



Office of the Schools Adjudicator

Determination

Case reference: VAR1128

Admission authority: The Governing Board for St Andrew's Church of England High School, Worthing, West Sussex

Date of decision: 2 December 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 St Andrew's Church of England High School in Worthing, West Sussex for September 2021.

I determine that the admission arrangements should replace the word 'boys' with 'pupils'.

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 St Andrew's Church of England High School (the school) has referred a proposal for a variation to the admission arrangements for September 2021, to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 11 to 16 in Worthing, West Sussex. The Diocese of Chichester (the diocese) is the religious authority for the school.

2. The proposed variation is to amend the admission arrangements to replace the word 'boys' with the word 'pupils', as West Sussex County Council (the local authority) has

approved the school's statutory proposal to change its status from single sex boys' school to co-educational from September 2021.

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 board of governors dated 10 September 2020, supporting documents and further correspondence;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. correspondence with the school and the local authority about the school's proposal to change the status of the school from single sex to co-educational;
- d. the decision by West Sussex County Council on 29 October 2020 to approve the statutory proposal to change the status of the school; and
- e. a copy of the letter notifying the appropriate bodies about the proposed variation.

Consideration of the arrangements

8. Having read the admission arrangements, it appeared to me that there were a number of other matters which did not conform to the requirements of the Code. These were, with the relevant reference to the Code in brackets:

- a. The reference to the legislation about Education, Health and Care Plans is incorrect (footnote 15).
- b. The use of the term "residence order" in relation to previously looked after children is incorrect and should be replaced with "child arrangements order" (paragraph 1.7).
- c. The definition of siblings was unclear (paragraph 1.11).
- d. The arrangements state that the waiting lists are reviewed at the end of each term, but the Code sets out that admission authorities must maintain a waiting list until at least 31 December of each school year of admission (paragraph 2.14).
- e. The arrangements do not make clear the process for requesting admission out of the normal age group (paragraphs 2.17, 2.17A and 2.17B).
- f. There is no reference to the provision needed for cases where parents have shared responsibility for a child who lives part of the week with each parent (paragraph 1.13).

9. The school has agreed to make the necessary revisions and has submitted a proposed revised set of arrangements in respect of each of the matters listed above. I am content with the changes they intend to make and ask only that the school amend the reference to the legislation in regard to child arrangements order. I note also that the school has chosen not to include adopted children in its definition of siblings. I am grateful to the school for its prompt response.

The proposed variation

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 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

12. The governing board's application, to amend the admission arrangements to reflect the school's change of status from boys only to co-educational, follows the statutory process to make that change. My starting point in considering this request was to ensure that the governing board's proposal to change the status of the school had been determined by West Sussex County Council in line with legal requirements. The process for doing so is set out in statutory guidance 'Making significant changes ('prescribed alterations') to maintained schools' published by the Department for Education in October 2018.

13. Following discussions with the diocese and the local authority the governors initiated a public consultation on the scope to change from being a school for boys to a co-educational school. This consultation took place between 1 June 2020 and 29 June 2020. After consideration of the responses received, a statutory notice was published by the local authority on behalf of the governing board on 6 August 2020. The proposal was to admit the first co-educational cohort in September 2021 and in following years while existing year groups of boys would continue through the school until the age of 16.

14. The notice makes clear that 'Within four weeks from the date of publication of this proposal, 06/08/2020, any person may object to, support or make representation of further comments on the proposal'. The explanatory note appended to the notice states that West Sussex County Council would determine the statutory notice within two months of the end of the representation period of four weeks. The representation period ended on 3 September 2020, so the local authority had until 2 November to determine the proposals. All this is in accordance with the process for making such prescribed alterations laid out in the School Standards and Framework Act and the relevant regulations, namely the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. The process is also set out in the guidance I referred to above.

15. It was clear that at the time it first submitted its proposed variation to its admission arrangements in early September the school believed that the proposal had been determined by the local authority. It was on that basis that the governors submitted the application to vary the admission arrangements to reflect the change to a co-educational school. I asked the local authority for evidence that the proposal had been approved by them. I was sent a copy of a Bulletin dated 9 September 2020 with information about decisions by Cabinet Members and others. The Bulletin set out details of the published statutory notice and reported:

"Following the closure of this four week period there have been no representations received on the proposals that are deemed to provide new or significant information. In this respect no further decision by the Cabinet Member for Education and Skills is required and the proposals will be implemented as described in the previous decision ES520/21."

16. However, the decision in ES520/21 could only have been a decision to support the governing board of St Andrew's in its decision to publish proposals. It could not have been a decision to approve those proposals as they had not at that stage been published nor had the representation period been completed. On 29 October 2020 the local authority sent me a newly published decision:

"A decision by Director of Law and Assurance has been published: Change of status for The Forest School, Horsham and St Andrews CE High School for Boys, Worthing to co-educational schools - Determination of Statutory Notices Reg11 - ES08 (20/21)

Decision:

The Director of Law and Assurance, with the agreement of the Cabinet Member for Education and Skills and the Chairman of the Children and Young People's Services Scrutiny Committee, has used his delegated powers under Standing Order 5.23 to agree:-

- (1) The conversion of The Forest School, Horsham to become a co-educational school with effect from September 2021
- (2) The conversion of St Andrew's CE High School for Boys, Worthing to become a co-educational school with effect from September 2021."

17. As the statutory proposal to change the status of the school has been determined I can confirm that the application by the governing board to amend the admission arrangements to reflect that change of status can be agreed. I approve the variation requested.

Determination

18. 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 St Andrew's Church of England High School in Worthing, West Sussex for September 2021.

19. I determine that the admission arrangements should replace the word 'boys' with 'pupils'.

20. 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.

21. 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: 2 December 2020

Signed:

Schools Adjudicator: Lorraine Chapman