

DETERMINATION

Case reference: VAR 577

Admission Authority: The Governing Body of Madani High School,
City of Leicester

Date of decision: 30 July 2012

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the variation to the admission arrangements determined by the governing body of Madani High School.

I determine that for admissions in September 2012 the arrangements shall be those proposed by the governing body amended as set out in paragraph 18 of this determination.

The referral

1. The Governing Body of Madani High School (the School) has referred a variation to the Adjudicator about the admission arrangements for the school, a voluntary aided, mixed, secondary school for September 2012. The variation has been requested in order that the proposal published by the governors to form two separate single sex schools from that date, once approved, should be reflected in appropriate admission arrangements for each of them.

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”.

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

Procedure

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

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

the Chair of Governors' letter of referral of 16 April 2012 and supporting documents. This letter was copied to the appropriate bodies to notify them about the proposed variation;

the determined arrangements for 2012/2013 and the proposed variation to those arrangements;

an e-mail from the City of Leicester Council (the council), dated 11 July 2012, and

a letter from the school's Solicitors, dated 13 July 2012.

6. In addition to considering the matters raised for the variation I have also reviewed the admission arrangements as a whole and considered whether I should use my powers under section 88E (6) of the Act. I am using my powers under the Act to make further changes to the arrangements.

Other matters

7. A revised School Admissions Code came into force on 1 February 2012 and applies to admission arrangements for admissions in September 2013. However, this request is for a variation to admission arrangements that were determined during the period of currency of its antecedent, which is the Code to which I must therefore have regard in making this determination. References to "the Code" which I shall make here are therefore to the 2010 Code.

Background and consideration of factors

8. The Chair of Governors wrote to the Schools Adjudicator on 16 April 2012 seeking an in-year variation to the admission arrangements of the school which would enable it to have appropriate arrangements for September 2012, the point at which the existing school, a mixed school which has an admission number of 120, was to change its character to become a single sex school for girls with an admission number of 60.

9. In that letter, the Chair referred to a previous determination, ADA 1744, dated 22 March 2010 in which the Adjudicator had come to the view concerning the admission arrangements for September 2010 that the desire of the Governors that the existing school admit an equal number of boys and girls could not be achieved within the requirements of the Code. She had explained that a mixed school must allocate places without regard to the

gender of the applicant.

10. In order to address that matter, the Governors have published proposals which would have the effect, in September 2012 of:

(i) changing the character of the existing school to create a single sex school for girls with an admission number of 60, and

(ii) creating a new single sex school for boys, also with an admission number of 60.

11. The Secretary of State gave his approval in November 2011 for The Leicester Islamic Academy Trust, in conjunction with the Governors of Madani High School, to publish proposals outside a competition for a new Muslim Voluntary Aided school for boys. A Statutory Notice was published on 29 March 2012 setting out proposals which would have the effect of creating two separate schools from September 2012. These proposals were determined by the council and I was notified by e-mail on 11 July that the City Mayor had approved the proposals on 9 July 2012, within the two month period (following the end of the period for representations) allowed under the appropriate regulations. That approval was conditional upon the Adjudicator agreeing to a variation in the admission arrangements that would provide compliant arrangements for a girls' school with an admission number of 60. I am now able therefore to consider the variation request.

12. Enclosures with the Chair's letter of 16 April 2012 gave the existing school's admission arrangements for September 2012 and also a document entitled "Madani High School, Leicester : Proposed admission policy 2012/13 – 2013/14". A number of changes had been made to the existing school's arrangements in creating those proposed, as follows:

(i) when describing how unsuccessful applicants for places will be dealt with in terms of the waiting list, the following words have been added "...and if a place becomes available at the school it will be offered to the first position on the waiting list who best meets the published admission criteria for the school". This is a helpful addition and makes explicit in the arrangements the requirements of paragraphs 3.19 and 3.20 of the Code;

(ii) the wording which explains how distance from the school to a parental address is measured has been updated to take account of the use of GEOCODE reference points in the council's electronic measuring system. This is a helpful alteration;

(iii) references to looked after children have been changed to refer to looked after and previously looked after children, in line with the requirements of the Code which came into force in February 2012 for admission arrangements for September 2013 (paragraph 1.7). Although this is not a requirement for arrangements for September 2012, its addition does not make such arrangements non-compliant with the previous Code, and I would see no point in seeking its removal;

(iv) in the oversubscription criterion which affords priority to siblings, the

wording “.....a sibling who is due to be attending the school...” has been replaced by “....a sibling in either of the two schools....”. I shall consider this proposed variation below. Finally,

(v) the oversubscription criterion which gives priority to children of other faiths has been added to by the addition of the sentence “An original supporting letter from a minister of religion will be required.” This is, again, helpful as it provides clarity concerning how the criterion can be satisfied.

13. As I have indicated, with the exception of (iv) all of the above requested variations are helpful and I have no difficulty in accepting them.

14. However, there are number of further changes to the proposed arrangements which are needed if they are to prove suitable for the purpose for which they are intended. I have therefore consulted the school concerning each of the points set out below, each of which is needed if the new arrangements are to achieve the degree of clarity required by the Code:

(a) the arrangements are those which will apply to the new single sex school for girls, which I have understood from correspondence with the council is to be called “Madani Girls School”. The arrangements should therefore state this, and no longer refer to Madani High School.

(b) the admission arrangements which are the subject of this variation request are those which will apply for September 2012, and should be so described;

(c) the arrangements as drafted at no point state that the school is a school for girls only. The most effective way of making this clear would be to make an appropriate statement early in the arrangements, and this can be done by using the phrase “The school is a voluntary aided school for girls and....” at the start of paragraph 3;

(e) in that same paragraph (third line) reference should be to September 2012, not September 2013;

(f) the wording concerning siblings in (iv) above is unclear, since the reader would not know which two schools are referred to. This could be made clear by using the phrase “...who have a sibling in either the school or the co-located boys’ school...”. The wording of any form used to indicate this should be similarly changed.

15. The school wrote to me on 13 July 2012 saying that is was happy to accept all of these changes.

16. Parents seeking places are asked by the school to return information by a specified date, and I asked the school how it wished to proceed in relation to additional admissions it might now make for September 2012. The admission arrangements for the previous mixed school, together with successful appeals, have been applied to offer places for September 2012 to a total of 66 boys and 58 girls. This means that, once the girls school has approved admission arrangements for September 2012 that provide for an admission number of 60, two further admissions can be made immediately. The school has replied that there is an existing waiting list held in the order given by the

oversubscription criteria for the mixed school, and that it would use that waiting list to admit two additional girls according to the new school's arrangements, and no new applications are to be sought. This seems to me to be an appropriate way to proceed.

17. The Code requires, in relation to admission arrangements for September 2012, that they include an admission number which has been set having regard to the capacity assessment of the school (paragraphs 1.16 and 1.17). I have viewed the relevant calculation and am of the view that the admission number of 60 is appropriate for the girls' school in conjunction with an admission number also of 60 for the co-located boys' school.

18. Taking the changes (i), (ii), (iii), (v) and (a) to (f) above together will in my view provide the school with compliant and clear arrangements.

19. The request made on 16 April 2012 envisaged that the same proposed arrangements could be used for each of the new schools, and for September 2013 admissions as well as for September 2012. As explained above, this variation request can in practice deal with the successor school to the previous mixed school, the new girls' school, and its arrangements for September 2012, since it is that school that has changed its character on that date. I have however therefore had brought to my attention the admission arrangements which the governors believed might apply to the new boys' school. I therefore feel it is appropriate to observe that for obvious reasons, exactly equivalent arrangements to those which I am providing to the girls' school through this determination would be appropriate if adopted for the boys' school.

20. The governors will also need to provide each of the two schools with compliant arrangements for admissions in September 2013, and could do so in my view by adopting those now to be in place for September 2012, with only dates amended, should they so choose.

Conclusion

21. For the reasons set out in paragraph 12 above, I agree that those amendments proposed by the governors which are listed there as (i), (ii), (iii) and (v) should be included in the admission arrangements for Madani Girls' School, for September 2012.

22. I have also considered the arrangements as a whole and for the reasons given in paragraph 14 above have decided that further changes should be incorporated into the arrangements. These are set out in paragraph 14 as points (a) to (f).

23. The arrangements for September 2012 shall therefore be those provided to me by the school, with the above changes.

Determination

25. In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the variation to the admission arrangements determined by the governing body of Madani High School.

26. I determine that for admissions in September 2012 the arrangements shall be those proposed by the governing body amended as set out in paragraph 18 of this determination.

Dated: 30 July 2012

Signed:

Schools Adjudicator: Bryan Slater