



Determination

Case reference: VAR874

Admission authority: The governing board of Buxton School, London
Borough of Waltham Forest

Date of decision: 9 October 2019

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the governing board of Buxton School in Waltham Forest.

I determine that for admissions in 2019/20 only, the published admission number for admission to the Reception Year shall be 90.

I have also considered the arrangements for 2019 in accordance with section 88I (5) and find there are other matters which do not conform with the 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 the determination.

The referral

1. The board of governors of Buxton School (the school) has referred a proposal for a variation to the admission arrangements for the academic year 2019/20, to the Office of the Schools Adjudicator (OSA). Buxton School is a foundation all-through school for children aged 3 to 16 in the London Borough of Waltham Forest and has a foundation, the Buxton School Learning Trust. The proposed variation is to reduce the school's published admission number (PAN) from 120 to 90 for children at reception (YR).
2. I am also satisfied that it is within my jurisdiction to consider the determined arrangements for 2019 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.

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 the board of governors dated 25 June 2019 and supporting documents;
 - b. minutes of the governors’ meeting when the determined arrangements for 2019 were agreed;
 - c. a copy of the local authority’s booklet, ‘Starting Primary School 2019’, for parents, seeking admission to schools in the area in September 2019;
 - d. a map showing the location of the school and other relevant schools;
 - e. a copy of the email notifying the appropriate bodies about the proposed variation; and
 - f. comments received on the proposed variation from the local authority.

Matters of concern in the arrangements

8. When I considered the arrangements, I noted a number of ways in which they appeared not to conform with requirements relating to admissions:
 - a) the arrangements refer to PANs of 120 for entry in YR and 180 in Year 7 (Y7) and I was concerned that the Y7 PAN might not be accurate;
 - b) the arrangements for Y7 also give priority for children transferring from Y6 at the school and I was concerned that this was not necessary and made the arrangements unclear;
 - c) the section on looked after children should have “Previously Looked After Children” in the title. The School Admissions Code says: “*Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order)*”. The school’s current wording does not include child arrangements orders; and
 - d) in the definition of siblings, the arrangements say “*full brother or sister*”. It is not clear whether siblings who are adopted are included as set out in paragraph 1.11 of the Code.

The arrangements may therefore fail to be sufficiently clear, in breach of paragraph 14 of the Code.

The proposed variation

9. The arrangements for admission in September 2019 were determined at a meeting of the governing board on 29 November 2018 and published on the school’s website. The school admits pupils to YR and additional pupils to Y7. The PAN for YR is 120. The governing board initially determined the arrangements for 2019 in September 2018 which was over six months after the deadline for the arrangements to be determined. The governors updated and approved the arrangements for 2019 on 29 November 2018 following a determination by the adjudicator published on 2 November 2018 (VAR787). The Resources Scrutiny Committee of the school met on 23 January 2019 and agreed to apply for a reduction of the PAN at YR to 90 for September 2019.
10. The application form stated that there was a major change in circumstances since the arrangements were determined: “*There is a surplus of places in the area and this has financial impact on the school to employ 4 reception teachers instead of 3.*”
11. Paragraph 3.7 of the Code requires that relevant parties be notified of a proposed variation. The local authority has provided me with a copy of its notification to primary schools of the proposed variation. In the notification, sent on 18 January 2019, the local authority wrote:

“There has been a similar number of applications for reception for September 2019 as there were for 2018. You will be aware from the National Offer Day stats that admissions sent last year that there was a large surplus looming in reception for September 2018. For this reason we supported 4 schools in reducing their PAN on a temporary basis to reduce this surplus and allow cost savings for the schools. I am writing to inform you that Buxton Primary School is applying to reduce their PAN from 120 to 90 for this coming September as well. I am required to notify all Heads and ask if there are any objections in order for the schools adjudicator to make this decision.”

12. I find that the appropriate procedures were followed and the relevant parties notified. The local authority reported no responses to the notification.

Consideration of proposed variation

13. The school applied for a reduction in the PAN for YR in 2017 and 2018. In both years the PAN was reduced from 120 to 90 for one year only. Set out below is information on pupil numbers at the school.

	Published Admission Number	Number of pupils admitted	Number of Applications
2014/15	120	115	278
2015/16	120	119	276
2016/17	120	89	247
2017/18	120 (varied to 90)	85	161
2018/19	120 (varied to 90)	84	167
2019/20	120	69 (71 as at 3-10-19)	

The local authority has projected that 85 YR places will be needed in each of 2019 and 2020.

14. The school is concerned about the PAN at YR as, if the numbers admitted rise to over 90 pupils, there would need to be a fourth reception class in order to meet the requirements of the School Admissions (Infant Class Sizes) (England) Regulations 2012. This would result in difficult budget issues for the school as it would make it likely it would need to employ an additional teacher. The current number on roll in YR is well below the proposed PAN of 90 but I understand the school’s concern and wish to safeguard the possibility of additional applications in-year and the possibility of

additional costs.

15. A PAN of 90 would provide the opportunity to stabilise the finances. I agree this application for a variation to reduce the PAN to 90 for admissions in September 2019 only. This is on the basis that the demand for places at the school has been under 90 in each of the past three years and that fewer than 90 places are expected to be needed for 2019 or, indeed, later years.

Consideration of the arrangements

16. The Y7 PAN and the treatment of pupils in Y6 transferring to Y7: A PAN is required for each year group to which the school regularly admits pupils. Paragraph 1.2 of the Code states that “*all admission authorities must set an admission number for each ‘relevant age group’*”. Footnote 11 continues “*This is the age group at which pupils are or will normally be admitted to the school e.g. reception, year 7 and year 12 where the school admits external applicants to the sixth form....*”. This school admits at Y6 and Y7 and has rightly set a PAN for each. It also – again rightly – states in the arrangements that “*primary children in Year 6 at Buxton School may if they wish automatically transfer to year 7 to ensure continuity, progress and achievement.*” Pupils in Y6 do not have to apply to move into Y7 and they do not count towards the Y7 PAN as they are not being admitted to the school – they are simply transferring from one year group to another. The setting of Y7 PAN at 180 means that if the school receives 180 applications for Y7 from pupils not on the school roll, it would have to admit all of them. It is clear that the school is not looking to admit an additional 180 pupils at Y7 but that its total capacity for Y7 is 180. Section 86 of the School Standards and Framework Act 1998 sets out that there can be no prejudice below PAN in a normal year of admission and the Code is clear at paragraph 15 d and 2.8 that a school must admit up to PAN if there are enough applications.
17. The school has been keen to amend the arrangements to conform with the Code. The arrangements for admission at Y7 have been amended to 60 for external applications only as children already on roll in Y6 will transfer automatically to Y7. If fewer than 120 children transfer to Y7 it is open to the school to admit more than 60 external applicants. The school needs to remove the reference at priority 2 in the arrangements which give priority to children in the primary phase as it is not relevant to external entry at Y7.
18. Other matters in the arrangements: The school has also varied its arrangements to address my concerns about the lack of a reference to previously looked after children and to deal with the matter of adopted children in its definition of siblings. Such variations are permitted by paragraph 3.6 of the Code which allows variations to bring arrangements into line with mandatory provisions of the Code. The varied arrangements for 2019 and 2020 have been posted on the school’s website.

Summary

19. The governing board has proposed a variation to the admission arrangements for the academic year commencing September 2019, which is that the PAN should be reduced from 90 to 60. I conclude that the variation which the school has requested is necessary to support the effective running of the school and the stabilisation of the finances.
20. 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. 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.

Determination

21. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the variation to the admission arrangements determined by the governing board of Buxton School in Waltham Forest.
22. I determine that for admissions in 2019/20 only, the published admission number for admission to the Reception Year shall be 90.
23. I have also considered the arrangements for 2019 in accordance with section 88I (5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.
24. 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: 9 October 2019

Signed:



Schools Adjudicator: Lorraine Chapman