



Determination

Case reference: VAR894

Admission authority: The Governing Board of Mayfield School, Dagenham.

Date of decision: 19 November 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 of Mayfield School for Mayfield School, Dagenham in the London Borough of Redbridge for September 2019.

I determine that the Published Admission Number be reduced from 360 – 330.

I have also considered both the arrangements for September 2019 and the arrangements for September 2020 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 the determination.

The referral

1. The board of governors of Mayfield School (the school) has referred a proposal for a variation to the admission arrangements for the school for September 2019 to the Office of the Schools Adjudicator. The school is a foundation school for children aged 11 to 18 in Dagenham in the London Borough of Redbridge. The parties to this referral are the school and the London Borough of Redbridge (the LA).
2. The proposed variation is that the PAN for the school for admissions in the year 2019/20 be reduced from 360 – 330 with immediate effect.

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 for September 2019 and September 2020 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 to 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 school’s board of governors dated 17 October 2019 and supporting documents;
- b. the determined arrangements for the year 2019/20 and the proposed variation to those arrangements;
- c. the determined arrangements for the year 2020/21;
- d. a copy of the LA’s online booklet for parents seeking admission to schools in the area in September 2019; and
- e. a copy of the letter notifying the appropriate bodies about the proposed variation.

Consideration of the arrangements

8. As the arrangements have been brought to my attention, I identified the following aspects of the arrangements which did not appear to conform to the requirements of the Code. I drew these to the school’s attention, and requested comments having indicated that

I was considering these aspects under my jurisdiction in section 88I of the Act. These were as follows:

- The published arrangements did not appear to provide a description, or a map, of the school's catchment area;
- The arrangements referred to Residence Orders, which have been replaced by Child Arrangements Orders; and
- The home address for children of separated parents is defined in the arrangements as possibly being the address used by the child's primary school as the home address.

The proposed variation

9. The school is a non-selective co-educational foundation secondary school for pupils aged 11 – 18. The school is rated as 'Good' by Ofsted. The application is for approval of a variation to the PAN for Year 7 from 360 – 330 for admission to the school in 2019 – 2020. The school currently has 337 pupils on roll in Year 7, however it considers that, if the PAN is reduced to 330, this will avoid the school having to admit further in-year applicants. This, in turn, will enable the school to “align” the number of Year 7 pupils with the level of staff capacity it currently has and to operate within the level of funding being provided.

10. 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 is justified by the change in circumstances.

11. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The school 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 LA that it supports the request for the variation. I am satisfied that all relevant bodies have been notified. No views appear to have been expressed, and so there are no views to have been taken into consideration. I find that the appropriate procedures were followed.

Consideration of proposed variation and other matters

The proposed variation

12. The background to this variation request is that the school increased its PAN in 2014 to 300 at the LA's request, and again in the following year to 360. However, the school's average intake for the last seven years has only been at 93 per cent, which the school says is “consistently 1FE short”. The school has reduced its PAN for admission in 2020 to 330, but has found itself in increasing financial difficulty due to the fact that it is not full to

capacity this year. The school is receiving fewer applications due to the fact that a new secondary school academy has opened within its catchment area, and other new secondary schools have also recently opened within the local authority area. The school says that *“Over the last five or six years the school has not secured sufficient income to meet the staffing and other costs associated with a PAN of 360... We estimate that this gap has resulted in cost pressures of approximately £2m income. As a result the school now has a significant deficit and, if it continues to have capacity for 360 without the funding levels that necessitates, then the Governing Body will be unable to address the underlying deficit. Furthermore there is a significant risk that the size of the deficit will grow to a size which makes the school financially unsustainable”*.

13. The school also says that, as a result of not admitting up to PAN, it is now having to take in-year admissions in Year 7. Whilst this can, in some ways, help to ameliorate the funding difficulties, a number of these pupils require additional levels of support and resource from the school. I probed this point further with the school because it appeared self-evident to me that, with a roll in Year 7 of 337 pupils, this would lead to the school having to operate with more than 330 pupils and to plan and organise its curriculum accordingly. Therefore, the additional per-pupil funding which in-year admissions would attract could only be helpful to the school's financial position. Whilst the school would not receive any additional per-pupil funding until the following financial year, this would nevertheless appear to be beneficial in the long term and year-on-year going forward. The school agreed that this would be the case, but then further explained its position as follows:

“Given the financial position and the significant number of ‘empty seats’, in recent years, the school has had to be circumspect about the number of teachers it employed for September 2019 since next year the overall roll for key stages 3 and 4 will fall from 1740 to 1680 as a result of reducing the PAN to 300.

As a result, the Governing Body was very reluctant to employ permanent staff for September 2019, knowing they would not be needed in 12 months’ time. Reducing the number of tutor groups to 11 would mean some temporary employees could be released this Christmas with significant budget savings in the short term.

The significant levels of mobility within the borough (and no doubt beyond) coupled with the as yet unknown implications of Brexit – and whether or not it will happen, make it very difficult to plan for the future with any level of certainty.

The Governing Body has a duty to ensure it does not get further into debt; reducing the PAN for September 2019 will be of significant financial benefit.

As previously stated, the Governing Body is prepared to create a bulge class for the LA, should the need arise – but in those circumstances it would receive guaranteed funding up to 80% of students and also Growth Funding”.

14. I was, of course, concerned about the plight of in-year applicants and whether there are places available at other secondary schools for these children, and so I asked the LA

whether it could re-assure me that there will be sufficient places available if the school is no longer required to admit further in-year applicants. The LA has confirmed that it has *“tracked the trend in both admission offers and place take up at the school for the 19-20 intake and considered that against the trend of in-year admissions to the school and within the secondary sector as a whole and the financial position and the projections for the school budget should the majority of the current spare places remain unfilled”*. The LA has apparently also reviewed the school’s capacity to accommodate the existing number on roll with a revised Pupil Admission Number of 330. The LA has concluded that the school would be able to accommodate existing numbers with a PAN of 330, and considers that the majority of the current unfilled places are unlikely to lead to an overall change in the number on roll at the school. This is because there are other schools with spare capacity within the borough. Therefore the school’s proposal to reduce the PAN to 330 is unlikely to impact on in-year provision. Having considered all of these factors, the LA supports the school’s proposal to vary the PAN as set out in the application because the LA believes that *“on balance this will be beneficial to the school and is unlikely to have a detrimental impact on the capacity for in-year admissions across the borough”*.

15. In light of the information presented to me, I have concluded that the school has identified a major change in circumstances which has occurred since its admission arrangements for Year 7 in 2019/2020 were determined. The school has advised me that it needs to reduce its PAN from 360 – 330 in order to redress the budget difficulties it has sustained by not admitting up to a PAN of 360 this year, and in several previous years. The school’s financial difficulties are serious, and it needs to take immediate steps to redress these difficulties and to do whatever it can in order to reduce its budget deficit. The LA supports the school’s application, having taken into account all relevant factors. Of significant importance to me is the fact that the LA has assured me that there are sufficient places at other local schools for in-year applicants. The school has also assured both myself and the LA that it would be prepared to create a bulge class should this become necessary in these uncertain times.

16. I am satisfied that the school has notified all persons and bodies required to be notified of its proposed PAN reduction. Whilst the requirement here is to notify, as opposed to consult, I note that there were no objections to the proposal. In circumstances where a school and LA, with first hand insight into the school’s financial position; knowledge of the admission arrangements for other local secondary schools and the availability of places at those schools; knowledge of the projected pupil numbers in the area for September 2019/20; and knowledge of the impact of the proposed PAN reduction each agree that a reduction in PAN from 360 – 330 is a reasonable course of action to take, I am loath to interfere with this. For these reasons, I approve the school’s proposed PAN reduction.

Other Matters

17. As mentioned above, having considered the arrangements as a whole, I considered it necessary to draw to the school’s attention some other matters in the arrangements which

did not appear to conform to the Code and other requirements of admissions legislation.

These were as follows:

- The arrangements published on the school's website did not appear to include a map, or other clear description, of the catchment area. The catchment area is part of the arrangements and must be published alongside the rest of the arrangements. An alternative would be for the arrangements to contain a one-click link to a map or other clear description on the LA's website so that details of the catchment area are immediately accessible to parents when looking at the arrangements on the school's website. I was concerned that the arrangements as they appeared on the school's website were insufficiently clear to parents.
- The definition of 'home address' stated that, for the children of separated parents, the school **may** use the home address identified as such by the child's primary school. I was concerned that the use of the word 'may' made the arrangements unclear to parents as to whether the school would adopt the primary school's definition of not. Furthermore, different primary schools may have different definitions and this could lead to inconsistencies of treatment as between applicants. The relevant primary school's definition may not arrive at the address where the child actually lives for the majority of the school week, which must be the objective of the definition. In my view, the definition of 'home address' in the case of separated parents appeared to be unreasonable and capable of operating unfairly to some children whose home address would be determined differently to the home address of other children. Also, some families move house, and so are no longer living at the address which was the home address when the child was in primary school.
- In the definition of 'Looked After Children', there needed to be a reference to Child Arrangements Orders as these have now replaced Residence Orders.

Paragraph 14 of the Code provides that *"In drawing up their arrangements, admission authorities must ensure that the practices and criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places at the school will be allocated."*

18. The school has confirmed that the governing board agrees with the points I have made. The school informed me that there is now a map of the catchment area published on the school's website as part of the admission arrangements, and that the governing board has approved revisions to, and will amend, the definition of 'home address' for the children of separated parents and 'Looked After children'. In addition, the school has identified, and agreed to make a revision to the definition of 'Children with an Education and Health Care Plan'. I looked on the school's website, and it did not appear to me that these agreed revisions have yet been made, however since that the school has assured me that it intends to make the required revisions, I am confident that the revisions are in the course of being put into effect. I am grateful to the school for its cooperation in this matter. These revisions will, of course, self-evidently also need to be made to the arrangements for 2020/21 because those arrangements fail to conform to the Code in exactly the same respects as the 2019/20 arrangements.

Summary

19. I find that the school has identified a major change of circumstances which has occurred since its admission arrangements for Year 7 were determined, and that reducing the school's PAN from 360 – 330 for the admission year 2019- 2020 is a reasonable means of addressing this change of circumstances.

20. I also find that there are other matters in the arrangements which do not conform to the Code. These are: the fact that the catchment area is not described clearly in the arrangements published on the school's website; the definition of 'home address' for the children of separated parents appeared to be unreasonable and capable of operating unfairly; and that the definition of 'Looked After Children' needed updating. As I have said, the school has agreed to revise the arrangements.

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 the governing board of Mayfield School for Mayfield School, Dagenham in the London Borough of Redbridge for September 2019.

22. I determine that the Published Admission Number be reduced from 360 – 330.

23. I have also considered both the arrangements for September 2019 and September 2020 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.

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: 19 November 2019

Signed:

Schools Adjudicator: Dr Marisa Vallely