



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR905

**Admission authority:** The governing board for Our Lady of Peace Catholic Primary and Nursery School, Slough

**Date of decision:** 14 February 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 governing board for Our Lady of Peace Catholic Primary and Nursery School for September 2019.

I determine that the published admission number for the remainder of the academic year 2019/2020 shall be 60.

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 board of governors of Our Lady of Peace Catholic Primary and Nursery School (the school) has referred a proposal for a variation to the admission arrangements for the school for the remainder of the academic year 2019/2020 to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 3 to 11 in Slough. The local authority that maintains the school is Slough Borough Council (the LA). The religious authority for the school is the Catholic Diocese of Northampton (the diocese).

2. The proposed variation is to reduce the published admission number (PAN) from 90 to 60 for the remainder of the current academic year.

## 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 to 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 9 December 2019 (received by the Office of the Schools Adjudicator on 23 December 2019) and supporting documents;
- b. the determined arrangements for September 2019 and the proposed variation to those arrangements;
- c. the determined arrangements for September 2020;
- d. a copy of the LA’s booklet for parents seeking admission to schools in the area in September 2020;
- e. the LA’s forecasts of the demand for places in the area served by the school;
- f. the comments of the diocese on the proposed variation and the determined arrangements;
- g. the comments of the LA on the proposed variation;
- h. a map showing the location of the school and other relevant schools; and

- i. confirmation from the LA that the appropriate bodies were notified about the proposed variation.

## The arrangements as a whole

8. When I considered the admission arrangements for the school as a whole, it appeared to me that in several respects the arrangements did not conform with the requirements relating to admissions:

- in connection with the priority given to previously looked after children, reference is made to “*residence orders*”, which were replaced by child arrangements orders in 2014;
- within the oversubscription criteria, the definition of “*Practising Catholic*” does not appear to be made clear, contrary to paragraph 1.37 of the Code, which states, “*Admission authorities must ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied*”;
- the arrangements state, “*Parents can request that their child’s admission is deferred until later in the academic year or until the term in which the child reaches compulsory school age and that parents can request that their child takes up the place part-time until the child reaches compulsory school age. All decisions will be made by the Governors*”, which appears to be contrary to paragraph 2.16 of the Code, which explains (in accordance with the law as to when a child reaches compulsory school age) that the decision to defer admission or for children to attend part-time is made by the parents, not the admission authority; and
- there appears to be no reference in the arrangements to the process of requesting admission out of the normal age group, as required by paragraph 2.17 of the Code.

## The proposed variation

9. In the determined arrangements for admission to the school in September 2019, the PAN was set at 90, as it had been for several years. The school has requested that the PAN be reduced to 60 for the remainder of the academic year 2019/2020. The governing board has determined a PAN of 60 for admission in September 2020.

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 indicated that the LA carried out the notification on its

behalf, which the LA has confirmed. I have not been made aware of any responses to the notification.

## Consideration of the proposed variation

12. The table below shows the number of pupils currently in each class at the school.

**Table One – Pupils on roll by class and year group as at 20 January 2020**

<b>Class<sup>1</sup></b>	<b>Year R</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Year 6</b>	<b>TOTAL</b>
HA	24							24
LC	25							25
KB	13	9						22
EH		27						27
MB		29						29
HL			30					30
KS			30					30
SS			29					29
CK				28				28
JOK				27				27
MP				28				28
OS					28			28
RL					25			25
RS					27			27
JR						28		28
KD						28		28
SS						28		28
RG							28	28
SP							29	29
TH							30	30
<b>TOTAL</b>	<b>62</b>	<b>65</b>	<b>89</b>	<b>83</b>	<b>80</b>	<b>84</b>	<b>87</b>	<b>550</b>

Table One shows that there has been a significant reduction in the number of children admitted to the school in the last two years. Up to and including September 2017 (the current year 2 group) 80 or more children were admitted each year, enabling the school to organise three classes of almost 30 children in each year group. In September 2018 and September 2019, slightly over 60 children were admitted in each year. The school has

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<sup>1</sup> These are the names the school uses for its classes – it is clear to which year group or groups each class relates

accommodated these in a total of five classes, including what it describes as a “*split class*” containing children from both year one (Y1) and the reception year (YR).

13. The school is concerned about the effect of its having to maintain year groups of a little over 60 pupils. It explains,

*“If this was to continue, the school would have extremely high numbers of surplus places and would affect the financial position of the school.”*

I take this to mean that, for financial reasons, the school would prefer to have two classes of up to 30 pupils in YR. Pupil numbers cannot exceed 30 in each class taught by a single qualified teacher due to the regulations relating to the size of infant classes. Going forward, the governing board has addressed this matter by determining a PAN 60 for admission to YR in September 2020, but is aware this does not directly affect year groups already enrolled at the school.

14. The school cites three reasons for the reduction in admissions over the past two years, as follows:

- *“Drop in demand for places because birth rate has dropped in the last 2 years*
- *A large number of our European parents are going back home*
- *Mobility very high.”*

Although it has sufficient capacity to accommodate three classes in each year group, it explains that,

*“Currently we have 3 mobile huts where children are taught and are going to need to be replaced in the near future. If the request for the change of PAN is considered, the school would be able to remove the huts and house the children within the main building.”*

15. I consider that the school overstates the potential effect of this variation request being approved. Paragraph 1.2 of the Code stipulates that,

*“As part of determining their admission arrangements, all admission authorities must set an admission number for each ‘relevant age group.’”*

The Act makes clear that the ‘relevant age group’ is the age group at which pupils are normally admitted to the school. Therefore, if the school’s PAN were to be reduced as requested, it would mean that the school would not be obliged to admit any more pupils into YR for the remainder of the current academic year unless the number in the year group were to fall below 60 or the child were an excepted child for the purpose of the regulations. As the school indicates that pupil mobility is high, it may be that the number in the year group will in due course fall to 60, in which case it would be possible, at an appropriate time, to organise the pupils into two classes of 30 or fewer.

16. The school has determined a PAN of 60 for admission in September 2020 and may well do so for succeeding years. This will, of course, over time lead to a reduction in the number of classes at the school, but it will be a result of the annual determination of admission arrangements, not this variation request.

17. I should also make clear that a reduction in PAN does not affect Y1 (or any of the higher year groups in the school for that matter), as it is not a year group at which pupils are normally admitted to the school. The Code states, in paragraph 2.8 that,

*“all maintained schools...that have enough places available must offer a place to every child who has applied for one.”*

Decisions on whether places are available in what is currently Y1 are made by the admission authority for the school, in this case, the governing board. The only ground for refusal is that a child's admission will cause prejudice to the efficient use of resources or efficient provision of education. If a child is refused admission, parents have the right of appeal to an independent panel.

18. Nevertheless, I recognise the benefits to the school that this proposed variation might bring, which it summarises as,

*“The school will be better equipped to manage resources such as teachers [and the] finances of the school will be more secure.”*

I consider that the reduction in PAN for the remainder of the academic year is justified by the significant demographic changes that have affected the school.

19. I need to be satisfied, too, that a reduction in the school's PAN will not cause difficulty for parents and children living in the area or moving there later and needing places in YR. Figures that the LA has provided show that the combined PANs of all of the infant and primary schools in the Western Planning Area (in which the school is located) amounted to 900 for admission in September 2019. 777 children were admitted to YR. Therefore, if the PAN for Our Lady of Peace School is reduced by 30, there will still be nearly 100 spare places available in YR in the planning area, some of which are at schools located close to the school. At the time of the annual pupil census in October 2019, there was also a small number of unfilled places at another Catholic primary school in the planning area. The diocese has indicated that it supports the proposed reduction in the PAN. The LA is also supportive of this variation request.

20. For the reasons given above, I approve the proposed reduction to the school's PAN for the remainder of the academic year.

## Consideration of the arrangements

21. Both the school and the diocese responded positively when I drew attention to the respects in which the arrangements did not conform with the requirements relating to admissions. The diocese explained that it,

*“had already alerted the school to the fact that they have been using an outdated admissions policy which was not compliant with the code.”*

Following the diocesan advice, for admission in September 2021 the school is consulting on adopting a model policy, approved by the Catholic Education Service, which addresses all of the matters that do not conform with the requirements. This is a welcome development.

22. With respect to the arrangements for admission in the current academic year, the school reported that amendments had been *“approved by Governors on Thursday 23rd January 2020 and will be ratified by the Full Governing Body.”* The amendments are as follows:

- the replacement of the reference to *“residence orders”* with *“child arrangements orders”*;
- explicit clarification that the definition of a *“Practising Catholic”* is weekly attendance at Mass;
- the removal of the statement that the governors will make the decision about parents’ requests that the admission of children below compulsory school age is deferred or that they attend part-time; and
- an explanation that parents may request admission for their child out of the normal age group.

23. The school deserves credit for making these amendments. They address some of the matters requiring attention but, in two respects, do not go far enough. Having defined *“Practising Catholic”* as requiring weekly attendance at Mass, it is not necessary for the school’s Supplementary Information Form (SIF) to continue to request information about other frequencies of attendance, for example, *“monthly”* or *“occasionally”*. This is contrary to paragraph 2.4 of the Code, which stipulates that SIFs should only *“request additional information when it has a direct bearing on decisions about oversubscription criteria.”* Furthermore, the amended arrangements do not specify the length of time over which weekly attendance should have taken place in order for a person to meet the definition of a *“Practising Catholic.”* Unless this information is provided, the arrangements will not meet the requirement of paragraph 1.37 of the Code quoted above.

24. The amended arrangements correctly state that parents may request admission for their child out of the normal age group, but they do not make clear *“the process”* for making

such a request, as required by paragraph 2.17 of the Code. I note that the model policy provided by the diocese includes a section that outlines such a process.

25. The Code requires that the amended arrangements be changed in order to meet the requirements of paragraphs 1.37, 2.4 and 2.17 as I have explained above.

25. I also note that the arrangements for admission in September 2020, which are almost identical to those for admission in the current academic year, have been amended in the same way. The same considerations apply to these arrangements.

## **Determination**

26. I approve the proposed variation to the admission arrangements determined by the governing board for Our Lady of Peace Catholic Primary and Nursery School for September 2019.

27. I determine that the published admission number for the remainder of the academic year 2019/2020 shall be 60.

28. 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.

29. 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: 14 February 2020

Signed:

Schools Adjudicator: Peter Goringe