



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference: VAR759 Branfil Primary School**

**Admission Authority: London Borough of Havering**

**Date of decision: 25 July 2018**

### **Determination**

**In accordance with section 88E of the School Standards and Framework Act 1998, I reject the variation to the admission arrangements determined by London Borough of Havering for Branfil Primary School, Upminster, Essex.**

**I determine that for admission in September 2019 the Published Admission Number will remain at 90.**

### **The referral**

1. The London Borough of Havering has referred a variation to the Adjudicator about the admission arrangements for Branfil Primary School, a 4 to 11 community primary school in Upminster, Essex for September 2019. The referral requests a reduction in the Published Admission Number (PAN) from 90 to 60 for admissions for admission in September 2019.

### **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 of 29 May 2018 and supporting documents;
  - b) the determined arrangements for the school and the proposed variation to those arrangements;
  - c) a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2018;
  - d) a map of the area showing the relevant schools; and
  - e) a copy of the letter consulting the relevant bodies about the proposed variation.
6. I have also taken account of the information I received during a meeting I convened on 18 July at Havering Council offices in Romford. Two representatives from the local authority and the headteacher of the school were present at the meeting.

## **Background and consideration of factor**

7. The school is a 4 to 11 primary school. It is in the London Borough of Havering although its postal address is Upminster, Essex. The referral explains that the school has seen a higher than normal number of pupils move into and out of the school during the academic year 2017 to 2018. The school says that this has caused turbulence in most year groups. The school currently supports six children with special educational needs including some with behaviour issues. Four of these children are currently being assessed for Education, Care and Health Plans (ECHP) but are being supported with 12 hours each of support financed by the school. The school says that this is putting a strain on the school's budget.
8. The school reports that in spite of a strong marketing campaign the numbers of children applying for the school falls short of the PAN. This has been the case for admissions in the current reception year (YR) and years one to four (Y1 to Y4). The school has a deficit budget and has agreed a budget recovery plan with the local authority which assumes a full cohort joining YR in September 2019.
9. The governing board of the school discussed a possible reduction in PAN at a meeting in November 2017 and suggested to the local authority that this reduction should be put in a variation request to the Office for Schools Adjudicator (OSA) for a reduction in PAN from 90 to 60 for September 2018. The local authority assured the governing board that the projected numbers for intake in September 2018 were

“good”. The school reports that the numbers for September 2018 have not materialised and therefore requested a reduction in PAN for 2019 admissions. Following this request from the school, the local authority made this variation request for a reduction in PAN for September 2019 from 90 to 60.

10. The local authority provided a net capacity assessment which shows that a PAN of 90 in each year group can be accommodated comfortably at the school.
11. Although the variation is for September 2019, it is interesting to look at the pattern for admission in previous years. Numbers provided in correspondence by the local authority indicate that in 2016, 81 pupils were admitted; in 2017 there were 76 and for 2018 81. At the meeting on the 18 July, the local authority told me that numbers for 2018 had, in fact, risen and at the time of the meeting stood at 84.
12. Current projections by the local authority indicate that for admission in 2019 the PAN of 90 will be achieved.
13. I explored these figures at the meeting on the 18 July and asked about the number of pupils who exceeded 60 both in 2018 and those projected for admission in 2019. The local authority and the school explained that, had the PAN of 60 been implemented for 2018, it would have meant that 24 children would have been denied a place at the school. Of these 24 children, 12 would have applied to the school as their first preference. In addition, 12 of these children (not necessarily the same 12) would have lived within the school’s planning area. (Upminster and Cranham primary planning area). In answer to my questions about placement of these children, the school suggested that *“by admitting a high number of children from out of borough and at considerable distances from the school means that we experience significant migration mid-year which causes disruption for our pupils”*. The school and the local authority also suggest that those children who applied to the school from within the area but who would not have gained a place if the PAN were 60 could be accommodated at a local undersubscribed school.
14. The Greenwich Judgement prevents admission authorities from discriminating against applicants for school places solely on the basis that they live outside the local authority area in which the school is situated. I am of the view that if the PAN is reduced as requested, even though there is sufficient accommodation in the school to accept the children, then it would, in effect, restrict the admission of these children on the grounds that they live in another borough and this is contrary to the Greenwich Judgement.
15. I am also of the view that it would be unfair both to the children who live in the planning area of the school and those who live outside its planning area to deny them their first choice school by reducing the PAN so that their applications would be unsuccessful and they would be offered places at other schools even though there is sufficient

accommodation in the school.

16. In the delegated budget scheme, funds are allocated to the school based on a number of factors. Most important among these factors is the allocation of funds based on actual pupil numbers on roll. The school suggests that with a PAN of 90 they have to budget for a three form entry in each year group and that, as the numbers in each year group are below the figure of 90, the deficit budget would be increasing over time. The school suggests that the average number in a year group going forward could be 80 and that lack of funding for the additional 10 places would increase the school deficit over the next three years by £108,759 in 2019/20, £165,352 in 2020/21 and £244,575 in 2021/22.
17. I am of the view that this is too simplistic an argument. Firstly, the projected numbers for 2018 and 2019 are 84 and 90 and I do not believe that these figures would reduce the allocated budget to a financially unviable position. Secondly, the school refers to a school 'PAN' of 600 and I drew the attention of the meeting to the definition of a PAN in paragraph 1.2 of the Code which says that "*As part of determining their admission arrangements, all admission authorities must set an admission number for each 'relevant age group'*". This relevant age group refers to the year in which pupils are normally admitted, in this case YR. The PAN does not apply to the other year groups in the school and therefore there are opportunities for the school to organise classes in other ways so that the cost of three teachers for every year group are not incurred.
18. Taking into account the projected numbers for 2018 and 2019 I am not of the view that the financial position for the school would be unviable and I therefore reject this request for a variation.

## Conclusion

19. The school and the local authority believe that admitting fewer children than PAN in successive years is a major change in circumstances and is causing the school to increase an already deficit budget.
20. I am of the view that with a PAN of 90 and 84 children allocated for September 2018 and projected allocation of 90 for 2019 that the gap between numbers admitted and PAN is not sufficient to agree this variation. Further, the suggestion that the reduction in PAN will reduce the number of pupils being admitted from out of borough is unacceptable and contrary to the Greenwich Judgement. In addition, I do not believe it is fair for families living in the area who have expressed a preference for the school to be denied a place through reducing the PAN when there is clearly sufficient room to accommodate them.
21. I therefore reject this request for a variation.

## **Determination**

22. In accordance with section 88E of the School Standards and Framework Act 1998, I reject the variation to the admission arrangements determined by London Borough of Havering for Branfil Primary School, Upminster, Essex.
23. I determine that for admission in September 2019 the Published Admission Number will remain at 90.

Dated: 25 July 2018

Signed:

Schools Adjudicator: Ann Talboys