



Office of
the Schools
Adjudicator

Determination

Case references: VAR1030 & VAR1352

Admission authority: The Governing Body of Lowdham Church of England Primary School, Lowdham, Nottinghamshire

Date of decision: 13 November 2020

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by The Governing Body of Lowdham Church of England Primary School for Lowdham Church of England Primary School for September 2021.

I determine that in relation to VAR1030 the oversubscription criteria shall be amended to include the additional criterion “3: Whether the child is resident within the catchment area at the closing date for applications” as set out in this determination.

I determine that in relation to VAR1352 the variation is approved with a modification as set out in this determination.

The referral

1. The board of governors of Lowdham Church of England Primary School (the school) has referred two proposals for variations to the admission arrangements for September 2021, to the Office of the Schools Adjudicator. The school is a voluntary aided primary school for children aged 4 to 11 in Lowdham, Nottinghamshire
2. The proposed variations are:
 - 2.1. **VAR1030** a variation to insert an additional criterion “3: Whether the child is resident within the catchment area at the closing date for applications” into the oversubscription criteria as this criterion was omitted in error.

- 2.2. **VAR1352** a variation to add wording as a consequence of the Covid-19 pandemic.

Jurisdiction

3. The referrals were 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 variations are within my jurisdiction.

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 referrals from the governing body each dated 13 July 2020 and supporting documents;
 - b. the determined arrangements for 2021 and the proposed variations to those arrangements;
 - c. evidence of the notification of the appropriate bodies of the proposed variations; and
 - d. any comments received on the proposed variations from the appropriate bodies.

The proposed variations

7. The school is a Church of England voluntary aided primary school in Lowdham, Nottinghamshire, within the area of Nottinghamshire County Council (the Local Authority). The school falls within the Church of England Diocese of Southwell and Nottingham (the Diocese).
8. 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 am satisfied that the realisation of the error in

omitting one of the oversubscription criteria and the Covid-19 pandemic constitutes major changes of circumstance.

9. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The school has provided me with a copy of its notification on the proposed variations. I have seen confirmation from the school's governing board that it supports the request for the variations. I am satisfied that all relevant bodies have been notified and that views expressed have been taken into consideration. I find that the appropriate procedures were followed.

10. The oversubscription criteria as determined for 2021 are, in abbreviated form:

- 1) Where the pupil is a 'Looked After Child' (LAC) or a child who was Previously Looked After (PLAC).
- 2) Whether the child will have a brother or sister attending the school and is resident within the catchment area at the time of admission.
- 3) Whether the child, at the time of admission, will have a brother or sister attending the school (but is outside of the catchment area).
- 4) Whether the child attends organised religious worship linked to the Church of England (i.e. being regular worshippers, at least once per month), and/or are actively involved in the work of the church (including worship) and have been so for a period of at least 12 months prior to the date of application according to the clergy reference.
- 5) Whether one or both parents are practising members of the Church of England (i.e. being regular worshippers, at least once per month), and/or are actively involved in the work of the church (including worship) and have been so for a period of at least 12 months prior to the date of application according to the clergy reference.
- 6) As for 5 and 6 [sic] but in a C.T.E. (Churches Together in England)
- 7) Other applications from children who are outside the catchment area.

Consideration of proposed variations

VAR1030

11. The school states in its application for a variation that the criterion "3: Whether the child is resident within the catchment area at the closing date for applications" was left out in error and has provided copies of the working document which show amendments which support this. It is clear from the oversubscription criteria set out above that no provision is made for children living in the catchment area who do not have a sibling attending the school. The missing criterion could logically be inserted either after 2) above or, alternatively after 3) above. I note that the draft oversubscription criteria suggest that the

missing criterion was after 2) above in earlier years and the application is for it to be after 2) above for 2021.

12. In the circumstances I approve the variation sought so that the missing criterion “3: Whether the child is resident within the catchment area at the closing date for applications” shall be inserted after paragraph 2) above and the subsequent paragraphs renumbered accordingly.

VAR1352

13. Where the school is oversubscribed priority may be given on the basis of faith. The school’s arrangements take account of attendance at places of worship. During the Covid-19 pandemic places of public worship have at some times been closed altogether and at other times not available for public worship or access to such worship has been restricted in the interests of public health. It is against that background that the request for a variation is made. Since the school’s oversubscription criteria include attendance at public worship of a specified frequency over a specified period of time, parents and their children are unable to meet this criterion under the terms of the schools’ current admissions arrangements. In consequence the proposed variations provide that attendance will only have been required at times when places of public worship are open for such public worship.

14. It is beyond question that the Covid-19 pandemic represents a major change of circumstances.

15. The current oversubscription criteria, in relation to faith, read “a period of at least 12 months prior to the date of application”. This is unclear as it could refer to any 12 month period. The school have agreed that this may be modified to read “a period of at least 12 months immediately prior to the date of application”. Subject to that modification the variation is agreed as sought and the additional wording will read:

“Measurement of attendance

In the event that during the period specified for attendance at worship the church has been closed for public worship and has not provided alternative premises for that worship, the requirements of these admissions arrangements in relation to attendance will only apply to the period when the church or alternative premises have been available for public worship.”

Determination

16. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by The Governing Body of Lowdham Church of England Primary School for Lowdham Church of England Primary School for September 2021.

17. I determine that in relation to VAR1030 the oversubscription criteria shall be amended to include the additional criterion “3: Whether the child is resident within the catchment area at the closing date for applications” as set out in this determination.

18. I determine that in relation to VAR1352 the variation is approved with a modification as set out in this determination.

Dated: 13 November 2020

Signed:

Schools Adjudicator: Tom Brooke