



Office of
the Schools
Adjudicator

Determination

Case reference: VAR873

Admission authority: Leeds City Council for Hollybush Primary School

Date of decision: 26 July 2019

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Leeds City Council for Hollybush Primary School for September 2019 and September 2020.

I determine that for both September 2019 and September 2020 the published admission number for the school will be 60.

The referral

1. Leeds City Council (the Council) has referred a proposal for a variation to the admission arrangements for September 2019 and September 2020 for Hollybush Primary School (the school), to the Office of the Schools Adjudicator. The school is a community school for children aged 3 to 11 in Leeds.
2. The proposed variation is to reduce the published admission number (PAN) from 90 to 60 for both September 2019 and September 2020.

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.

Procedure

5. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

6. The documents I have considered in reaching my decision include:

- a. the referral from the Council dated 21 June 2019 and supporting documents;
- b. the determined arrangements for 2019 and 2020 and the proposed variation to those arrangements;
- c. evidence that the governing board for the school has been consulted;
- d. a map showing the location of the school and other relevant schools;
- e. a copy of the notification to the appropriate bodies about the proposed variation;
and
- f. comments received on the proposed variation from the appropriate bodies.

The proposed variation

7. The school is situated in Bramley to the west of the centre of Leeds. The Department for Education database ‘Get Information About Schools’ shows that there are 66 other primary schools within a two mile radius of its site.

8. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variation requested will address the change in circumstances.

9. Paragraph 3.6 of the Code also requires that appropriate bodies be notified of a proposed variation. The referral received on 21 June 2019 indicated that just five schools had been notified about the proposed variation. The requirement in the Code is for the following bodies to be notified:

- all other admission authorities within the relevant area (except that primary schools need not notify secondary schools);
- whichever of the governing board or the local authority is not the admission authority.
- in the case of schools with a religious character, the religious authority.

- and so far as not covered by the above, all governing bodies for community and voluntary controlled schools in the relevant area.

10. The relevant area is defined in section 88F(4) of the School Standards and Framework Act 1998 (the Act) to be the area of the local authority unless the procedures set out in The Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999 have been followed to set a different relevant area for the school.

11. When I drew the requirement for notification to the attention of the Council, it acknowledged that it had not notified as fully as was required and subsequently notified the other bodies as required. The Council has provided me with a copy of its notification on the proposed variation and the list of schools and other bodies to which it was sent. I have seen confirmation from the school's governing board that it supports the request for the variation. I am satisfied that all appropriate bodies have been notified and that views expressed have been taken into consideration. I find that the correct procedures were followed.

Consideration of the proposed variation

12. The Council said that the major change of circumstances which has occurred since the arrangements were determined that requires the PAN to be reduced from 90 to 60 has been a reduction in the number of children of primary school age living in Bramley since the school was expanded from two-form entry (PAN 60) to three-form entry (PAN 90) in September 2016. The Council said that this fall in population "*could not have been known at the time the local authority were consulting on the expansion of Hollybush PS.*" In my view it could have been known when the PAN for 2020 was set in February 2019 if not in February 2018 when the 2019 PAN was set.

13. On the application form the Council said "*The school is facing serious budget issues as a result of having a significant number of unfilled places. The school currently has 3 teachers in reception but with only 52 children allocated at national offer day in April 2019, would only need 2 teachers in reception for September 2019. A concern to the governors is that allocations increase to just over 60 children which would require 3 teachers and support staff, but would mean mixed aged classes. Based on the allocations for September 2019, Key stage 1 will have just over 200 children and therefore staffing this will require 7 teachers not the 9 the school will have budgeted for.*"

14. In its comments on the proposal, the governing board of the school told me that the school is judged by Ofsted as requiring improvement and uncertainty about future budgets diverts attention away from strategies to improve outcomes for the children.

15. On the application form the Council listed the number of places allocated at the school in September 2017, 2018 and 2019 as 72, 70 and 52 respectively. A total of 194 infant children will be on roll in September 2019, as opposed to the "*just over 200*" referred to in the quote above. Whichever figure is correct, seven teachers will be required in order

to meet the requirements of infant class size legislation. This legislation says there may not be more than 30 infant children in a class with one teacher. An eighth teacher would be required if the number of children across the three year groups exceeded 210.

16. Section 86 of the Act says that the only grounds for refusing admission to a school are that it would prejudice the provision of efficient education or the efficient use of resources (or would be incompatible with selection at a selective school). However, the same section of the Act says that prejudice cannot arise during the normal school admission year until the PAN is reached. Therefore, the Council could refuse admission to any applicants to Year 1 or Year 2 on the grounds of prejudice, providing it could defend the decision to an independent appeal panel, but could not refuse admission to the reception year, Year R, until the PAN was reached. If I approve the variation for September 2019, then the small risk that more than seven infant class teachers would be required at some point in the next academic year would be removed.

17. In deciding whether to approve the variation, I have also considered whether doing so would create a risk that there will not be enough places in the area for children who need them. On the application form the Council said that across the six primary schools in Bramley, there were 107 unfilled places in Year R for September 2019. The proposal would reduce this figure to 77 which in my view is more than adequate to enable any family moving into the area to find a local school place. I therefore approve the reduction in the PAN for September 2019 from 90 to 60.

18. Looking ahead to September 2020 I have noted that the Council has stated on the application form a forecast need for 73 places in Year R at the school. It said the forecasts *“are based on previous years’ allocations (which are in excess of 60) and are therefore likely to be over-stating the actual need.”* I find it surprising that the Council should put forward figures which it knows to be inaccurate in support of this proposal and has not revised its forecasts to reflect recent experience. The Council also forecast the need for 73 Year R places at the school for September 2019 and in the event, 52 places were actually needed. In the absence of any other information I would expect a similar need in September 2020.

19. Consequently, I do not think that a reduction of the PAN to 60 for September 2020 would constrain the ability of the Council to meet parental preferences for places at the school, or to supply the required number of places in the area. The lower PAN would also reduce the range of possible numbers of infant children which the governing board will need to plan for in that year. I therefore approve the reduction in the PAN for September 2020 from 90 to 60.

Summary

20. I am satisfied that a reduction in the PAN from 90 to 60 for both 2019 and 2020 will reduce the level of uncertainty of future rolls and help the governing board manage the school’s budget. I am also satisfied that reducing the PAN will not limit the Council’s ability

to supply school places in the area or constrain its ability to meet parental preferences. I therefore approve the reduction in PAN for both 2019 and 2020.

Determination

21. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Leeds City Council for Hollybush Primary School for September 2019 and September 2020.

22. I determine that for both September 2019 and September 2020 the published admission number for the school will be 60.

Dated: 26 July 2019

Signed:

Schools Adjudicator: Phil Whiffing