



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: VAR747

Admission Authority: The London Borough of Waltham Forest for George Tomlinson Primary School

Date of decision: 28 February 2018

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the London Borough of Waltham Forest for George Tomlinson Primary School.

I determine that, for admissions in 2018/2019 only, the published admission number for admission to the Reception Year shall be 60.

I have also considered the arrangements in accordance with section 88I (5) and determine that they do not conform with the requirements relating to admission arrangements.

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 London Borough of Waltham Forest (the local authority) has referred a variation to the adjudicator about the admission arrangements (the arrangements) for George Tomlinson Primary School (the school) for 2018/2019 only. The school is a community school for children aged 2 to 11 years.
2. The requested variation is that the published admission number (PAN) for admission to the Reception Year (YR) for 2018/2019 only should be reduced from 90 to 60. The local authority also requested that, in addition, the PAN should be reduced for Year 1 admissions. However, the school does not in fact have a PAN for Year 1. A PAN is set and applies only to normal years of entry, which for this school is YR. Applications to Year 1 are, in the Code's terms, in-year admissions and fall to be considered as such in the light of the numbers on roll at the time in that year and in light of the requirements of the School

Admissions (Infant Class Sizes) (England) Regulations 2012 (the infant class size regulations).

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 to the PAN for YR is within my jurisdiction. Admission to other year groups, which are not normal years of admission, are not within my jurisdiction and I have not, therefore, considered the issue of admission to Year 1.
5. In reviewing the arrangements as part of my consideration of the application for a variation, I also noted a way in which the arrangements appeared to fail to conform with the requirements of the Code. I have accordingly considered the arrangements as a whole using my power to do so under section 88I of the Act.

Procedure

6. In considering this matter, I have had regard to all relevant legislation, guidance and the School Admissions Code (the Code).
7. The documents I have considered in reaching my decision include:
 - a) The local authority’s referral dated 5 February and supporting documents;
 - b) the determined admission arrangements for admission in September 2018;
 - c) a copy of the local authority’s booklet ‘Starting Primary School 2018’ for parents seeking admission to schools in the area;
 - d) the minutes of the governing body’s meeting on 19 December 2017 at which it was agreed to reduce the school’s PAN to 60;
 - e) the minutes of the local authority’s School Organisation and Admissions Board on 11 January 2018 at which it was agreed that proposals for a variation to the PAN should be made; and

- f) emails from the headteacher to local schools and the London Boroughs of Redbridge and Newham consulting on the proposal to reduce the PAN.

Other matters

8. When I reviewed the arrangements, I noted that they appeared not to conform with the Code in relation to the priority given to looked after and previously looked after children compared to other children.

Background and consideration of case

9. The school is a community school for 2 to 11 year olds. The local authority is the admission authority and therefore determines the arrangements for the school. The arrangements for admission in September 2018 were determined at a meeting of the local authority's Cabinet on 17 January 2017 and published in the booklet 'Starting Primary School 2018'. The determined arrangements for the school show a PAN of 90 for YR admissions in 2018.
10. The local authority reviewed pupil projections in the summer of 2017 alongside late applications for a YR place. With this revised data, submitted as part of its annual School Capacity return, the local authority considered that there were a few planning areas within the borough where primary schools could benefit from seeking in-year variations to reduce PANs so as to pre-empt any need to provide an additional class and/or employ an additional teacher as a result of having to admit one or two additional pupils.
11. The local authority's School Organisation and Admissions Board (SOAB) met on 6 July 2017 and the issue of reducing PANs at undersubscribed schools was discussed. It was decided that a paper would be taken to the next meeting. At the next meeting on 18 September 2017, a paper entitled 'Primary PAN Reductions' was tabled.
12. The paper explained that since 2007 the demand for primary school places had increased across the borough and therefore the PANs for a number of schools were increased to accommodate the 'bulge'. Birth rates peaked in 2013 and since that time have shown a decline. This has resulted in areas of the local authority where there are more primary places available than are actually required. Two schools in separate areas of the borough were identified and applications to reduce their PAN were agreed by the adjudicator.
13. The governing body of the school met on 19 December 2017 and agreed to make an in-year variation to the PAN. Members of the governing body had been sent the minutes of the local authority's resources committee where the issue of the school's financial position had been discussed.

14. The headteacher sent an email consulting on the proposed reduction to the PAN to local schools and the London Boroughs of Redbridge and Newham on 19 December with a consultation end of 16 January. No responses were received. The email proposed a reduction to the current YR as well as admission in 2018/2019. The local authority has subsequently confirmed that the proposal is for 2018/2019 only. The email sets out that a surplus of 65 places in the south area of Waltham Forest was predicted over the next five years. With 185 spaces across the school, it was concerned about going into deficit.
15. The SOAB met on 11 January and it was agreed that the school reduce its PAN, which would benefit the school financially and also help the local authority to reduce its surplus places due to a slight fall in demand.
16. Numbers admitted into YR at the school for the last three years are as follows; 87 in 2015, 81 in 2016 and 54 in 2017. The local authority projects pupil numbers at 60 for the next three years. It sets out that there is a surplus of places in the area. The variation request would set the PAN at a two form entry (that is a PAN of 60) and the school could then plan for this number in the knowledge that it would not have to provide a third YR class in order to comply with the requirements of the infant class size regulations.
17. Paragraph 3.6 of the Code states that *“Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified.”*
18. In view of the current and projected numbers for admissions, I agree that a PAN of over 60 would mean that the in-year admission of a relatively small number of children may necessitate the establishment of a further YR class with the associated employment of another teacher and this would impact on the school’s budget. A PAN of 60 would provide the opportunity to stabilise the finances. I agree this application for a variation to reduce the PAN to 60 for admissions in September 2018.
19. I also identified an arrangement in the oversubscription criteria, which appeared not to conform with the Code. The oversubscription criteria set out, in priority order, how they will be used when there are more applications than places available. Paragraph 1.7 of the Code makes clear that for all schools (with some differences for schools with a religious character which is not the case here) *“the highest priority **must** be given, unless otherwise provided in the Code, to looked after children and all previously looked after children.”* The Code defines further those groups clearly for the purposes of school admissions.

20. The local authority, however, includes within its category of highest priority children 'at risk' which it goes on to define as follows: "*a child is 'at risk' if they are currently on or subject to a Child Protection Plan.*" It is perfectly proper for the local authority to give high priority to a child in such circumstances. However, the Code requires that only looked after children or previously looked after children can be the highest priority. Children 'at risk' do not fall into the definition of looked after or previously looked after children unless they are also looked after. They cannot, therefore, be included in the first priority criterion. The local authority can, if it wishes and following the necessary consultation, give children 'at risk' the second highest priority which is unlikely to disadvantage the application.
21. The Code requires the local authority to vary its arrangements and then to publish its varied arrangements on its website.

Conclusion

22. I agree with the local authority that the surplus of places in the area constitutes a major change in circumstances. I conclude that the variation, which the local authority has requested, is necessary to support the effective running of the school. It is necessary to reduce the PAN to 60 for admissions to YR in order to plan effectively.

Determination

23. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the London Borough of Waltham Forest for George Tomlinson Primary School.
24. I determine that for admissions in 2018/2019 only the published admission number for admission to the Reception Year shall be 60.
25. I have also considered the arrangements in accordance with section 88I (5) and determine that they do not conform with the requirements relating to admission arrangements.
26. 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: 28 February 2018

Signed:

Schools Adjudicator: Mrs Lorraine Chapman