



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: VAR755

Admission Authority: The Governing Board of Our Lady's Catholic Catholic College, Lancaster

Date of decision: 27 September 2018

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I reject the proposed variation to the admission arrangements determined by the Governing Board of Our Lady's Catholic College, Lancaster for September 2019.

I determine that for admission in September 2019 the Published Admission Number will remain at 180.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements for admission arrangements in the ways set out in this determination. 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 the determination.

The referral

1. The board of governors of Our Lady's Catholic College (the school) has referred a proposal for a variation to the admission arrangements for the school, for September 2019 to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 11 to 18 in Lancaster. Lancashire County Council is the local authority and a party to the referral. The Diocese of Lancaster is also a party to the referral.
2. The proposed variation is to reduce the Published Admission Number (PAN) from 180 to 160.

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 is within my jurisdiction.
5. I am also satisfied that it is within my jurisdiction to consider the determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention and determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

Procedure

6. In considering this matter, I have had regard to all relevant legislation, and the School Admissions Code (the Code).
7. The documents I have considered in reaching my decision include:
 - the referral form from the board of governors dated 29 March 2018, supporting documents and further correspondence;
 - the determined arrangements for 2019 and the proposed variation to those arrangements;
 - a map showing the location of the school and other relevant schools;
 - a copy of the letter notifying the appropriate bodies about the proposed variation; and
 - comments received on the proposed variation from other parties.

Other matters

8. When I considered the arrangements as a whole, I noted the following provisions which I considered did not, or may not, comply with the Code:
 - a. The fifth oversubscription criteria refers to non-Catholic children and 5d) sets out *“Non Catholic children whose families are actively seeking a Christian based education.”* It is not clear how parents can demonstrate they meet this criterion. This may not meet the requirements of paragraph 14 of the Code, which sets out *“In*

*drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”*

- b. The section on waiting list states “*The waiting list will be maintained by the admissions authority for the full autumn term in the academic year of admission.*” However, the Code sets out, in paragraph 2.14, that admission authorities “**must** maintain a waiting list until at least 31 December of each school year of admission.” The autumn term ends over a week before 31 December.

Background

9. The school’s PAN has been 200 for some time although – until 2018 - it had not admitted that number for many years. The school has reduced the number of teaching and support staff over time because of the financial impact of having lower pupil numbers. The school has acknowledged a modest improvement in pupil numbers more recently but the numbers on roll in 2017/18 were much lower than a PAN of 200 would indicate being:

Year 11 - 68
 Year 10 - 123
 Year 9 - 116
 Year 8 - 128
 Year 7 - 149*

10. The table below sets out the total numbers expressing a preference for Year 7 at the school and admitted in the last few years.

	Published Admission Number	Number admitted	Number of preferences expressed (not all first preferences)	Number of appeals
2017/2018	200	150*	160	0
2016/2017	200	120	125	0
2015/2016	200	105	112	0
2014/2015	200	122	129	0

*numbers submitted by the school

11. Against this background, the governing board undertook a consultation to amend the admission arrangements for September 2019 by reducing the PAN to 180. The consultation period began on 6 November 2017 and, as there were no objections, the

governing board determined “*providing no issues arise from the consultation*” the school’s admission arrangements on 5 December 2017 to include the PAN of 180. I should point out that the consultation period did not meet the requirements of paragraph 1.43 of the Code which sets out that consultations should last for a minimum of six weeks. This change was to support the school in getting its budget back on track. This clearly has not been easy and the school has a three-year plan with the local authority to support those budget changes.

12. The school has not needed yet to draw down on the advance agreed with the local authority but is certain that it will require financial support in 2018/19 and, therefore, is presenting a new three-year plan to the local authority.

Consideration of the case

13. I start by looking at the school’s rationale for proposing a reduction in its PAN from the newly determined PAN of 180 to 160. I have been told that the governors initially decided to model the budget on an expected intake for September 2018 of 160 pupils. This was, in my view, a reasonable approach, taking account of the pattern of admissions over the last three years. The number of applications for the school for admission in 2018 (for which year the PAN was still 200) was, however, higher than the school expected. It was surprised when it learned that enough children had sought places (and not been given places at higher preference schools) that 200 offers to children were being made on national offer day in March 2018. As a result, the governors met in March to discuss the consequences, which would include taking on additional staff for this number.
14. The governors decided that to manage the increase in pupil numbers and ensure the financial stability of the school it was necessary to apply for an in-year variation and reduce the PAN further to 160. The school has said that at 160, it can arrange its staffing and other costs in such a way as to return to budget credit.
15. The school has commented that a reduction in the PAN “*would also be of great benefit to the other local secondary schools as they would then not continue to lose students to us and would therefore not have to continue with their own cost cutting (redundancy) measures over the next few years.*”
16. The diocese has told the school that a reduced PAN of 160 is very significantly more than enough to accommodate all the baptised Catholics in each year group within the area and that it has no objections to the proposal to reduce the PAN. It supports the proposal to ensure consistency in annual budget planning. The local authority also supports the proposed reduction to a PAN of 160.

17. The issue for the school is that with high numbers at Year 7 (Y7) going forward but with low numbers leaving from Year 11(Y11) for some time, the budget is difficult to manage. The school feels that it needs to reduce numbers joining at Y7 not just from 200 to 180 but to 160 as set out in the proposed variation. This, the school says, will allow it to implement its new budget plans.
18. The school says that it needs to take on more teachers and other staff to work with the intake of 200 in Y7 in September 2018 but that the funding for this number of pupils will not be reflected in the budget until April 2019, because of the way that schools are funded. It contends that the combination of admissions at the PAN of 180 determined by the governors for 2019, with the much lower numbers leaving from Y11, *“would cause a deepening deficit which would only level off when numbers stabilised once more – possibly not until 2023/2024. “*
19. It is, I think, helpful if I say a little about how schools are funded and why the admission of 200 pupils has created a problem for the school’s budget. For the first seven months of the school year, the funding for the school is based on the number of pupils on roll in the previous year. In 2018, there will be 68 pupils leaving in Y11 and 200 pupils starting in Y7. Therefore, at a time when the school needs to recruit more staff and resources, it does not have the funding stream to support the additional costs. This position would continue over the next three to four years as smaller groups left in Y11 and larger groups started at Y7. The school has already taken action to reduce the PAN to 180 to improve this position but it contends that it needs the further reduction to address the financial deficit.
20. The school argues that there are sufficient places in other secondary schools to admit pupils who might otherwise have come to Our Lady’s. The table below shows only 2018 numbers as the numbers of children who may apply for places in 2019 will not be known for some while as the deadline for such applications is not until the end of October. There is then a period in which the local authority must assess the applications and work out the highest preference application which can be offered to each child. .

Published Admission Numbers for other local secondary schools
September 2018

		Published Admission Number	As at 28.3.18
			OFFERS
1108	Heysham High School	220	133

		Published Admission Number	As at 28.3.18
			OFFERS
1109	Morecambe Community High School	260	232
1110	Carnforth High School	132	125
1112	Our Lady's Catholic College (Lancaster)	200	200
1113	Lancaster Central Lancaster High School	150	106
1503	Ripley St Thomas Church Of England Academy	280	280

21. The school has commented “*The variation will affect a number of local schools. Central Lancaster High, Morecambe High and Heysham High are likely to find that they have more students being offered places with them in September 2019.*” It has confirmed that it would be happy to consider increasing the school PAN again in future should the local authority’s forecasts make clear that an increase would be important for the area as a whole.

22. However, the one voice that is not being heard is that of parents. Parents applied to Our Lady’s for places for their children in 2018 in greater numbers than previously and 200 children were able to be offered places. If the same number apply for 2019, then some will be disappointed. The school has already reduced the PAN to 180 but a further reduction to 160 inevitably reduces further the scope for more pupils whose parents would like them to be able to attend the school to do so. It is helpful that there are likely to be vacant places in other schools. That, however, is likely to be little comfort to parents who would like their children to attend Our Lady’s. When an admission authority wishes to change its arrangements, including by reducing its PAN, it is required to consult. Parents and others can comment and feel confident that their views will be considered. The school followed this process when it reduced the PAN from 200 to 180. Moreover (and equally importantly) once admission arrangements have been determined, parents are among those who can object to the adjudicator. Parents have not had the chance to object to the proposed variation to reduce the PAN from 180 to 160. Furthermore, if the PAN is set at 160 for 2019 and remains at that level for 2020 or subsequent years, neither parents nor any other body can object to this. That is because objections cannot be made to the decision by the governing board, which is an admission authority for a school, to increase or keep the same PAN (as set out in paragraph 3.3 b of the Code).

23. Against this background and taking into account all the arguments made to me, I am of the view that reducing the PAN to 160 without

consultation and with evidence – albeit only on the basis of one year’s figures – that there is demand for these places is not acceptable. I do not, in the circumstances of this school, consider that the proposed variation is justified.

Other matters

24. The school responded promptly to the issues I raised and amended the wording about “*non Catholic children whose families are actively seeking a Christian based education*”. However, the suggested amendment is to ask parents to submit supporting documentary evidence. This is not clear to parents and does not, therefore, conform to paragraph 14 of the Code.
25. The request is set out in a form titled Our Lady’s Catholic College Oversubscription Criteria Form, which is a Supplementary Information Form as it requests other information including the need to send baptismal certificates if children are baptised Catholics. The school’s arrangements set out in bold capitals that no Supplementary Information Form is required which is incorrect.
26. The school has amended its arrangements in respect of waiting lists and the revised policy now refers to waiting lists being maintained until 31 December. It now needs to make this amendment on the school’s website, which at the moment still shows the previous and incorrect date.

Summary

27. The school, the local authority and the diocese consider that a further reduction in PAN from the 2018 number is essential to manage the school’s budget over a three-year period during which the numbers admitted will stabilise in each year group. The reduction to 180 has already been taken by the school but the further reduction to 160 is not fair to those parents who wish their child to attend the school.
28. I therefore reject this request for a variation.

Determination

29. In accordance with section 88E of the School Standards and Framework Act 1998, I reject the proposed variation to the admission arrangements determined by the Governing Board of Our Lady’s Catholic College, Lancaster for September 2019.
30. I determine that for admission in September 2019 the Published Admission Number will remain at 180.
31. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements for admission arrangements in the ways set out in this determination.

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 the determination.

Dated: 27 September 2018

Signed:

Schools Adjudicator: Lorraine Chapman