



## **DETERMINATION**

**Case reference:** VAR790

**Admission Authority:** Central Bedfordshire Council for Linslade Lower School

**Date of decision:** 7 December 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 Central Bedfordshire Council for Linslade Lower School, Leighton Buzzard.**

**I determine that for admission in September 2019 the Published Admission Number will remain at 45.**

**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 this determination unless an alternative timescale is specified by the adjudicator. In this case I specify a deadline of 31 December 2018.**

### **The referral**

1. Central Bedfordshire Council has referred a variation to the adjudicator about the admission arrangements for Linslade Lower School, a community lower school for children aged three to nine in Leighton Buzzard, Central Bedfordshire for September 2019. The referral requests a reduction in the Published Admission Number (PAN) from 45 to 30 for admissions 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 proposed variation form dated 5 October 2018 and supporting documents;
  - b) the determined arrangements for the local authority's community schools;
  - c) details of the meetings at which the arrangements were determined;
  - d) a copy of the council's booklet for parents seeking admission to schools in the area in September 2019; and
  - e) a copy of letters informing the relevant bodies about the proposed variation

### **Other matters**

6. In reviewing the arrangements, I noted that the following elements of the arrangements appeared not to conform with the requirements relating to admissions; oversubscription criterion three and the paragraph on page five of the admission arrangements which defines "*Nearest school*" in relation to paragraph 14 of the Code and paragraph 1.13 of the Code.

### **Background and consideration of factor**

7. The school is a community lower school in Leighton Buzzard, Central Bedfordshire. The age range is three to nine years old. As a community school the admission authority is the local authority. The proposal states that the school has undergone a staffing restructure due to falling numbers of pupils throughout the school and increased costs that have greatly impacted on the budget. The proposal states that the current PAN of 45 creates issues with class organisation and staffing structures if the number of pupils fluctuates between 25 and 45. It goes on to say that a reduction in PAN to 30 will be able to operate one class per year group without the need for mixed age teaching or varying class numbers from year to year.

8. The local authority undertook a consultation process between 13 October and 1 December 2017 which proposed changing the oversubscription criteria for schools in Leighton Buzzard. Previous oversubscription criteria can be summarised as;

- a) Looked after and previously looked after children
- b) Siblings living within a catchment area
- c) Children living in the catchment area
- d) Other siblings
- e) Distance

The new oversubscription criteria, which were approved by the Director of Children's Services as the delegated officer for the local authority on 26 February 2018, can be summarised as;

- a) Looked after and previously looked after children
- b) All siblings
- c) Children for whom the school is their nearest lower/primary school
- d) Distance.

9. The governing board is supportive of the proposal to reduce the PAN from 45 to 30. The local authority has informed the required bodies about the proposed variation in line with the Code.

10. The local authority provided a net capacity assessment which shows that 45 children 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 2015, 42 pupils were admitted to Reception (YR), in 2016 there were 41, for 2017 there were 40 and in September 2018 the number is 28. Although the proposal says it is based on "*falling numbers through the school*" I have not seen evidence of this. In the last three years the numbers of admissions have reduced from 42 to 40. I accept that the number is down for September 2018 but I do not see a one year reduction as a significant trend.

12. Current projections by the local authority indicate that for admission in 2019, 2020 and 2021 the number of places forecast to be required is 30 each year. If this were the number of children who lived in the area traditionally served by the school and therefore the potential number likely to seek a place there then I would understand why the proposal has been submitted, but the numbers provided by the local authority show that children of relevant age living in the area around the school are as follows; for admission in 2018/19 there are 51 local children, for

2019/20 there are 54, for 2020/2021 there are 58 and for 2021/2022 there are 60.

13. The variation request argues that although the number of pupils in the local area of the school is greater than the proposed PAN of 45, there is enough capacity in two other local schools so that across the area there are sufficient places for all pupils within a mile of their homes. I do not consider it satisfactory to reduce the PAN of one school because there are places at other schools; this reduces the scope for parental preferences to be maximised which is at the heart of the admissions system. I am of the view that it would be unreasonable to children who live in the area to deny them their first preference 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 their parents actually wished them to attend.
14. I am considering a proposed variation. Paragraph 3.6 of the Code states that *“Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances”*. It is for the local authority to decide that there has been a major change in circumstances and not for me. However, it is for me to decide whether the change in circumstances justifies the proposed variation. In this context, I take into account that there has been no consultation (beyond that required with the school’s governing board). In particular, there has been no consultation with parents. The local authority actually consulted on changes to the admission arrangements for this school (and others) for 2019. If the admission authority foresaw the need to reduce the PAN of the school because of *“falling numbers through the school”*, then the change could have formed part of the consultation process in October to December last year. This would have provided local parents with the opportunity to comment on the proposal. By requesting a variation at this stage there is no requirement to consult parents or the local community and I am concerned that the process removes any scope for local parents to comment on the proposed change.
15. Furthermore, once a PAN has been reduced, it is open to the admission authority (the local authority here) to set that same PAN for future years. If it does so there is very little scope for anyone to object. In fact, as paragraph 3.3c of the Code explains, only the governing body of the school can object where the PAN set for a community school by the local authority is the same as or higher than the previous PAN. Parents cannot make such an objection, whereas parents can object to proposals to reduce a PAN made in the normal manner.
16. The proposal also appears to misunderstand the definition of PAN and the implications of a change to PAN. It states that *“Over the last few years the school has experienced fluctuating pupil numbers which has required the school to reorganise class structure and staffing levels due to a PAN of 45. With a PAN of 30 the school will be able to operate one class per year group, without the need for mixed aged teaching or varying class numbers from year to year”*. The Code states that *“As part of determining their admission arrangements, all admission*

*authorities must set an admission number for each 'relevant age group'". The relevant age group is defined as "the age group at which pupils are or will normally be admitted to the school e.g. reception".* Therefore, the PAN for this school applies only to YR. The implication in the proposal is that the PAN stays with a particular year group through the school and consequently fluctuating numbers necessitates organisational change; this is not the case. The arrangements of teaching groups is a matter for the school to decide. There is no compulsion to admit children up to the original PAN in any other year group. For example if 45 pupils were admitted in YR over both years of a two year period and the 90 pupils are taught in three classes of 30 then the admission authority would, normally, be in a strong position to resist the admission of another child as this would not conform with the legislation on infant class size.

## Other matters

17. The admission arrangements for the school have the following oversubscription criteria;

- 1) Looked after and previously looked after children
- 2) children with siblings at the school
- 3) children for whom the school is their nearest lower/primary school
- 4) any other children

A note below the criteria reads; *"The nearest school will be identified by measuring the distance the pupil lives from the school. This is measured in a straight line, using our computerised measuring system, from the address point of the pupil's home to a point on the school site agreed with the governing body of the school (known as the designated measuring point."*

18. In reviewing the arrangements, I noted that the following elements of the arrangements was contrary to the Code and the law; oversubscription criterion three and the paragraph on page five of the admission arrangements which defines *"Nearest school"*. Oversubscription criteria three; *"Children for whom the school is their nearest lower/primary school"* is not likely to be clear to parents. First, parents may well not know where their nearest school is situated without some significant help, especially in more urban areas, and secondly, parents will not know the point on the school site agreed by the governing board which is known as the designated measuring point unless this is stated clearly in the arrangements for each school. It is not and these factors together make the criterion unclear and contrary to paragraph 14 of the Code which states that *"In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places is 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."* The local authority maintains that this is clear and that parents are able to use a postcode look up facility on the website. I have been onto the website and the look up facility guides parents to the catchment areas of lower schools in the Leighton Buzzard area. Catchment areas were removed from this

area during the last consultation on admission arrangements. It is my view that this criterion remains unclear for parents because it is contrary to paragraph 14 of the Code and requires amendment. In addition there is no reference in the arrangements which explains to parents where the designated measuring point at each school is located; this too is unclear. It is also in breach of the specific requirement in paragraph 1.13 of the Code which states in terms that "*Admission authorities must clearly set out ....the point in the school from which all distances are measured.*"

19. In addition, at the time of the variation request, the paragraph which defines "*Nearest school*" ends abruptly after the words "*will be*" and does not make sense. The context is if a pupil lives equidistant to the nearest two schools and the arrangements do not explain how the nearest school will be determined. The local authority accepted that this was an error in the publication and expanded the relevant sentence so that it reads in full: "*In the unlikely event that a pupil lives equidistant to the nearest two schools, the parent's preferred school will be classed as the nearest school*" I pointed out that this definition is different from the definition published in the overall arrangements which refers to the use of random selection; "*In the event of (a) two or more children living at the same address point (e.g. children resident in a block of flats) or (b) two addresses measuring the same distance from the school, the ultimate tie-breaker will be random selection, using the Tribal Admissions database to allocate the place.*" The local authority explained that the first definition is used only for criterion 3. In the event of children in criterion 4 – "any other children" living equi-distant from the school the local authority will use random selection. I consider that two different tie breakers for two different oversubscription criteria is confusing for parents and is therefore contrary to paragraph 14 of the Code. This also requires amendment.

## Conclusion

20. The local authority requests a reduction in the PAN from 45 to 30 because of fluctuating numbers over the last few years. The proposal suggests that with a PAN of 30 the school could operate one class per year group.
21. I am of the view that a PAN of 45 provides the opportunity for the local community to choose the school as a first preference. The local authority has shown that there are more than 50 children in each year group living in the immediate area of the school. The proposal would reduce the number of places available at the school by 15 each year. There are more children of the relevant age group living in the area of the school than the current PAN of 45 and therefore the reduction would limit the choice of the local parents.
22. 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. In addition I do not believe that the reduction in applications to the school for one year justifies the reduction of the PAN. Changes to admission arrangements in the normal way require a

full consultation process whereas the process of a variation does not. I believe it is unfair to the community of the school to deny them the opportunity to comment on the proposed reduction in PAN.

23. I therefore reject this request for a variation. Looking at the arrangements as a whole there are two issues which require amendment and clarification. Paragraph 3.6 of the Code states that admission authorities can revise their arrangements to give effect to a mandatory requirement of the Code, admission law or a determination of the Adjudicator. The arrangements require amendment before the process for the allocation of places for 2019 is completed and therefore I have set a date of the end of December for the revisions.

### **Determination**

24. In accordance with section 88E of the School Standards and Framework Act 1998, I reject the proposed variation to the admission arrangements determined by Central Bedfordshire Council for Linslade Lower School, Leighton Buzzard.

25. I determine that for admission in September 2019 the Published Admission Number will remain at 45.

26. 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.

27. 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 unless an alternative timescale is specified by the adjudicator. In this case I specify a deadline of 31 December 2018.

Dated: 7 December 2018

Signed:

Schools Adjudicator: Ann Talboys