



Office of
the Schools
Adjudicator

Determination

Case reference: VAR889

Admission authority: The governing board for Millbrook Infant School, Northamptonshire

Date of decision: 04 December 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 Millbrook Infant School, Northamptonshire for September 2019 and I do not approve the proposed variation to the admission arrangements determined by the governing board for Millbrook Infant School for September 2020.

I determine that for September 2019 the published admission number shall be 90.

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 unless the adjudicator specifies a different timescale. In this case, I specify that in relation to the arrangements for 2019 and 2020 the supplementary information form must be revised by 15 January 2020 and those other aspects of the admission arrangements which I have found not to be in conformity with the requirements relating to admissions must be revised by 28 February 2020.

The referral

1. The board of governors of Millbrook Infant School (the school) has referred proposals for variations to the admission arrangements for September 2019 and 2020 to the Office of the Schools Adjudicator. The school is a foundation school for children aged 5 to 7 in Kettering, Northamptonshire. The local authority for the school is Northamptonshire County Council.

2. The proposed variations are to reduce the published admission number from 120 to 90 for both 2019 and 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. My jurisdiction is limited to arrangements that have been determined by the admission authority, which for a foundation school such as this is the governing board. Before considering this application for a variation to the admission arrangements for the school I am required to satisfy myself that the governing board has determined the arrangements as required by the School Admissions Code (the Code) and the underlying School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations).

5. The arrangements provided with the application were marked as “*Reviewed July 2017*” and “*Next review date July 2018*”. Regulation 17 of the Regulations requires that admission authorities determine their arrangements annually “*on or before 28 February in the determination year*”. This means that the 2019 arrangements should have been determined between 1 September 2017 and 28 February 2018. It therefore appeared that the requirement of regulation 17 had not been met even though the relevant regulation was included in an appendix to the arrangements.

6. I was also provided with a copy of the minutes of a meeting of the governing board dated 12 September 2017 in which it was recorded “*Admissions policy – agreed in July, to be changed on the schedule to July.*” I questioned whether the arrangements for 2019 had been determined as required by the Regulations and I was told that “*the minutes of Sept 2017 were not written clearly. They should have stated that in July 2017, the admissions committee considered the admissions policy ready to present to governors for agreement at the September 2017 meeting ... They do not make clear that the policy (and therefore the determination of admission arrangements) was accepted at this meeting.*” I am therefore satisfied that the 2019 arrangements were determined by the governing board during the period required by the Regulations and it is within my jurisdiction to consider the application for a variation to them.

7. Regulations require that the arrangements for 2020 were determined between 1 September 2018 and 28 February 2019. I was provided with no evidence with the initial

application that the governing board had done so. In response to my enquiries I was told that the governing board agreed the 2020 arrangements at a meeting in July 2018. This was before the start of the determination year and so I could not accept that the arrangements for 2020 were properly determined by the governing board. After I informed the school that the 2020 arrangements were not in my jurisdiction for this reason, the governing board met on 5 November 2019 and determined them. I am satisfied that the 2020 arrangements are now determined and that it is within my jurisdiction to consider the application to vary them.

8. I am also satisfied that it is within my jurisdiction to consider the determined arrangements for both 2019 and 2020 as a whole in accordance with my power under section 88I of the Act 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

9. In considering this matter I have had regard to all relevant legislation, and the Code.

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

- a. the referral from the board of governors dated 13 September 2019, supporting documents and responses to my enquiries;
- b. the determined arrangements for September 2019 and 2020 and the proposed variations to those arrangements;
- c. a copy of the notification to the appropriate bodies about the proposed variations;
- d. comments received on the proposed variations from the local authority and its responses to my enquiries; and
- e. correspondence from Millbrook Junior School.

Consideration of the arrangements

11. When I considered the arrangements for 2019 as a whole I was concerned that they did not, or may not, conform with the requirements relating to admission arrangements in several ways.

- i) The Code requires in paragraph 14 that admission arrangements are clear. The arrangements refer to statements of special educational needs. These have been replaced by Education, Health and Care plans (EHCP). Including obsolete terms in admission arrangements can make the arrangements unclear.
- ii) Paragraph 1.7 of the Code requires that highest priority in oversubscription criteria is given to looked after and previously looked after children. This appeared not to be reflected in the arrangements as only looked after children were given highest priority

in the first oversubscription criterion with no mention of previously looked after children.

- iii) The second oversubscription criterion appeared not to conform with paragraph 1.11 of the Code because siblings were not clearly defined.
- iv) The third oversubscription criterion appeared not to conform with paragraph 1.13 of the Code because the measurement of distance did not appear to make clear how the 'home' address will be determined and the point in the school from which all distances are measured. Nor did it include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent which paragraph 1.13 states should be included.
- v) The arrangements say that all applications must be made through Northamptonshire County Council. This is not the case for a child living in another local authority area as explained in paragraph 2.3 of the Code as applications for schools are made through the local authority area in which the child lives which will not always be the area in which the school is located.
- vi) It is not clear what the "*staggered start*" for all children in the foundation stage described in the arrangements was, or how it conformed with paragraph 2.16 of the Code which provides that all children are entitled to a full time place from the beginning of the academic year following their fourth birthday.
- vii) The expression of interest form included with the arrangements appeared not to conform with paragraph 2.4 of the Code or with the General Data Protection Regulation (GDPR).

12. When I drew my concerns about the matters above to the attention of the school by means of a letter from the OSA, the governing board was told that I had not reached a final view as to whether they breached the requirements relating to admissions. At that time, the arrangements for 2020 had not been determined; as I explain above this happened (belatedly) on 5 November 2019. When the determined arrangements for 2020 were provided to me they differed in a number of ways from the 2019 arrangements and the accompanying letter said that the governing board had accepted my "*comments regarding the non conformity of the arrangements for 2019 and made efforts to correct this*".

13. Admission authorities are required to consult before making changes to admission arrangements, unless it is after they have been determined and as stated in paragraph 3.6 of the Code "*to give effect to a mandatory requirement of this Code, admissions law, a determination by the adjudicator or any misprint*". I have therefore taken the changes made to be acceptance that the 2019 arrangements did not conform with the Code in the ways I had identified. However, the 2020 arrangements continue not to conform with the Code in some of these ways which I will discuss below.

The proposed variation

14. The school is situated on the eastern side of Kettering adjacent to Millbrook Junior School. The Department for Education database “Get Information About Schools” shows there are 15 other primary schools within two miles of these schools, 14 of which offer places for reception aged children.

15. The PAN is stated in the 2019 arrangements as 120 and the oversubscription criteria are set out as:

- “Priority 1 A ‘looked after’ child – where a child is in public authority care*
- Priority 2 A child who has a brother or sister who will be attending either Millbrook Infant or Millbrook Junior School at the time of the applicant’s admission*
- Priority 3 Proximity of the child’s permanent or main address, measured in a straight line from the school, with those living nearer being accorded the higher priority”*

16. 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 certain other limited and specified situations. It is not for the adjudicator to form a view on the change in circumstance; the adjudicator’s role is to determine if the new circumstances justify the proposed variation.

17. Paragraph 3.6 of the Code also requires that all appropriate bodies in the relevant area are notified of a proposed variation. The appropriate bodies are set out in paragraph 3.6 of the Code and the footnote to that paragraph. They are also listed on the application form completed by the school. They are:

- all other admission authorities and all governing boards for community and voluntary controlled schools in 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; and
- in the case of schools with a religious character, the religious authority.

The relevant area is defined in section 88F(4) of the Act as “(a) *the area of the local authority in which the school is situated or (b) if regulations so provide, such other area in England (whether more or less extensive than the area of the local authority as may be determined by or in accordance with the regulations.*” The relevant regulations are the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999 (the relevant area regulations).

18. The initial application did not include any evidence that the governing board had notified any of these bodies. When I asked the school for evidence that the appropriate bodies had been notified I was sent a copy of a letter to “*Headteachers of schools in the area identified by the LA as being affected by this request.*” Following a further enquiry I was told that this was sent to 17 schools. The local authority confirmed that these were the schools in the “*West Kettering planning area*”. I went on to ask the local authority if this was the relevant area for the school as defined in accordance with the relevant area regulations. In response the officer dealing with the case admitted initial ignorance of what the relevant area was and confirmed that the relevant area determined by the local authority was “*all Northants schools and contiguous LAs*”.

19. The notification letter to the 17 schools invited them to submit comments on the proposal until 25 October 2019. I allowed the school until 2 November 2019 to send me any comments they had received; none was at that time. After I had established what the relevant area was, the school sent out further notifications in early November 2019 to meet the notification requirements.

20. On 27 November 2019 an email was received from Millbrook Junior School (the junior school) concerning its late notification of the proposed variations through an administrative error by the infant school. This was followed by a letter from the junior school expressing concern that the proposed variations would have an adverse effect on the junior school. The process for seeking a variation to admission arrangements requires notification, not consultation; there is a good reason for this important difference. If the change of circumstances is due to something like the failure of a building, flood or fire, there may be no time to consult and immediate action may be needed, hence only notification is required. However, in other situations there could be an understandable concern that the variation process can avoid wider local scrutiny of proposals to make changes to admission arrangements and this is a factor that I will refer to later in this determination.

Consideration of proposed variations

The proposal for 2019

21. The school provided me with data to show that the number of children due to start school in the Kettering area has been in decline. I was told that there were 848 places available in reception classes across the town and the number of children admitted in recent years was as shown in this table.

Year	2017	2018	2019
Children admitted to Year R	833	765	778

22. This fall in demand is reflected in the roll of the school which told me that it currently has 318 children on roll. There are four classes for each of Year 2 and Year 1 with three classes for Year R.

Year R	Year 1	Year 2
90	108	120

23. The school told me that it has recently made staff redundant in order to prevent a budget deficit. It told me that *“If the LA continue to allocate pupils to FS [foundation stage] classes up to current PAN, the school may be forced to recruit another teacher, immediately after absorbing the costs of making one redundant”*.

24. Infant class size legislation does not require each year group to be taught separately. The bare facts of the number of children admitted to schools and funding formulas require many schools to teach classes of no more than 30 infant pupils with different year groups in them which they do successfully. The school said that it had considered the possibility of mixing Year R and Year 1 pupils, but was concerned that *“if additional Year 1 children continue to be allocated up to the PAN for the year group, this could lead to FS [foundation stage children] being moved out of the class to make space for them part way through the year”*.

25. The PAN only applies to the normal year of admission, in this case Year R; there is no PAN for Year 1. While there would be no lawful grounds for refusing admission to Year R until the PAN is reached, the school could refuse to offer any more places in Year 1 if to do so would, as stated in section 86 of the Act, *“prejudice the provision of efficient education or the efficient use of resources”*. It would be necessary for the school to be able to defend this position to an independent appeal panel.

26. The local authority does not support the proposed reduction in the PAN for 2019. It informed me that 2000 new dwellings were being built in the town, mainly on the eastern side where the school is. The local authority told me that it expects 600 new primary school pupils to need places as a result of this development and considered it necessary for the school to keep its PAN unchanged in order to accommodate these new children at a school near to their home.

27. Of the 600 new primary school pupils, about one seventh would be expected in each year group, which is about 86 children. The local authority says that there are currently 76 places currently available in reception classes across Kettering so there would not be room to accommodate incoming pupils. However, not all of the 2000 homes will be built and occupied in one year and so not all 86 children will need places immediately.

28. The local authority told me that it expects 300 new homes to have been completed by September 2020 bringing with them 13 new reception aged children who may need

places during the current (19/20) academic year. As I have explained above, the PAN for 2019 only applies during the normal year of admission; from September 2020 onwards places may only be refused for admission to this year group cohort as it moves through the school on the grounds of prejudice. If I were to approve the proposed reduction in the 2019 PAN, then there would still be 46 places available for the 13 new children available at schools less than two miles away.

29. If I were not to approve the proposed reduction, then if all 13 of the new children expected to move into the new houses between now and the end of the school year were to apply to the school it would have to admit them. The school would, however, be able to mix Year R and Year 1 pupils and would not be required to appoint a new teacher (but not necessarily create a new class) until the total number of children in the school exceeded 330, it currently has 318 on roll. Although it is one of the closest schools to the new development, I think it unlikely that all 13 new children would want to go to it as some parents may prefer faith schools, or schools nearer to places of work or for other reasons.

30. Children moving into the new housing will not only be those of reception age, the local authority expects a similar number of new Year 1 children to require places. While the school could refuse to admit any more children to Year 1 on grounds of prejudice, and so allowing it to admit Year R children to a mixed class, an independent appeal panel may still place a Year 1 child at the school. This would make it more likely that an additional teacher would be required.

31. Another factor which I must consider is the implication of my decision on the PAN in future years. Paragraph 1.3 of the Code says "*Own admission authorities are not required to consult on their PAN where they propose either to increase or keep the same PAN.*" While in paragraph 3.3b prohibits objections being brought to the adjudicator "*about own authority admission's decision to increase or keep the same PAN*". For the 2019 variation I note that a PAN of 120 has been determined by the governing board for 2020 (and remains so unless I agree its reduction later in this determination). Therefore, a reduction in PAN for 2019 will not become the PAN for 2020 and afterwards by default and could only be reduced for subsequent years after consultation. Any later decision to reduce the PAN could be the subject of an objection to the adjudicator.

32. The junior school expressed concerns that reducing the PAN at the infant school would artificially cap the number of children who would transfer to it in future years which would have consequences for its own budget and staffing structure. I have taken into account that if there was not new large scale housing development in the town then the number of children in the current reception year group would remain at about 90 and the junior school would have to plan for a smaller intake in 2022 whatever the PAN at the infant school was. However, in the meantime, based on the current rate of development there could be another 39 children in the cohort by 2022. Some of these children may have been placed at the infant school and others, if placed at schools farther from their homes, may take advantage to the opportunity to transfer at age 7 to a nearer school. There will also be

children in other age groups moving into the town; this is something for which the local authority should be developing plans in partnership with all local schools.

33. On balance I have concluded that if I do not agree the proposal to reduce the PAN there is a risk, albeit small, that the school may have to appoint an additional teacher which will have an effect on the school's budget possibly to the detriment of resources available to support children's education. If I agree the proposal, then there are more than sufficient unfilled reception class places available at other schools within a two mile radius to accommodate the number of children forecast to need them as they move into new housing during the period for which the PAN applies. I am also satisfied that this reduction will only apply for the one year until August 2020. I therefore approve this proposed reduction in the PAN for 2019 from 120 to 90.

The proposal for 2020

34. The local authority does not support the proposal for 2020 for the same reasons as it opposed the proposal for 2019: the need for the places to accommodate children moving into the new housing. The local authority is currently aware of 761 children in the town who will require places in reception classes in September 2020. Adding the 13 children who may be expected to move into the area by then and another 13 who may move in during the course of the school year for which the 2020 PAN applies, a total of about 787 places will be needed. This is a similar number to the requirement for 2019; however, I must look at this situation differently for the reasons I set out below.

35. If I approve the reduced PAN there would be 818 reception class places available, on the face of it sufficient to meet the needs of that school year with about 4 per cent of them being unused, this is a level at which it becomes more difficult to meet parental preference. In September 2019 when, because the number of children admitted was below PAN, all parental preference for the school was met; it is not yet known how many parents would like their children to start at the school in 2020. The classrooms are available for use and if there is demand from parents for them, there is no reason why their preferences should be denied.

36. The other major difference is the consequence for future years if I approve the reduction of the PAN from 120 to 90 for 2020. The arrangements have not as yet been determined for 2021. As noted above, this means that if I did approve this reduction then paragraphs 1.3 and 3.3b of the Code mean no one could object if the school determined a PAN of 90 when it determines its admission arrangements for 2021 or in any subsequent year. Although the school has said that it would increase the PAN when needed, it cannot be required to do so. The PAN could have effectively been reduced for ever without the wide local consultation required by the Code when changes to admission arrangements are proposed. Because of this and given that the level of housing development in the area is likely to mean that these places will be needed in the near future I do not approve the reduction in the PAN proposed for 2020.

Other matters

37. Paragraph 14 of the Code says “*In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.*” The 2019 arrangements refer to statements of special educational needs. These have been replaced by EHCPs. Including obsolete terms in admission arrangements renders those arrangements unclear. This matter has been addressed in the 2020 arrangements.

38. Paragraph 1.7 of the Code says “*All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children. 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 first oversubscription criterion in the 2019 arrangements is quoted above. It makes no reference to previously looked after children and so does not conform with the Code.

39. In the 2020 arrangements the first oversubscription is “*A ‘looked after’ or a ‘previously looked after’ child – where a child is or has been in public care.*” This partially addresses the matter, however, the definition of a previously looked after child is more specific than this as set out in the footnotes to paragraph 1.7 of the Code. Without this definition, the first oversubscription criterion remains unclear.

40. Paragraph 1.11 of the Code says “*Admission authorities **must** state clearly in their arrangements what they mean by ‘sibling’ (e.g. whether this includes step siblings, foster siblings, adopted siblings and other children living permanently at the same address or siblings who are former pupils of the school).*” The 2019 arrangements did not do this, however, the 2020 arrangements do so clearly.

41. In paragraph 1.13 of the Code it says “*Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the ‘home’ address will be determined and the point in the school from which all distances are measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.*” The 2019 arrangements did not meet these requirements; however, this matter has been addressed in the 2020 arrangements.

42. The 2019 arrangements say that “*All applications for school places must be made to Northamptonshire County Council*”. This is not the case. Paragraph 2.3 of the Code says “*Regardless of which schools parents express preferences for, the CAF is required to be returned to the local authority in the area that they live.*” This matter is addressed in the 2020 arrangements.

43. The 2019 arrangements say “*The school operates a staggered start for all children in foundation stage allowing more time for individual attention.*” Paragraph 2.16 of the Code says “*Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that, where they have offered a child a place at a school: a) that child is entitled to a full-time place in the September following their fourth birthday; b) the child’s parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.*” Children are therefore entitled to a full-time school place from the September after their fourth birthday and any staggered start is only possible with the agreement of the child’s parents. This matter has been addressed in the 2020 arrangements.

44. The 2019 arrangements include an “*Expression of interest form*”. This form asks for legal and preferred names of the child, date of birth, gender, address, details of parental responsibility, medical conditions or disabilities, previous school, home language and which school siblings attend. The arrangements say that parents may complete this form at any time prior to their child’s start date and if it is completed the school will write to the parents in the September prior to the child’s due date of admission. The arrangements say this is a “*courtesy service*” and parents also need to make an application to Northamptonshire County Council.

45. 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.*”

46. I have looked at the common application form (CAF) on the local authority’s website. That form collects all of the information required to make decisions about the oversubscription criteria used by this school. I consider it highly unlikely that the CAF used in any neighbouring local authority would not collect all of the necessary information too. There is no need for the school to use any supplementary form at all. Even if the school needed to collect some information for the purpose of applying oversubscription criteria, most of the questions on this form would still be prohibited by paragraph 2.4.

47. Some of the information requested on this form would be necessary once the child was on roll at the school; however, only basic contact details are necessary to maintain a list of parents who have asked the school to inform them of open days and other events peripheral to making an application for the school. The GDPR only allows personal data to be collected for specified, explicit and legitimate purposes and the collection of data should be limited in relation to the purposes for which they are processed. It seems to me that collection of this data even as a “*courtesy service*” would fall foul of the GDPR which also has requirements concerning processing and retention of personal data. Compliance with the GDPR is a matter for the Information Commissioner. I find that the inclusion of the expression of interest form in the admission arrangements is unnecessary, the CAF is all that is required to apply to any school even if additional information is needed to make decisions about oversubscription criteria which is not the case here. Parents may think they have to complete this form to apply to the school which they do not and so it makes the arrangements unclear, it collects information not required to apply oversubscription criteria and other information prohibited by the Code. It is therefore in breach of paragraphs 14 and 2.4 of the Code.

48. The arrangements for 2020 also include an expression of interest form. This form does not ask for as much information as that with the 2019 arrangements. It continues to ask for legal and preferred names, date of birth, gender, address and about parental responsibility. There is also more information on the form, this includes a “*Next steps*” section, which after referring to the CAF, instructs the parent to complete the form and return it to the school. The form explains that its purpose is to keep in touch with parents, inform parents about open days and events and as the basis of a waiting list. It also gives information about how long the details will be kept on file.

49. Information on the 2020 version of the form is not necessary to make decisions about oversubscription criteria and it collects information prohibited by paragraph 2.4 of the Code. Instructions on the form suggest that its completion is necessary in order to apply for a place at the school which it is not. The only application required is the CAF. Collecting unnecessary information is also a possible breach of the GDPR. The school is free to set up a contact list to communicate with people who are interested in the school and events at it, however, that is not part of the admissions process and I find including the expression of interest form in the admission arrangements makes them unclear and so in breach of paragraph 14 of the Code as well as in breach of paragraph 2.4.

Summary

50. I am concerned that the school had not determined the admission arrangements in the time scale required by the law. I am also concerned that it did not initially notify all of the appropriate bodies that it was applying to the adjudicator for a variation to its admission arrangements. This was not helped by incorrect advice from the local authority concerning the relevant area. The initial notification which did take place also contained administrative errors. There is also a misunderstanding about the role of the PAN.

51. I consider that if the PAN for 2019 was reduced from 120 to 90, there would still be enough places across Kettering to accommodate all reception aged children who may move into the town before the end of the current academic year. There is a small risk that if the PAN was not reduced the school may have to appoint an additional teacher which would have financial implications for the school. On balance I have decided to approve the reduction in PAN for 2019 from 120 to 90.

52. Parental preferences for 2020 are not yet known and so reducing the PAN for that year could mean that more children may not be placed at their parents preferred school than may otherwise be the case. Agreeing to reduce the PAN for 2020 would also mean the school could keep the lower PAN in subsequent years and a permanent reduction in PAN would have been achieved without full consultation at a time when there is expected to be an increased demand for places arising from housing development. For these reasons I do not approve the proposed reduction in PAN for 2020.

53. The arrangements for 2019 and 2020 do not conform with the Code in the ways set out above. Paragraph 3.1 of the Code says "*The admission authority **must**, where necessary, revise their admission arrangements to give effect to the Adjudicator's decision within two months of the decision (or by 28 February following the decision, whichever is sooner), unless an alternative timescale is specified by the Adjudicator.*" I have taken into account that the closing date for applications to Year R in September 2020 is 15 January 2020 which is less than two months from the date of this determination and have considered setting that as the date by when these arrangements must be revised. However, I am aware that the Christmas period may limit the time the governing board has to undertake this task and that the changes required to the arrangements will not significantly alter which children would be offered places if the school was oversubscribed. Furthermore the governing board should be preparing to determine the arrangements for 2021 by 28 February 2020 (and I remind the governing board that if these include any changes other than those required by this determination, a six week consultation period must be completed by 31 January 2020 other than where they are those changes which do not require consultation). It would seem sensible to me to allow until 28 February 2020 for the governing board to revise the 2019 and 2020 arrangements alongside determining those for 2021 with one exception.

54. That exception is the expression of interest form which must be revised so that it conforms with the requirements of the Code as a supplementary information form or removed from the arrangements by 15 January 2020.

Determination

55. 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 Millbrook Infant School, Northamptonshire for September 2019 and I do not approve the proposed variation to the admission arrangements determined by the governing board for Millbrook Infant School for September 2020.

56. I determine that for September 2019 the published admission number shall be 90.

57. 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.

58. 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 the adjudicator specifies a different timescale. In this case, I specify that in relation to the arrangements for 2019 and 2020 the supplementary information form must be revised by 15 January 2020 and those other aspects of the admission arrangements which I have found not to be in conformity with the requirements relating to admissions must be revised by 28 February 2020.

Dated: 04 December 2019

Signed:

Schools Adjudicator: Phil Whiffing