



Office of
the Schools
Adjudicator

Determination

Case reference: VAR941

Admission authority: The Governing Body of St Hild's Church of England Voluntary Aided School, Hartlepool

Date of decision: 5 November 2020

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve in part the proposed variation to the admission arrangements determined by The Governing Body of St Hild's Church of England Voluntary Aided School for St Hild's Church of England Voluntary Aided School for September 2020.

I determine that the published admission number for St Hild's Church of England Voluntary Aided School for September 2020 shall be 155.

The referral

1. The board of governors of St Hild's Church of England Voluntary Aided School (the school) has referred a proposal for a variation to the admission arrangements for September 2020 for the school, to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 11 to 16 in Hartlepool.
2. The proposed variation is for a decrease in the school's published admission number (PAN) from 190 to 155 for 2020. A decrease in PAN is also requested retrospectively for the Years 8 to 11 which, for reasons I will set out below, would not be appropriate.

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 school's determined arrangements for 2021 in accordance with my power under section 88I of the Act as the arrangements 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 governing body dated 20 June 2020 and supporting documents;
- b. the determined arrangements for 2020 and the proposed variation to those arrangements;
- c. the determined arrangements for 2021;
- d. a map showing the location of the school and other relevant schools;
- e. a copy of the letter notifying the appropriate bodies of the proposed variation; and
- f. comments received on the proposed variation from the appropriate bodies.

The proposed variation

8. The school is a Church of England voluntary aided secondary school in Hartlepool within the Hartlepool North West Planning Area of Hartlepool Borough Council (the Local Authority). The school was inspected by Ofsted in September 2019 and was placed in special measures. Subsequently an interim executive board (IEB) was appointed to replace the school's governing body. The school is currently subject to an academy order as a result of the Ofsted judgement, but has not yet converted to academy status. The school falls within the Church of England Diocese of Durham (the Diocese).

9. 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 am satisfied that the Ofsted judgement together with the appointment of an IEB constitutes a major change of circumstances.

10. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The school has provided me with a copy of its notification on the proposed variation. I have seen confirmation from the school's governing board that it supports the request for the variation. 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

11. I will consider firstly the nature and effect of PAN. PAN only applies to a normal year of Admission. This is defined in footnote 11 to paragraph 1.2 of the School Admissions Code (the Code) as "...the age group at which pupils are or will normally be admitted to the school e.g. reception, year 7 and year 12 where the school admits external applicants to the sixth form (Section 142 of the SSFA 1998)". In the school this will be Year 7. There is no PAN for Years 8 to 11.

12. The provisions for parental preference are set out in Section 86 of the School Standards and Framework Act 1998 (the Act). The general rule, which applies to an admission in any school year, is that the admission authority for the school must comply with parental preference unless compliance would prejudice the provision of efficient education or the efficient use of resources.

13. There is additional provision in Section 86 of the Act which states that no such prejudice shall be taken to arise for admission to a normal year of admission if the school's PAN has not been reached. This applies only to the normal year of entry, Year 7. For Year 7 the school currently has about 151 pupils on roll with a PAN of 190. This means that, for Year 7 only, the school cannot argue that to admit one or more additional pupils would lead to such prejudice arising.

14. However, PAN does not follow on through the school. For Years 8 to 11 the school can argue that such prejudice would arise with the admission of one or more additional pupils in Years 8 to 11 whether or not that year group is above or below the PAN for Year 7 when that cohort entered the school. That number may be a relevant consideration but there is no prohibition on arguing that such prejudice would arise simply because that number has not been reached.

15. It may be helpful to illustrate this with a simplified hypothetical example. School X had a PAN of 120 for 2019. That group are now in Year 8. Currently there are 90 children in Year 8. The school have decided to educate those children in three classes of 30 pupils each. The school considers that 30 pupils is the maximum class size for the provision of efficient education. A child's parents express a preference for their child to join the school in Year 8. The fact that there are only 90 pupils on roll in Year 8 does not preclude the school from arguing that such prejudice would arise if it complies with that preference and admits an additional pupil. I would emphasise that I am not saying that such prejudice would arise in these circumstances, all the circumstances would need to be considered, only that an

argument that such prejudice would arise is not precluded by the fact that there are less than 120 pupils in Year 8.

16. That being so, there is no need to retrospectively change the school's PAN for years of entry for what are now Years 8 to 10 and I will not consider that aspect of the request for a variation further.

17. For 2021 the school have consulted on changes to its admission arrangements and have determined arrangements which include a PAN of 155. There is no need for me to consider further the PAN for 2021, although I will consider some other aspects of the admission arrangements for 2021 below.

18. For 2020 the school determined a PAN of 190. On 9 October 2020 there were 151 pupils on roll in Year 7, including seven transfers into the school so far this school year. It follows that the school is 39 places below PAN in Year 7, the normal year of entry. That being so the school would have to admit any child whose parent applies for a place in Year 7. It follows that the PAN of 190 will continue to affect admissions for the remainder of this Year 7.

19. In numbers currently attending the school in other years are Year 8; 136, Year 9; 167, Year 10; 146, and Year 11; 130. The school have said that the higher number in Year 9 arose as a result of "an unexpected increase in pupil numbers at the point of admission". Otherwise numbers are below the decreased PAN sought of 155. Neither the school, the diocese nor the Local Authority have indicated that the decrease in PAN sought would lead to a shortage of school places in the area, although I note that the other secondary school in the planning area, High Tunstall College of Science, is currently full in Years 7, 8 and 10. I find that the variation sought will not lead to a shortage of places in the area.

20. As stated above the school is currently in special measures and has an IEB which is seeking its conversion to sponsored academy status. The school has history of budget deficit. The school say that the prospect of additional in-year admissions, particularly of children with additional needs, makes planning and budgeting difficult and so impacts on the IEB's ability to raise standards of education for pupils. I accept that the PAN of 190 for 2020 does not reflect the school's intake and gives rise to difficulties such as the school describe. The Diocese has written to support the decrease in PAN sought and the Local Authority have not argued against it.

21. I find that a PAN of 155 for 2020 would more accurately reflect the school's intake and would remove some uncertainty from in-year admissions to Year 7, which is desirable given the school's Ofsted judgement and budgetary issues. Consequently, I approve the variation of the school's PAN for 2020 from 190 to 155.

Other matters

22. In the 2021 admission arrangements the paragraph headed “Tie-breaker” states “Should it prove necessary to distinguish between children within criteria 4 (children attending named feeder primary schools), priority will be given to those with older siblings attending the school in September 2021”. It appears that all such children would already have met the requirements for criterion 3 (children with a sibling at the school) and so would not need to be considered under criterion 4. This is not compliant with the requirement of paragraphs 14 and 1.8 of the Code that admission arrangements are clear. The school have offered helpfully to amend the admission arrangements to correct this.

Determination

23. In accordance with section 88E of the School Standards and Framework Act 1998, I approve in part the proposed variation to the admission arrangements determined by The Governing Body of St Hild's Church of England Voluntary Aided School for St Hild's Church of England Voluntary Aided School for September 2020.

24. I determine that the published admission number for St Hild's Church of England Voluntary Aided School for September 2020 shall be 155.

25. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements for admission arrangements in the ways set out in this determination.

26. 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.

Dated: 5 November 2020

Signed:

Schools Adjudicator: Tom Brooke