangements include definitions of active church membership and other terms used. Proximity to the school is used as a tie-breaker followed by random allocation to separate children who may live the same distance from the school.

11. The local authority has been leading a reorganisation of schools on the Island. As part of this reorganisation it approved the closure of All Saints Church of England primary School in Freshwater to take effect on 31 August 2020. The admission arrangements for the school were determined on 2 October 2019 and the closure of All Saints was agreed by the local authority on 9 January 2020. The closure decision thus represents a major change in circumstances since the arrangements were determined. The next step in the reorganisation in this area is for the school to move to the site of the closed school when building work has been completed. This is expected to be in 2022. The relocation of the school does not require statutory processes because the distance between the sites is less than two miles.

12. The proposal is to clarify the existing catchment area and to extend the catchment area to include the parishes previously served by the now closed school at Freshwater. These are the two most westerly parishes on the island extending out to the Needles; their boundaries are clearly shown on the maps provided with the proposed arrangements. The proposal adds an oversubscription criterion between the current third and fourth criteria which gives priority for admission to children living in these parishes in the same subsidiary order as those living in the Yarmouth parish which is set out above.

13. The governing board said that it intends to consult on new arrangements for 2022 which will reflect the school's planned relocation. This proposal, it says, is to reflect the interim position and to support families in the area where the local school has now closed.

Consideration of proposed variation

14. The catchment area is defined in "F" in the current arrangements to be "the Ecclesiastical Parish of St James and may in addition include the Local Authority defined catchment area." This definition does not meet the requirements of paragraph 1.13 of the Code for catchment areas to be clearly defined due to the word "may". It either does, or it does not and if it does then the additional area must be defined. Part of the requested variation is intended to clarify the existing catchment area as "the Yarmouth Parish" and provides a clear map showing it. The new proposed third criterion reads "A child living in the Yarmouth Parish catchment area of The School: (see Definition C). It is followed by the three sub-categories described above.

15. Because this part of the variation addresses a matter where the arrangements do not conform with a mandatory requirement of the Code, the governing board could make this

part of the variation without seeking my consent. However, definition C is that of active membership of a Christian church used in the first sub-category, not the map of the catchment area which I would have expected to be directed to at that point in the arrangements. I am therefore using my power under section 88E of the Act to modify the proposed variation by replacing “see Definition C” with “see attached map”.

16. It is not clear to me why, if the closure of the school at Freshwater was approved in January 2020, the application for a variation was not made until October 2020. That said, this proposal does not change the priority that children in the Yarmouth parish have for the school, it but does give children from the area where a school has closed greater priority than other children on the island.

17. The Department for Education database shows that the school has the capacity for 140 children, with just over 90 on roll. It is not for me to revisit the rationale for the reorganisation, but it would seem that the school is not oversubscribed from within Yarmouth parish and in September 2021 would have the capacity to take children from the additional parishes prior to its relocation. The school may admit over PAN if the demand from the new area requires this and if the school could accommodate more than 15 children in the year group with prejudice to the efficient provision of education or efficient use of resources.

18. The proposed new fourth criterion includes the same issue as the revised third criterion in that reference is made to “see Definition C” which concerns active membership of a Christian church rather than directing the reader to a map of the parishes. I am therefore using my power under section 88E of the Act to modify the proposed variation by replacing “see Definition C” at the end of the new fourth criterion with “see attached map” as I have done for the third criterion.

19. I also note that while both parts of the catchment area are clearly defined in the revised criteria themselves and the boundaries are clear on the map, the definition labelled “F” of the catchment area later in the arrangements has not been changed to reflect either the clarification of the boundary of the Yarmouth parish or the addition of the new part of the catchment area. I am therefore modifying the first sentence in definition F from “The catchment area for Yarmouth Church of England School is the Ecclesiastical Parish of St. James’ and may in addition include the Local Authority defined catchment area” to “The catchment areas for Yarmouth Church of England School are shown on the attached map.”

Summary

20. The proposed variation represents a sensible interim step within a wider reorganisation of schools in the area. It supports families in an area where a school has closed and prepares for the planned relocation of the school in 2022. I therefore approve the proposed variation modified as described above.

21. There are some matters in the arrangements which do not conform with the Code which the governing board is addressing with the support of the diocese.

Determination

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

23. I determine that the catchment area is extended to include the parishes of Freshwater and Totland and that an oversubscription criterion is added to give priority to children living in those parishes after those living in the parish of Yarmouth and before other children as described in this determination.

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

25. 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 this determination.

Dated: 2 November 2020

Signed:

Schools Adjudicator: Phil Whiffing