



Office of
the Schools
Adjudicator

Determination

Case reference: VAR909

Admission authority: London Borough of Lambeth for Henry Fawcett Primary School, London

Date of decision: 20 February 2020

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lambeth for Henry Fawcett Primary School for September 2020.

The referral

1. The London Borough of Lambeth (the local authority) has referred a proposal for a variation to the admission arrangements for September 2020 for Henry Fawcett Primary School (the school), to the Office of the Schools Adjudicator. The school is a community school for children aged 3 to 11 in the area of the London Borough of Lambeth.
2. The proposed variation is that the published admission number (PAN) be reduced from 60 to 30.

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.

Procedure

5. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

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

- a. the referral from the local authority dated 8 January 2020, supporting documents and further information provided in response to my enquiries;
- b. the determined arrangements for 2020 and the proposed variation to those arrangements;
- c. evidence that the governing board for the school has been consulted;
- d. maps showing the location of the school and other relevant schools;
- e. a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2020;
- f. information available on the websites of the local authority and the Department for Education;
- g. a copy of the letter notifying the appropriate bodies about the proposed variation; and comments received on the proposed variation from the appropriate bodies.

The proposed variation

7. The chair of the governing board for the school wrote to the local authority on 14 October 2019 asking that the PAN for the school should be reduced from 60 to 30 for admissions in 2020. Following the local authority notifying the relevant bodies as required by paragraph 3.6 of the Code, the local authority made a request for a variation that the PAN for the school should be reduced from 60 to 30. This was one of six requests for variations to the admission arrangements of community primary schools, including for the school. In each case the variation requested is that the PAN should be reduced.

Consideration of proposed variation

8. 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.

9. The Code requires a public consultation for a change to most aspects of admissions arrangements. This is not required when the change is made through a variation 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. Moreover, 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 in subsequent years 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 – would be able to continue without scope for future challenge. It is important to consider in that context whether the places removed might be wanted in future years and, if so, if there are good reasons to justify their removal. I note that in this context that the local authority has consulted on setting the PAN at 30 for 2021. I deal later on in this determination with the view of the school's governing board on this point.

10. 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 60 to 30; and 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. The timing is also pertinent as parents have already stated their preferences for admissions to YR in 2020 (the closing date was 15 January) on the understanding that the PAN was 60.

11. I questioned the local authority regarding the proximity of the date of the request for a variation (8 January 2020) and the closing date for applications and the local authority told me, *"In accordance with the guidance, as part of the period of notice, the school, and the Local Authority made the information available that the school had applied for a reduction in the PAN, therefore the parents would have been making an informed choice."* The local authority explained that it had asked the school to provide information on its websites for parents on the proposed reduction. A copy of this was provided to me. The document was described as a consultation although it would not fulfil the requirements of the Code as a consultation but, as discussed above, no consultation is required for a variation. The same notice was placed on the local authority website and said that the consultation ran between 15 November and 13 December 2019 and responses could be made in that four week period; none were received. This is a worthy attempt to make sure that parents were aware of the proposed variation.

12. However, I think it is likely that some parents would have relied on the information provided in *"Starting primary school in Lambeth: 2020/21"* which is the local authority's booklet for parents seeking admission to schools in the area in September 2020 which stated that the PAN was 60. In addition, parents could have started applying for a place from 1 September 2019 and so some may have applied in advance of this notice; others may not have looked at the websites; and others may not have understood the implications

for their application. I remain of the view that some parents at least may well have made their preferences unaware of the proposed reduction in PAN.

13. I will consider first the need for school places in the area. The local authority area comprises a densely populated part of inner London. The surrounding local authority areas of Croydon, Westminster, Southwark and Merton are similarly urban. There are a large number of primary schools potentially within reach of those living in the local authority area and in its neighbouring authorities.

14. 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 in the planning area known as the North Lambeth planning area (the planning area) which contains 14 primary schools admitting children to YR. The other five schools for which reductions in PAN are proposed are in different planning areas. Table 1 below shows the sum of the PANs of the primary schools in the planning area, the number of children in YR in recent years, the local authority's forecasts for the number of children requiring a place in YR in 2020 and 2021 in the planning area and the difference between the places available and the sum of the PANs and the forecasts as appropriate.

15. Table 1: the number of children and places available in the planning area

	2017/18	2018/19	2019/20	2020/21	2021/22
Sum of PANS of the schools in the planning area	655	600	620	590	650*
Number of children in YR at date of relevant census	532	524	522	516 (forecast)	528 (forecast)
Difference between the places available and the number of children (the number of vacant places)	123	76	98	74	122
Difference shown as a percentage of the whole (the percentage of vacant places)	19%	13%	16%	13%	19%

*figure for 2021 as provided by the local authority on 8 January 2020

16. Table 1 shows that the number of children admitted to YR has remained fairly consistent since 2017 but that the proportion of vacant places has varied in proportion to the number of places available. The 13 per cent vacant places forecast for 2020 is a generous proportion. If the number of places were reduced from 74 by 30 as proposed through the variation then there would be 44 surplus places in 2020 which would reduce the percentage to eight per cent. This is a reasonable proportion and so I am confident that if the PAN at the school were to be reduced by 30 places then there would be sufficient places for all the children in the area.

17. Table 2 shows the number of children in YR at the school in recent years and the forecast made by the local authority for 2020 and 2021.

Table 2: Numbers of children at the school

	2017/18	2018/19	2019/20	2020/21	2021/22
PAN for the school	60	60	60	60	60
Number of children in YR	42	51	42	45 (forecast)	46 (forecast)
Difference	18	9	18	15	14

18. The data provided shows that more than 30 children, 30 being the proposed PAN, have been admitted to the school to YR each year since 2017. Furthermore, the forecast is that more than 30 children would be admitted to the school if the PAN were to remain at the determined level of 60. As discussed above I am aware that parents have already made their applications for admissions in 2020 and that some parents may have been aware of the proposed reduction. However, some may not have been aware and those who did may or may not have understood how their own application would fare with a reduced PAN.

19. In these circumstances, and given the level of demand expressed for places at the school in recent years there would need to be a strong justification to reduce the PAN to 30 as there is no doubt about the school's physical capacity to accommodate up to 60 in each year group. I note that the number of first preferences made for the school for admission in 2017, 2018 and 2019 was 30 or below. However, the data also shows that more than 30 children were admitted each year which means that the school was the highest preference that could be met for 42, 51 and 42 children in 2017, 2018 and 2019 respectively. A reduction in PAN is likely to mean that some children will have to go to a school that their parents would have preferred less than they preferred Henry Fawcett Primary School.

20. Infant class size regulations mean that for infant aged children, there must not be more than 30 children to a single school teacher (except in limited circumstances). In addition, in a normal year of entry a school must admit all those who apply up to the PAN. A PAN of 60 could thus mean that just over 30 children are admitted to the school and the school having, because of infant class size regulations, to provide two teachers to teach them. In 2018, 51 children were admitted to YR at this school and 42 in 2019. This is above 30 children and 45 children are forecast to be admitted in 2020 if the PAN is not varied. An intake of 45 would probably mean two classes of 22 or 23 unless the school decided to organise its classes differently.

21. If 60, or close to 60, children are admitted then a school can organise YR provision in two classes each containing 30 or nearly 30 children. Given that schools are funded primarily on the basis of pupil numbers, this is financially efficient. If the PAN is 60 and far

fewer children, but more than 30, are being admitted to the school then this can lead to financial problems. In this case the local authority explained that a PAN of 30 would mean that the school could have one class for YR rather than two. Clearly this would be more financially efficient.

22. I asked the local authority to provide me with further information on the justification to reduce the PAN when parents have already made their applications and it is likely that more than 30 children would be admitted if the PAN were not reduced. The local authority explained that birth rates have been reducing for some years and this affects the number of children likely to be seeking a place in YR in due course. The local authority provided a map which shows the home addresses of those in YR now and this shows that children admitted to the school often live closer to other schools and pass them to travel to the school. It would be those children who live further away who would not get a place at the school if the PAN were reduced to 30. There is no doubt that there are other places available to them in easy distances of their homes. Equally, however, there is little doubt that there are parents who would prefer this school who would have to be disappointed if the PAN were reduced. For its part, the school's comments on the variation regarded its concern that it wanted to retain the option of the PAN being set at 60 for 2021. I note as an aside that, as I indicated above, the governing board will have the right if the PAN set is lower than it would wish to make an objection to the adjudicator about the PAN. I was provided with no compelling reason to justify the reduction in PAN for 2020.

23. I have taken account of all the information provided to me. The school has sufficient space to admit 60 children and the evidence provided to me indicates that it is likely that more than 30 children would be admitted to the school if the PAN remained at 60 as determined and parents have already made their applications for 2020. I have not been provided with strong and specific evidence of the need to reduce the PAN. In these circumstances I have decided that the variation is not justified.

Determination

24. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lambeth for Henry Fawcett Primary School for September 2020.

Dated: 20 February 2020

Signed:

Schools Adjudicator: Deborah Pritchard