



DETERMINATION

Case reference: VAR789

Admission Authority: Isle of Wight Council for The Bay Church of England School

Date of decision: 29 October 2018

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Isle of Wight Council for The Bay Church of England School, previously known as The Bay Church of England Primary School, for September 2018 and September 2019.

I determine that the variations to the admission arrangements for The Bay Church of England School shall have effect for the remainder of the 2018/2019 academic year and for September 2019 and that the published admission number (PAN) for year 7 for the 2018/2019 academic year shall be 180 and for September 2019 it shall be 120.

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 way set out in this determination.

The referral

- 1. Isle of Wight Council (the local authority) has referred a proposal for variations to the admission arrangements (the arrangements) for The Bay Church of England School, previously known as The Bay Church of England Primary School (the school), for September 2018 and September 2019 to the Office of the Schools Adjudicator. The school is a voluntary controlled school for pupils aged 4 to 16 in Sandown.**
- 2. The proposed variations are to establish oversubscription criteria and a PAN for entry to the school at year 7. This follows the approval of a statutory proposal extending the age range of the school from that of a primary school for pupils aged 4 to 11, to become an all-through school for pupils aged 4 to 16.**

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 to 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 from the local authority dated 2 October 2018 and supporting documents;
 - the determined arrangements for September 2018 and September 2019 and the proposed variations to those arrangements;
 - a copy of the local authority’s booklets for parents seeking admission to schools in the area in September 2018 and September 2019;
 - a copy of the letter from the governing board of the school confirming agreement to the proposed variation; and
 - a copy of the letter notifying the appropriate bodies about the proposed variation.

Other Matters

8. When I considered the arrangements as a whole I noted that the definition of previously looked after children did not reflect the

introduction by the Children and Families Act 2014 of child arrangement orders, which replace residence orders.

Background

9. On 22 December 2017 the local authority approved a proposal made by the governing board of The Bay Church of England Primary School to extend its age range, from 1 September 2018, to become an all-through school for pupils aged 4 to 16. This alteration was necessary in order for the school to provide secondary education in the town of Sandown, following ministerial approval that Sandown Bay Academy should close on 31 August 2018. From 1 September 2018, the school has been operating on two sites. Pupils aged 4 to 11 attend the site of The Bay Church of England Primary School and pupils aged 11 to 16 attend the site of the closed Sandown Bay Academy. Those pupils who were on the roll of Sandown Bay Academy at the end of the 2017/2018 academic year were automatically enrolled from 1 September 2018 at The Bay Church of England School, which is the name the school adopted on that date.
10. On 28 February 2017, admission arrangements for September 2018 were determined by the local authority for the community and voluntary controlled primary schools for which it was the admissions authority, including The Bay Church of England England Primary School. The PAN for admission to reception was set at 60. The multi-academy trust of which Sandown Bay Academy was a part determined the arrangements for that academy, setting a PAN of 240.
11. The final decision to close Sandown Bay Academy and to extend the age range of The Bay Church of England Primary School was taken after the closing date for applications to be made for places in year 7 in September 2018 (31 October 2017). On the national offer day in March 2018, the local authority provided parents of pupils who would have been offered a place at Sandown Bay Academy with the following information,

“You have received an offer for Sandown Bay Academy - which upon its closure later in the year will be treated as an offer for the new 4 - 16 all-through school.”
12. Admission arrangements for September 2019 were determined by the local authority for the community and voluntary controlled primary schools for which it is the admissions authority on 28 February 2018. This included unchanged arrangements for admission to reception at The Bay Church of England Primary School. At the time when these arrangements were determined, there were no secondary schools for which the local authority was the admission authority. Although it knew that it would become the admission authority for the all-through school, the local authority did not determine arrangements for admission to year 7. It reports that the timescales were such that it was not possible to meet the requirements for consultation and determination by the statutory deadlines.

The proposed variation

13. The current position is that the all-through school has no admission arrangements for pupils to be admitted into year 7 and above, both as in-year admissions during the remainder of the 2018/2019 academic year and for the secondary intake in September 2019. It seeks to use the mechanism of a variation to address this in the following ways:
- (i) to confirm that the oversubscription criteria determined by the local authority for voluntary controlled primary schools apply throughout the all-through school, including for pupils to be admitted into year 7; and
 - (ii) to establish a PAN of 120 for admission to year 7 in September 2019.
14. The local authority's intention is that there should be 180 places available in year 7 in September 2019. The PAN of 120 for year 7 relates to pupils to be admitted to the school for the first time. The PAN for the primary part of the school is 60. Pupils in year 6 are able to continue into year 7 with no need to apply for a place. I note that in the public notice outlining the proposal to alter the age range of the school, issued in November 2017, it was stated the school would admit 180 pupils into year 7, in addition to the 60 pupils continuing from the primary part of the school. Therefore, the proposed PAN is 60 fewer than originally anticipated.
15. The local authority also wishes to maintain 180 places in the current year 7. As these pupils were admitted to the school on the basis of a different set of arrangements, for the avoidance of doubt I regard this as a request to set a PAN for 180 for the remainder of the academic year 2018-19.
16. The oversubscription criteria for community and voluntary controlled schools, for which the local authority is the admission authority, can be summarised as:
- i) Looked after children and previously looked after children.
 - ii) Children with a specific medical condition, which makes a particular school the most appropriate.
 - iii) Children who have an elder sibling in attendance at the school.
 - iv) Children of staff employed by the school.
 - v) Children for whom the school is the nearest school to their home address.
 - vi) (Church of England Voluntary Controlled schools only). Religious reasons, confirmed by attendance at church.

- vii) Other children.

Distance from the school is used to determine priority for places within each criterion.

17. In accordance with paragraph 3.6 of the Code, the local authority notified the appropriate bodies of the proposed variation. It received no responses, apart from the governing body of the school, which expressed its support.

Consideration of the case

18. I am satisfied that the raising of the upper age limit of the school constitutes what the Act refers to as a “*major change of circumstances*”. A variation to the school’s admission arrangements is necessary as they do not currently provide for admission into year 7.

19. For admission to year 7, the local authority proposes to adopt the oversubscription criteria used by all voluntary controlled schools for which it is the admission authority. These are the criteria used for admission to reception at the school. However, in its consultation document outlining the implications of the change of age range at the school, the local authority stated,

“there would be no change to the admissions arrangements at Year 6 to Year 7 transition for any pupil other than those already at The Bay CE Primary School in the primary sector who would (should they want to) move directly through.”

This is not entirely accurate, as the oversubscription criteria of the predecessor secondary school (Sandown Bay Academy) were structured a little differently to those the local authority proposes to adopt. The Academy’s oversubscription criteria can be summarised as:

- (i) Looked after children and previously looked after children.
- (ii) Children who have an elder sibling in attendance at the school.
- (iii) Children eligible for the Pupil Premium.
- (iv) Children with a specific medical condition, which makes the school the most appropriate.
- (v) Children for whom the school is the nearest school to their home address.
- (vi) Other children.

20. A comparison of the two sets of arrangements shows that criteria giving priority to children of staff and for religious reasons appear in the proposed arrangements; they were not in those of the predecessor school. In addition, the criterion giving priority for children eligible for the Pupil Premium, which appeared in the criteria of the predecessor school, does not appear in the proposed arrangements for the all-through school.
21. In response to my enquiring about the differences between the two sets of arrangements, the local authority explained that the commitment made in the consultation document was intended to re-assure parents that there would continue to be secondary provision available in Sandown that would meet local demand. It was not to be inferred that the admission arrangements for entry to the all-through school at year 7 would be identical in every detail to its predecessor. The local authority believes that the changes to the oversubscription criteria will have no effect in practice, as the school is not expected to be oversubscribed by local children. It was not the wish of either the governing board of the school or the local authority to have different oversubscription criteria for admission at reception and year 7. In addition, the local authority comments that “*only a handful*” of applications seeking priority for religious reasons are made each year at voluntary controlled schools in the Isle of Wight.
22. Whilst I consider that it was unfortunate that this matter was not made clearer in the consultation document, I accept the local authority’s explanation. With exceptions that are likely to account for small numbers of applicants, siblings of current pupils and those for whom the school is their nearest will continue to be prioritised for places before other pupils. I note that none of the bodies notified of the proposed variation chose to make any comment, other than the school’s governing body, which expressed its support. I therefore approve this aspect of the requested variation.
23. I turn now to the PAN that is proposed. The variation that the local authority is requesting represents a significant reduction in the PAN for secondary school places in Sandown. It would also mean that, over time, the number of pupils admitted to the school would fall well short of its physical capacity. The assessment of the net capacity of the secondary site, provided by the local authority, is 1294 places, indicating an admission number of 258. A PAN of 120 (plus the 60 pupils moving up from year 6) would produce a pupil roll of 900.
24. The local authority justifies the proposed reduction in PAN in two ways. First, it argues that no more than 180 places in each secondary year group are required in order to meet current and expected future demand. The table below summarises data included both in the local authority’s consultation document about the proposal to change the age range of the school and in its subsequent request for a variation to its admissions arrangements.

Table 1: Pupils numbers in year 7 in recent years and expected future demand.

Year (September)	PAN / proposed PAN*	Pupils whose nearest school is Sandown Bay	Number of first preferences	Number of pupils admitted / forecast*
2015	270	249	133	167
2016	240	260	165	215
2017	240	254	106	151
2018	180*	272	126	178
2019	120 + 60*	248		169*
2020		245		169*
2021		258		171*

25. Information provided by the local authority shows that in the years 2014 to 2016, between 80 and 100 pupils for whom Sandown Bay was their nearest school transferred to secondary schools in other towns, principally a faith school in Newport and a free school in Ventnor. The figures forecast for 2019 to 2021 assume that current patterns of parental preference will be maintained. The local authority says that a total of 305 places in each year group across the Sandown and Ventnor planning area (180 at The Bay and 125 at the free school in Ventnor) is sufficient as from 2019 to 2021 the total of places required will not exceed 295 in any one year.

26. The local authority's second reason for seeking a reduction in the school's PAN is financial. It says,

"Surplus places throughout the school provide significant challenges for the new school in being able to deliver a cost effective structure whilst managing to maintain a balanced budget. The reduction in PAN will enable the school and Governing Body to have stability with their financial planning, whilst being able to provide an appropriate number of school places for students within the local area. This stability to finances [sic] will enable them to grow in their new school structure."

27. In fact, it is the case that a reduction in PAN could increase the number of surplus places at the school, when compared with its capacity. The local authority subsequently clarified that by "surplus places", it was referring to the difference between the PAN and the number on roll. It went on to say,

“Being full but still meeting local demand creates the most financially efficient model.”

I take this to mean that it is advantageous for a school to be able to plan its staffing and curriculum organisation when it knows with a high degree of certainty what will be the maximum number of pupils for which it has to cater and has a reasonable expectation that the number of pupils it admits will be close to the maximum.

28. I recognise the force of both of the local authority’s arguments. However, I note that the number currently on roll on year 7 is only two below the proposed PAN and that the figure forecast for admission to year 7 in September 2019 is also close to 180. I expressed my concern to the local authority that a possible effect of the reduction in PAN might be that some pupils in the Sandown and Shanklin area, for whom this is the nearest secondary school, would be unable to obtain a place and might face an unreasonably long journey to an alternative school.

29. By way of response, whilst explaining the difficulties involved in admitting over 180 pupils in year 7 (as some subjects are organised in six classes of 30 pupils) and pointing out that there are surplus places at the majority of Isle of Wight secondary schools, the local authority emphasised that the aim for pupils making an application during the current academic year would be,

“to ensure that a reasonable school place offer is possible. That may include requiring additional admissions at The Bay School.”

30. With respect to admissions to year 7 for September 2019, the local authority provided what it described as a “*snapshot*” of applications made by 15 October 2018, which is before the closing date for admissions. Although the information only relates to 40 per cent of the year 6 cohort who had made applications by that date, the indications were that the school would be able to meet the demand for places within the proposed PAN. The local authority went on to say,

“The authority wants all Sandown/Shanklin children who want a place to be able to attend The Bay School. It is possible that a scenario might arise that would lead to the authority agreeing with the school to offer more places than in the admissions limit.”

31. I find some re-assurance in the responses of the local authority. It appears committed to ensuring that, as far as possible, local children are able to attend the school if their parents wish them to (or if their preferences for other schools are unable to be met). At the same time, it is seeking to ensure that, as the new all-through structure of the school is established, pupil numbers are predictable, so that decisions with financial implications can be made with a degree of certainty. The local authority will need to continue to monitor the demand for places very closely. It may be that in future years the PAN will need to be adjusted, but I am satisfied that PANs of 180 for the remainder of the

2018/2019 academic year and 120 for September 2019 are appropriate. I therefore also approve this aspect of the variation.

Other matters

32. When I pointed out the error in the oversubscription criteria relating to previously looked after children, the local authority immediately undertook to rectify it.

Summary

33. It is necessary for the school to have admission arrangements that reflect its change of age range. It is appropriate for the local authority to use, for admission to year 7, the oversubscription criteria used for admission to reception. The PANs proposed for the remainder of the current academic year and for admission to year 7 in September 2019 are also appropriate, taking into account the current and expected demand for places.

Determination

34. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Isle of Wight Council for The Bay Church of England School, previously known as The Bay Church of England Primary School, for September 2018 and September 2019.
35. I determine that the variations to the admission arrangements for The Bay Church of England School shall have effect for the remainder of the 2018/2019 academic year and for September 2019 and that the published admission number (PAN) for year 7 for the 2018/2019 academic year shall be 180 and for September 2019 it shall be 120.
36. 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 way set out in this determination.

Dated: 29 October 2018

Signed:

Schools Adjudicator: Peter Goringe