



Office of
the Schools
Adjudicator

Determination

Case reference: VAR903

Admission authority: The Royal Borough of Windsor and Maidenhead for Courthouse Junior School, Maidenhead

Date of decision: 9 January 2020

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 Royal Borough of Windsor and Maidenhead for Courthouse Junior School for September 2020.

I determine that the published admission number will 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 the determination.

The referral

1. The Royal Borough of Windsor and Maidenhead (the local authority) has referred a proposal for a variation to the admission arrangements for September 2020 for Courthouse Junior School (the school), to the Office of the Schools Adjudicator. The school is a community school for children aged seven to eleven in Maidenhead.
2. The proposed variation is that the published admission number (PAN) is reduced from 105 to 90.

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 local authority dated 29 November 2019, supporting documents and further information provided subsequent to my enquiries;
- b. the determined arrangements for 2020 and the proposed variation to those arrangements;
- c. information available on the website of the local authority;
- d. evidence that the governing board for the school has been consulted;
- e. a map showing the location of the school, other relevant schools and the catchment area for the school; and
- f. a copy of the letter notifying the appropriate bodies about the proposed variation and the responses received.

Consideration of the arrangements

8. When I considered the arrangements, I raised with the local authority that that the first priority for looked after children and previously looked after children may not comply

with the Code. Paragraphs 14 and 1.7 are relevant. I also raised that the method of defining the home address may not be clear or fair. Paragraphs 14 and 1.3 of the Code are relevant.

The proposed variation

9. The school is what is known as a junior school. Infant and junior schools are primary schools but for the sake of simplicity in this determination I will refer to:

- 9.1. infant schools when describing a school for which YR is the normal point of entry and education is provided until the end of Y2 only;
- 9.2. junior schools when describing a school for which Y3 is the normal point of entry and education is provided until the end of Y6; and
- 9.3. primary schools when describing a school for which YR is the normal point of entry and education is provided until the end of Y6.

10. The school is situated to the north west of the town of Maidenhead. Primary education in Maidenhead is provided at a mix of infant and junior and primary schools. There are four infant schools in the town. One of the infant schools, Alwyn Infants School, is linked to the school in its admission arrangements (see below). The school is one of three junior schools in the town and all have linked infant schools (one of the other junior schools has two linked infant schools). The oversubscription criteria in the arrangements for the school are, in summary:

- 1) Children in care or previously in care
- 2) Children with exceptional social or medical reasons for requiring admission to the school
- 3) Children who live in the catchment area for the school and who have a sibling who attends this school or Alwyn Infant School
- 4) Children who live in the catchment area for the school
- 5) Children who have a sibling who attends the school or Alwyn Infant School
- 6) Children who attend Alwyn Infant School
- 7) Children whose parents have any other reason for their preference.

Where there are more applications than places under any criterion then the children who live nearest to the school will have the higher priority.

11. 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.

12. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The local authority 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 am satisfied that all relevant bodies have been notified and that views expressed have been taken into consideration. I find that the appropriate procedures were followed.

Consideration of proposed variation

13. There is no requirement for a consultation as required by the Code for a change to most aspects of admissions arrangements when the change is made through a variation. This is because a variation is to meet a major change in circumstances since the arrangements were determined. Parents and others with an interest therefore do not normally have an opportunity to express any views on the proposed variation. Once the PAN has been set for a community school such as this one, the only body that can object if the PAN remains the same is its governing board. My jurisdiction is for the arrangements for 2020. However, the PAN has not yet been set for 2021 and in these circumstances, it is appropriate to consider other years beyond 2020. This is because a reduced PAN – which has been set without the consultation which would be required by the Code if the PAN were to be reduced in accordance with normal procedure – should not be able to continue without scope for future challenge if there is a possibility that the places removed might be needed or wanted unless there are very good reasons to justify such a situation.

14. I have therefore scrutinised the data to try to ascertain if there will be sufficient school places in the local area if the PAN is reduced from 105 to 90; considered the demand for places at the school and the effects on parental preference of such a change; the reasons given for the change; and whether the change is justified in these circumstances. I note that the local authority is, at the time of writing, consulting on setting the PAN at 90 for 2021 which is welcomed.

15. I will consider first the need for school places in the area. The local authority has a duty to make sure that there are sufficient school places and, to do this, plans on the basis of planning areas. The school is one of 21 schools providing education for children in Y3 in what is known as the Maidenhead planning area (the planning area). Three of these 21 schools are junior schools. The rest are primary schools which certainly cater for Y3 children but which do not admit to Y3 on a regular basis. Most of their Y3 children are likely to be those who have simply moved up from Year 2 in the same school.

16. This proposed variation concerns the school's PAN. A PAN applies at a normal point of admission only. A primary school which admits children only to YR will have a PAN for YR. That PAN will also give an indication of the capacity of each year group as the cohort progresses, so that, for example, a school with a YR PAN of 30 which actually admits only 25 children in YR might have capacity to admit another five children to join that cohort as it

progresses. For the sake of brevity, I will refer to capacity when referring to the numbers of places for Y3 children in the YR – Y6 primary schools and to PAN when referring specifically to a normal point of entry to Y3 at a junior school. Table 1 shows the sum of the capacity or PAN as the case may be for the 21 schools making provision for Y3 children, the number of children being educated in Y3 in previous years and the forecast numbers of children in 2020 and 2021. As the children in the primary schools already have a place in Y3 at their existing school, I will look in more detail below at the numbers of those seeking a place in Y3 because they will be leaving an infant school at the end of Y2. However, the number of places available in Y3 overall is relevant as there may be some places available in Y3 at primary schools as well as at the junior schools. As the numbers of children in the area in Year 1 (Y1) and Y2 are known, I anticipate these forecasts being largely accurate, although they are susceptible to the effects of inward or outward migration from the area of course.

Table 1: number of children in Y3 in the planning area compared to the number of places available

	2017/18	2018/19	2019/20	2020/21	2021/22
Sum of relevant capacity/PANs for Y3 of schools in planning area	990	1007	1007	991	991*
Number of expected Y3 children	905	893	943	Forecast 883 (currently Y2)	Forecast 840 (currently Y1)
Difference	85	114	64	108	151

*assumes all PANs/capacities remain unchanged for 2021 from 2020

17. Table 1 shows a generally increasing proportion of surplus places. If I agree that the variation to the PAN the forecast number of surplus places for 2020 (and potentially for 2021) would be reduced by 15. This means for admissions in 2020 there would still be a forecast of 93 surplus places; this would be over nine per cent. Similarly, the forecast for the number of surplus places in 2021 would reduce to 136, which would be nearly 14 percent of the total number of places. I am therefore assured that overall there would be sufficient places for children in the area if the PAN for the school were reduced from 105 to 90.

18. Table 2 shows similar information to table 1 but based on the numbers of children who will require a place in Y3 because these children attend one of the infant schools and might normally anticipate admission to a junior school. The local authority assumes a pattern of 98 per cent of children completing their education in Y2 at one of the infant schools subsequently joining one of the junior schools as this is the mean average of children doing so across 2017, 2018 and 2019.

19. I note that the number of admissions to Y3 in 2018 was lower across the area and particularly for the school. Ofsted judged that the school required improvement when it inspected the school in March 2017. In a subsequent inspection in October 2019, Ofsted judged the school as good. I raise this matter as the local authority has told me that the demand for places at the school may have reduced in 2018 because of the Ofsted judgement made in 2017 and that since then demand for the school has increased. I note this point as the lower proportion of admissions to the school in 2018 will affect the mean average described above and so it is not necessarily indicative of future patterns.

Table 2: numbers of children in Y2 attending an infant school and likely to be seeking a place in Y3 in a state funded school in the area

	2017/18	2018/19	2019/20	2020/21	2021/22
Alwyn	101	88	97	87	81
Boyne Hill	60	60	59	60	59
Burchetts Green	19	14	23	21	25
Furze Platt	90	85	90	90	87
Infant schools totals	270	247	269	258	252
Sum of junior school PANs	285	285	285	285	285*
Difference between the number of children in Y2 in infant school and the sum of the PANs for the junior schools	15	38	16	27	33

*assumes all admission numbers remain unchanged for 2021 from 2020

20. Table 2 shows that in 2017, 2018 and 2019 there were sufficient places at the junior schools for the children in Y2 at the infant schools requiring a place in Y3. Of course, the parents for these schools can express a preference for any school providing suitable education and some may have sought a place at a primary school. All the junior schools provide priorities in their oversubscription criteria for those attending their linked infant school or schools and, while there is no guarantee of admission to the linked school, it is common for children to continue their education at a linked junior school. The school's linked infant school is Alwyn Infant School and, as laid out above, the oversubscription criteria for the school give priority to the children attending the linked school as follows:

- Priority 3: children who live in the catchment area for the school and who have a sibling who attends this school or Alwyn Infant School
- Priority 5: children who have a sibling who attends the school or Alwyn Infant School

- Priority 6: children who attend Alwyn Infant School

21. It is therefore relevant for me to consider whether the children attending Alwyn Infant School are likely to be admitted to the school if the PAN is reduced to 90. As seen in table 2 above, currently there are 87 children in Y2 (the year group which would be affected if the PAN were reduced to 90 for 2020) and 81 in Y1 (the year group which would be affected if the PAN were set at 90 for 2021). I am therefore assured that a PAN of 90 would allow all the children currently attending the linked infant school in Y2 to be admitted to the school in 2020.

22. I note that the PAN for Alwyn Infant School was set at 90 for admissions in 2018 and has remained at 90 since then. This was a reduction from 105 in years before 2018. Those admitted in 2018 are now in Y1 and will be seeking places in Y3 for admission in 2021. Therefore, I can be confident that in 2021 and future years, assuming the PAN for the infant school remains at 90, there will be sufficient places at the school to admit those attending its linked infant school.

23. I will now consider the reasons for the proposed variation. As referred to above, Ofsted judged the school to require improvement and following this judgement the leadership of the school changed. The current leadership of the school asked for the PAN to change as it told the local authority that a PAN of 105 caused difficulties in organising classes into sizes which were financially efficient and this affected the standards of education the school was able to provide. The local authority described this change in leadership as the major change in circumstances which led to the request for a variation.

24. I was told that until recently the school operated four classes in each of its four year groups (Years 3,4,5 and 6). The local authority said that when the school had approaching 105 children in each year group the classes would be arranged on the basis of 26-27 in each class. When the numbers were fewer than 105, the classes were arranged on the basis of more than 30 to a class with smaller groups for some subjects. For example, the current Y6 at the school has 97 children and three classes of 32 or 33 each. The alternative would be four classes of 24 or 25; the funding received for 97 pupils may make it hard to afford the costs of running four classes.

25. A junior school is not constrained by the requirements of the infant class size regulations to have no more than 30 children taught by a single qualified teacher. However, most schools would not seek to have a situation where it was necessary to have many more than 30 children to a class. It appears to me therefore that the variation requested is to make sure that class numbers are neither significantly above 30 (so as potentially to affect teaching and learning) or so low below 30 as to cause financial difficulties. This would not be easy to achieve with numbers somewhere between 90 and 105. For example, in the current Y3 at the school there are 102 children. This has been arranged into four classes of 25 or 26; the alternative would have been three classes of 34. Of course, children can leave or join the school after the normal point of entry and this could exacerbate or improve the teaching and learning ratios and the financial costs. I understand that the uncertainty

created by the number of children in a year group being anything up to 105 would make arranging the number of classes and the number of children in each class challenging both financially and educationally.

26. The local authority told me that initially the school asked that the PAN should be increased to 120 which would allow four classes of 30 in each year group. The local authority did not agree to pursue this because, as it described to me, there were sufficient places in the area so such an increase would lead to more surplus places. The school then requested the variation to 90 so that it could plan on the basis of three classes.

27. The local authority said that the school and the local authority would, if the variation was agreed, review the applications for the school *“to ensure that all Alwyn [Infant School] children get a place and/or there are sufficient places across the junior schools to meet demand.”* The local authority is the admission authority for the school and can admit above the PAN if it so wishes although there is no evidence that it would need to do so as there are fewer than 90 children in Y2 at the linked infant school.

28. Having reviewed the information provided to me I am assured that if the PAN were reduced to 90 from 105 for admissions in 2020 that:

28.1. there would be sufficient places for all the children in the area for Y3;

28.2. there would be sufficient places at the school for the children currently attending the linked infant school; and

29. Against this background and taking account of all the information provided to me, I consider the variation is justified because of the difficulties created for the school’s organisation of classes with a PAN of 105.

Consideration of the arrangements

30. 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.”* The Code continues to provide definitions for looked after children and previously looked after children. 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. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”*

31. The first priority in the arrangements describes *“Children in care or a child who was previously in care.”* This priority is therefore different to the definition in the Code as above and does not mean the same thing and so the arrangements are not compliant with the Code as above. This also makes the arrangements unclear and so not meet the requirement of paragraph 14 to be clear.

32. I was concerned that the definition of the home address when parents have shared responsibility of a child was not clear or fair which would mean that the arrangements would not comply with paragraphs 14 and 1.13 of the Code.

33. The definition given for the home address in the arrangements includes that “*a child’s home address is where he or she spends most of the school week.*” This is clear. The arrangements continue: “*Joint Custody Arrangements – where the childcare arrangements are jointly shared between both parents, the LA [local authority] will consider the mother’s home address to be the normal home address when considering the application unless legal documents are provided to the contrary.*” This definition of “*Joint Custody Arrangements*” contradicts the definition of home address as obviously it is possible that the child may not spend most of the school week at the mother’s address. The arrangements are unclear in this regard. It is right and proper that the definition of home address for admissions’ purposes should be where the child spends most of the school week.

34. Paragraph 1.13 of the Code requires that the definition of home address 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.*” This situation could include where parents equally share the care of their child so that the child spends the same amount of time in the school week at each parent’s house (say three nights one week with one parent and then two nights the next week and vice versa with the other parent).

35. As the arrangements stand, where there is equal time spent with both parents, in a heterosexual couple the father would have to provide legal evidence if he disagreed with the assumption that the home address is that of the mother and the mother would not. This is not fair. It also may be that the parents do not have any court documents as the matter may not have been part of a court decision. It is not clear what other legal documents may be appropriate. Furthermore, both parents could be of the same gender and so again the arrangements would not be clear. The arrangements therefore do not comply with the Code. The local authority has told me that it will address these matters and this is welcomed.

Determination

36. 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 Royal Borough of Windsor and Maidenhead for Courthouse Junior School for September 2020.

37. I determine that the published admission number will be 90.

38. 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.

39. 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 January 2020

Signed:

Schools Adjudicator: Deborah Pritchard