



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: VAR757

Admission Authority: Southampton City Council for St Mark's Church of England Voluntary Controlled Primary School

Date of decision: 18 June 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 Southampton City Council for St Mark's Church of England Voluntary Controlled Primary School.

I determine that for admissions in September 2017 and 2018 that the published admission number for St Mark's Church of England Voluntary Controlled Primary School shall be 60.

The referral

1. Southampton City Council (the local authority) has referred a variation to the adjudicator about the admission arrangements for St Mark's Church of England Voluntary Controlled Primary School (the school). As the school is a voluntary controlled school, the admission authority is the local authority. The school caters for children aged between four and 11 years. The published admission number (PAN) was determined at 90 for 2017 and 2018. The proposed variation is to reduce the PAN to 60 for both of these years.

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.
5. The documents I have considered in reaching my decision include:
 - a. the local authority's letter of referral dated 17 May 2018, supporting documents and further information on the notification of the appropriate bodies received on 11 June 2018;
 - b. the determined arrangements for the school and the proposed variation to those arrangements;
 - c. the most recent Ofsted report for the school;
 - d. a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2018;
 - e. a copy of the letter notifying the appropriate bodies about the proposed variation and all responses received; and
 - f. a copy of the letter consulting the governing board of the school about the proposed variation and the board's response.
6. Paragraph 3.7 of the Code requires that relevant parties are notified of a proposed variation. The local authority has provided me with a copy of its notification of the proposed variation and the list of schools and other bodies to which it was sent. I have seen confirmation from the school that it supports the request for the variation. I am satisfied that all relevant bodies have been notified and that views expressed have been taken into consideration. I note that two schools, apart from the school, responded to the notification and both were in support of the change. I find that the appropriate procedures were followed and the relevant parties notified.

Background and consideration of factors

7. The school is situated in the city of Southampton. It is in an urban situation with over 40 other primary schools within three miles. There are surplus places in the majority of the local schools. The local authority provided data on admissions to reception year (YR) at the school which are shown in the table below.

Year	PAN	Number admitted
2013/14	90	74
2014/15	90	79
2015/16	90	59
2016/17	90	74
2017/18	90	58
2018/19	90	55 allocated as at date of referral

8. The table above illustrates that in 2015 and 2017 that there were over 30 spare places at the school in YR at the beginning of the academic year. While the numbers have been volatile with, for example, 75 admitted in September 2016, it appears likely from the numbers of places allocated that fewer than 60 will join the school in September 2018. The local authority has attributed this reduction in numbers to an extensive housing development elsewhere in the city which has attracted families seeking to move to acquire larger homes. In addition, the local authority explained that the school had a high level of children from mainland Europe who have returned to their home country recently. The local authority has explained that the large number of empty places has a detrimental effect on the school. I have seen evidence that the governing board for the school has been discussing the problems of pupil admissions since at least May 2015. I consider the concerns raised below.
9. Infant class size legislation requires that, bar in excepted cases, an infant class, meaning those in key stage 1 where the majority will reach the age of 5, 6 or 7 during the school year, must not contain more than 30 pupils with a single school teacher. If a school admits, for example, 66 children then it would have to have either three classes of 22 children or mix the year groups (possibly including with children from key stage 2) to create classes of 30 or less for those classes including key stage 1 children.
10. Schools are largely funded on the basis of the number of children attending and classes of 22 are likely to put severe financial strain upon a school. It would not be possible to have two classes of 33 as this would not meet the requirements of infant class size legislation. The alternative of mixed year group classes, for example having YR children and Year 1 children in one class, are not popular with many parents and create additional pressure on staff. It is therefore attractive to the school to have a PAN which makes it likely that it will be able to have infant classes that are close to 30 but not above 30.
11. Currently, with a PAN of 90, even if the school had two classes in YR, which could have been achieved with admissions of 59, then there are problems if additional children apply to join the school later in YR. The school would have to admit these children as its PAN is 90 and applies for the whole of the academic year. Unless these children were excepted children as defined in paragraph 2.15 of the Code, the school would have to create another class to meet infant class size regulations. In other year groups the school does not have to admit to the PAN as the PAN only applies to the year of admission. That said, to refuse admission, the school would still have to demonstrate that admission would create prejudice to the provision of education or use of resources. To do so when numbers were below the level of the PAN which had applied to that cohort in YR might be challenging.

12. If the school already has three classes in a year group then, based on the numbers provided to me, there are likely to be places available for children seeking to be admitted. The local authority has told me that the availability of places has meant that children often join the school for a brief period of time. The local authority has further said that this causes disruption to the learning of these children and possibly their peers and makes class planning difficult. If a school cannot know how many classes it needs to provide then teacher recruitment and retention becomes more difficult. This can be to the detriment of the education being provided.
13. I note that the school has a number of children joining the school in-year and numbers leaving the school in-year. The referral form recorded 48 children joining the school since September 2017 at the beginning of school years other than YR or during the school year in any year group. I can understand that this is disruptive for the school and difficult to manage.
14. I also need to be sure that if the PAN for the school is reduced then there are still school places available for these children seeking a school place. The data provided to me by the local authority shows that there are places available at other local schools and so I am assured that the removal of these places will not result in a child without a school place not being able to be admitted to a local school.
15. Even if those places were not available, paragraph 2.15 of the Code, explains that one of the exceptions to the infant class size regulations is, "*children who move into the area outside of the normal admissions round for whom there is no other available school within a reasonable distance.*" I am therefore assured that it would be possible, if the PAN were reduced to 60, for a child moving into the area to secure a place either at another school within a reasonable distance or, if this were not possible, as an excepted pupil at the school.

Summary

16. The local authority has proposed a variation to the admission arrangements for the academic years commencing September 2017 and September 2018. The variation proposed is that the PAN for those years should be reduced from 90 to 60. This is supported by the school which seeks such a reduction to assist in the efficient management of resources at the school. There have been no concerns raised by those notified. I am assured that the variation will address the major change in circumstances.

Determination

17. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by Southampton City Council. I determine that for admissions in September 2017 and 2018 that the published

admission number for St Mark's Church of England Voluntary
Controlled Primary School shall be 60.

Dated: 18 June 2018

Signed:

Schools Adjudicator: Deborah Pritchard