



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR879**

**Admission authority: The Governing Board for All Saints Church of England Primary School, Croydon**

**Date of decision: 15 August 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 the governing board for All Saints Church of England Primary School, Croydon for September 2019.**

**I determine that the published admission number for September 2019 will be reduced from 60 to 30.**

**I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to 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.**

## The referral

1. The board of governors of All Saints Church of England Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2019 to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 3 to 11 in Upper Norwood, Croydon. The school's religious authority is the Southwark Diocesan Board of Education and the local authority for the area is the London Borough of Croydon
2. The proposed variation is to reduce the published admission number (PAN) from 60 to 30.

## 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:

- a. the referral from board of governors dated 24 June 2019 and supporting documents;
- b. the determined arrangements for 2019 and the proposed variation to those arrangements;
- c. a copy of the letter notifying the appropriate bodies about the proposed variation;
- d. comments from the the local authority on the proposed variation;
- e. comments from the Southwark Diocesan Board of Education (the diocese) on the variation and the other matters raised under section 88I of the Act; and
- f. comments from the governing board on the other matters raised under section 88I of the Act.

## Consideration of the arrangements

8. Having considered the admission arrangements for the school as a whole it appeared to me that the following matters did not, or may not, conform with the requirements relating to admissions as follows:

- a) The arrangements did not appear to be published on the school's website as required by paragraph 1.47 of the Code.
- b) A number of terms used in the Code were obsolete and have been superseded by other terms. Using obsolete terms in the arrangements renders them unclear and paragraph 14 of the Code requires that admission arrangements are clear.
- c) The section in the arrangements concerning waiting lists did not appear to conform with paragraph 2.14 of the Code.
- d) The section in the arrangements about admission outside of the normal year group did not appear to conform with paragraph 2.17 of the Code.
- e) The supplementary information form (SIF) did not appear to conform with paragraph 2.4 in the Code.

## The proposed variation

9. The school is situated in the north of Croydon and there are 12 other state-funded primary schools within a one mile radius of it. 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 circumstances or to address certain other limited and specified situations. The governing board has requested a reduction in the PAN from 60 to 30 to address financial difficulties that have arisen from the school not being fully subscribed. I will consider below whether the proposed reduction in the PAN from 60 to 30 will address the change in circumstances identified by the governing board.

10. Paragraph 3.6 of the Code also requires that appropriate bodies are notified of a proposed variation. When it initially submitted the application for a variation, the governing board had not notified all of the appropriate bodies; however, when this omission was drawn to its attention the governing board subsequently notified the remaining bodies. I find that the appropriate procedures were followed.

## Consideration of proposed variation

11. The arrangements were determined by the governing board on 16 January 2018, when it would not have known that only 28 children would require places at the school for September 2019. The governing board was concerned that if more children applied to join

the school during the year it would be required to admit them and may find it would need to employ another teacher which would add to the existing deficit in the budget.

12. Section 86 of the Act says that admission authorities may only refuse admission to a school if it would “*would prejudice the provision of efficient education or the efficient use of resources*”. The same section of the Act continues to say that during the normal year of admission, no prejudice can be said to arise until the PAN is reached. My first consideration is, therefore, whether admitting more than 30 children at any point during the year would require the school to appoint another teacher. This requires consideration of the School Admissions (Infant Class Sizes) (England) Regulations 2012 which say that infant classes (those where the majority of children will reach the age of 5, 6 or 7 during the school year) must not contain more than 30 pupils with a single teacher other than in some limited exceptional circumstances. There are no such limits on other school year groups and no prohibition on having classes made up from children in different age groups.

13. The school told me that it planned to organise its classes in September 2019 as set out in the table below.

<b>Year Group</b>	<b>Age</b>	<b>Number of children</b>	<b>Number of classes</b>
reception	5	28	1
1	6	45	2
2	7	28	1
3	8	45	2
4	9	47	2
5	10	57	2
6	11	53	2

14. This indicates that there will be 101 infant children in four classes allowing the admission of 19 more infant-aged children before it would be necessary to employ another teacher. I do not think it likely that 19 more infant-aged children will seek admission to the school during the year, let alone 19 children to Year R. However, accommodating more than two additional children into Year R would require the school to educate children in mixed age groups. This is something which is usual practice in many schools and does not adversely affect the quality of education offered. Admitting more children into existing classes would improve the school’s budget. I do, however, understand that there can be local concerns where mixed age teaching is not the usual practice. That said, legislative,

financial and demographic factors can make it necessary for schools to teach mixed age classes.

15. Because I think the risk that more than 19 infant aged children will join the school is very low, I do not consider it necessary for the PAN to be reduced. However, I understand that it would be the easiest way for the school to avoid the risk of needing to employ an additional teacher and avoid mixed age teaching. I will now consider the implications of a reduced PAN for the provision of places in the area and the impact on the degree of parental preference which can be met.

16. The local authority provided data to show that for September 2019 there were 1410 Year R places available in the planning area in which the school is located. The need for places was forecast to be 1248 leading to 162 surplus places. On this basis the local authority said that it would be "*reasonable*" for it to support a reduced PAN for 2019. Because the school remains undersubscribed for September 2019 I can conclude that all preferences for places have been met and that all children in the area have been offered places. The Southwark Diocesan Board of Education also expressed its support for the proposed reduction in PAN which indicates to me that all demand for places at Church of England schools in the area is also met.

17. Having considered these factors, I conclude that there would be no detriment to families in the area if the PAN was reduced from 60 to 30 for September 2019 and consequently I approve the proposed variation. I have noted that the governing board has determined a PAN of 60 for September 2020. My determination does not change that, nor does it imply that any variation sought in future to those arrangements would be approved.

## Other Matters

18. Paragraph 1.47 of the Code says "*Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the school year in which offers for places are made).*" When I first looked at the school's website on 14 July 2019 I could not find the arrangements for either 2019, or 2020. The Code requires that both should have been available.

19. When I raised this matter with the school the governing board told me that the arrangements were on the website, but that it was going to rearrange the website to make the arrangements "*more visible*". When I looked at the school's website on 6 August 2019 I was able to find the arrangements for 2020 easily.

20. Note 2 in the arrangements referred to residence orders, residence orders have been replaced by child arrangements orders by the Children and Families Act 2014. The arrangements also referred to statements of special educational need. These have been replaced by Education, Health and Care Plans. Using obsolete terms in the arrangements

renders them unclear and paragraph 14 of the Code requires that admission arrangements are clear.

21. When I raised this matter with the school the governing board undertook to update these terms; however, on 6 August 2019, the term 'residence order' continued to appear in the arrangements published on the website.

22. Paragraph 2.14 of the Code says "*Each admission authority **must** maintain a clear, fair and objective waiting list until at least **31 December** of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.*" The arrangements said "*The school operates a waiting list which is in accordance with the admissions criteria. The waiting list is held until (DATE-at [sic] least up to the end of the autumn term). Parents may request in writing to join the waiting list.*" This statement does not meet the requirements of the Code.

23. When I raised this matter with the school, the governing board undertook to revise the arrangements. The arrangements for 2020 found on the school's website on 6 August 2019, include the correct date, but do not state "*that each added child will require the list to be ranked again in line with the published oversubscription criteria.*"

24. Paragraph 2.17 of the Code says "*Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*" The section in the arrangements about admission outside of the normal year group included details of factors that would be taken into account when considering such requests, but did not make clear what the process of requesting such admission was.

25. When I raised this matter with the governing board it told me that it would revise this aspect of the arrangements. However, the arrangements for 2020 currently found on the school's website, do not explain how a parent should go about requesting admission outside of the normal age range.

26. Paragraph 2.4 of the Code says "*In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. They **must not** ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for: a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates); b) the first language of parents or the child; c) details about parents' or a child's disabilities, special educational needs or medical conditions; d) parents to agree to support the ethos of the school in a practical way; e) both parents to sign the form, or for the child to complete the form.*"

27. It seemed unnecessary to me for the supplementary information form (SIF) to include a box for the parent to enter the name of the school. This appears at the top of the form and the form is only used by this school. It also appeared unnecessary to ask for the name and

address of the church because priority is only given in the arrangements based on attendance at All Saints Church with Saint Margaret, Beulah Hill, Upper Norwood and that is also named on the form. Nor is it clear to me why it is necessary to ask for the child's date of birth, because that has no bearing on decisions about oversubscription criteria, nor would it be necessary to match a SIF to a common application from as the name and address would be sufficient to do so.

28. The SIF allows two parents to give their names and to sign it. While it does not require two parents to complete the form, this could give the impression to single parent families, that their application may be viewed differently.

29. There is a space on the SIF for the vicar to verify that the parent is a "*faithful and regular worshipper at All Saints with St Margaret*". The arrangements define a "*faithful and regular worshipper*" as "*attendance of parents/carer at worship at least fortnightly at least for one year prior to application*". There is provision for attendance at other churches to contribute to meeting this requirement for families who have recently moved into the area. The arrangements do not, however, include provision for "*exceptional circumstances which have led to the applicant not attending worship fortnightly for a year prior to application*" to be taken into account when making decisions about oversubscription criteria. A box on the SIF invites the vicar to comment on such circumstances.

30. Other than saying that it would revise the SIF to comply with the Code, the governing board did not comment further. The diocese referred to its model SIF which included provision for "*unavoidable circumstances*" in order "*to prevent any accusation that the attendance requirements of the faith-based criteria are discriminatory against people that may have professional commitments on weekends/shift work or responsibilities as a carer (or any seriously equivalent situation)*." However, the diocese also pointed out that "*there could be no compassionate consideration of applicants who were known to be Christians but did not meet the letter of the attendance criteria*" unless this was provided for in the definition of "*faithful and regular*" worshipper in the arrangements.

31. I find that the arrangements do not include any provision to relax the definition of a "*faithful and regular worshipper*" to take into account compassionate circumstances and so by inviting the vicar to comment on such issues the SIF fails to conform with the Code.

## Summary

32. While I do not consider the proposed reduction in the PAN from 60 to 30 to be necessary to address the change in the school's circumstances, it would do so. The proposal does not reduce the local authority's ability to meet the demand for school places in the area, nor does it reduce the ability to meet the demand for Church of England school places or adversely affect the degree of parental preference that is met.

33. I note that the school has determined a PAN of 60 for September 2020. This will not be affected by my decision to approve the proposed reduction in PAN from 60 to 30 for September 2019.

34. I also find that the arrangements including the SIF do not meet the requirements of the Code in the ways set out above.

## **Determination**

35. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board for All Saints Church of England Primary School, Croydon for September 2019.

36. I determine that the published admission number for September 2019 will be reduced from 60 to 30.

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

38. 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.

Dated: 15 August 2019

Signed:

Schools Adjudicator: Phil Whiffing