



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2105

Admission authority: The governing board for the Priory Church of England Primary School in the London Borough of Merton

Date of decision: 24 February 2021

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 the Priory Church of England Primary School for September 2021.

I determine that the published admission number is 45 with 20 foundation places and 25 open places.

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 governing board for the Priory Church of England Primary School has referred a proposal for a variation to the admission arrangements for September 2021 for the Priory Church of England Primary School (the school) to the adjudicator. The school is a voluntary aided school for children aged three to eleven in Wimbledon and the local authority area of Merton Council.

2. The proposed variation is that the published admission number (PAN) be reduced from 60 to 45.

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 information I have considered in reaching my decision includes:
 - a. the referral from the governing board received 26 January 2021, supporting documents and further information provided at my request;
 - b. information provided by the local authority at my request regarding the numbers of first preferences expressed for the school and forecasts of future pupil numbers;
 - c. the determined arrangements for 2021 and the proposed variation to those arrangements;
 - d. the guidance provided by the Diocese of Southwark (the diocese) on admissions to schools in its area with a Church of England religious character;
 - e. a map showing the location of the school and other relevant schools;
 - f. confirmation that the appropriate bodies have been notified of the proposed variation; and
 - g. information available on the websites of the local authority, the school and the Department for Education.

The proposed variation

8. The governing board said in its request for a variation that the major change of circumstances was, “There has been a general decline in pupil numbers these last few years across the school and also a decline in pupil numbers across the Local Authority due to a variety of factors (families leaving the area which has a high cost of living, families moving back abroad, children entering the private sector and a fall in the birth rate).” The governing board explained that the reductions in pupil numbers had led to the budget going into deficit despite restructuring of classes and staffing arrangements. The governing board said that a PAN of 45 would allow it to plan efficiently and therefore start to address the deficit which could increase if the PAN remained at 60.

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 will consider below whether the variation requested is justified by the change in circumstances.

10. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The governing board has provided me with confirmation that the appropriate bodies have been notified. I find that the appropriate procedures were followed.

11. The oversubscription criteria operate to separate priority for places into two categories, one is up to 30 places for what are called foundation places which are faith based and the other is for up to 30 places for what are called open places. These are, in summary:

- 1) Foundation places are for “pupils whose parents/carers are faithful and regular worshippers of a church which is a full member of Churches Together in Britain and Ireland or the Evangelical alliance or an Affinity partner church” and when oversubscribed within this category are allocated in the following order.

- i. Looked after or previously looked after children
- ii. Children with a sibling in the school
- iii. Children with a parent who worships at named churches
- iv. Children with an exceptional medical or social need
- v. Distance of the home from the school (nearest given highest priority)

- 2) Open places

- i. Looked after or previously looked after children
- ii. Children with a sibling at the school
- iii. Children with an exceptional medical or social need

iv.Distance of the home from the school (nearest given highest priority).

Consideration of the arrangements

12. Having considered the arrangements as a whole it appeared to me that the following matters may not conform with requirements of the Code and so I brought them to the attention of the admission authority. These matters were (with the relevant paragraph of the Code in brackets):

- a. The oversubscription criteria for foundation places are (as above) for, “pupils whose parents/carers are faithful and regular worshippers of a church which is a full member of Churches Together in Britain and Ireland or the Evangelical alliance or an Affinity partner church.” The religious character designated for the school by the Secretary of State is Church of England but the foundation places are open to other Christian denominations. Paragraph 1.39 of the Code says, “Where any element of priority is given in relation to children not of the faith they **must** give priority to looked after children and previously looked after children not of the faith above other children not of the faith.” This means that the arrangements are not compliant with the Code because the priority afforded to looked after children and previously looked after children eligible for foundation places includes children who are not Church of England but are members of other Christian denominations (1.7 and 1.37).
- b. Looked after children and previously looked after children may be of the faith but their parent or carer not attend worship as provided in the definition for foundation places. Such a looked after child or previously looked after child would not meet the definition and therefore not be offered a place under the priority and be considered under the open place criteria. Given the number of looked after and previously looked after children it is almost inconceivable that such a child would not be able to be offered an open place but the arrangements do not meet the requirement of the Code provided in paragraph 1.37 that admission authorities “**must give priority to looked after children and previously looked after children of the faith before other children of the faith.**” (1.37)
- c. The definition of a faithful and regular worshipper is a parent or carer attending worship at least twice a month for at least two years prior to application. The supplementary information form (SIF), however, asks for information on whether the family attend weekly, twice monthly, monthly, occasionally or other. This could imply that:
 - i. the family (which is not defined here) must attend, as opposed to a parent or carer in order to meet the requirements for a foundation place; and
 - ii. the other periods of time listed may be taken into consideration.

These matters make the arrangements unclear (14 and 1.37).

- d. The arrangements say, “If the foundation places are not all filled, then the remaining places are added to the Open list.” This is right and proper as paragraph 1.36 of the

Code says, “As with other maintained schools, these schools are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available.” This also means, in line with paragraph 15d of the Code, that if not all open places are filled then the remaining places must be added to the foundation list and this needs to be stated in the arrangements to make them clear (14, 15d and 1.36).

- e. The PDF title on the SIF on the school’s website is the ‘Holy Trinity Church of England Primary School’ which may make its purpose unclear given that is not the name of the school (14).

- f. Paragraph 2.16 of the Code says, “The [admission] authority **must** make it clear in their arrangements that, where they have offered a child a place at a school:...

- b) the child’s parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made; and

- c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.”

The arrangements say that a parent may request deferral or part-time attendance which does not make it clear that these are entitlements which cannot be refused and so make the arrangements unclear (14 and 2.16).

- 13. The governing board said that it was taking advice from the diocese and would address these matters. This is welcomed. As the governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.

Consideration of proposed variation

- 14. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Once the PAN has been set for a particular year then no body, except the governing board of a community or voluntary controlled school which is not the case here, can object if that PAN remains the same in subsequent years. Clearly it is desirable that PAN reductions are made via the process of determination following consultation as the consultation process allows those with an interest to express their views. It also allows for objections to the adjudicator. None of this is afforded by the variation process. The governing board expressed the desire to consult to reduce the PAN for future years but this has not occurred for admissions in 2022.

- 15. My jurisdiction is for the admission arrangements for 2021 but a variation, provided it is made before the following year’s arrangements are determined , will be reflected in the

arrangements for subsequent years unless the admission authority decides to change the arrangements again. In most cases such a change would require consultation but an admission authority may increase a PAN without consultation. In other words, if I agree the variation to reduce the PAN to 45 then the PAN would remain at 45 for 2022 provided my determination (that is what is set out here) predates the determination of the 2022 arrangements. If the governing body has already determined its arrangements by the date of this determination it can only lawfully have done so at 60 (or a higher figure) because it has not consulted to reduce it and, if this is the case and it wishes to have a PAN of 45 for 2022, it will need to submit a further request for a variation.

16. I have 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 45 for September 2021; considered the demand for places at the school; the reasons given for the change; the potential effect on parental preference; and whether the change is justified in these circumstances. I have also considered the effect on the allocation of places to foundation and open places and I will consider this point first. If I agree that the PAN is reduced to 45 then the current allocations of up to 30 foundation places and up to 30 open places would not be possible. I therefore asked that the governing board clarify this matter and was told that the intention was that there would be 20 foundation places and 25 open places. I will therefore consider this as part of the proposed variation.

17. I also brought the attention of the governing board to the potential need for a variation to the admission arrangements as a result of the closure of churches and restriction of their availability for public worship due to the Covid-19 pandemic. The requirements to attend worship as required for the foundation places cannot be met as churches have been closed for public worship and when they have been open there have been restrictions on the numbers who could attend public worship. This did not affect admissions in 2020 as the oversubscription criteria did not apply as there were fewer than 60 applicants who could not have a higher preference met and churches were open until at least 15 January 2020 (the closing date for applications for 2020).

18. In relation to applications for places in 2021, it will not have been possible for applicants to meet the oversubscription criteria for foundation places. I need to pause here to explain that schools with a religious character were advised by the Department for Education that they could seek to vary their admission arrangements to take account of the effects of the Covid-19 pandemic. Well over a thousand Church of England schools took the opportunity to do so adding a provision into their arrangements which stated that if in the period specified for public worship the church had been closed for such worship and had provided alternative premises for such worship, any requirements in the arrangements in relation to attendance would apply only to the period when the church or alternative premises had been available.

19. This school did not seek such a variation although I note that it did consider doing so. The closing date for applications for primary places in 2021 was 15 January (which was before this request was submitted) and at time of writing the process of ranking applications and exchanging information with the local authority as part of the co-ordinated admissions scheme will be well in hand. Without a variation for 2021 it will not be possible to take

account of the oversubscription criteria based on worship as it was not possible to satisfy them. A variation to address this at this stage of the allocation process is likely to be impractical.

20. I will now consider the information provided on likely demand for places in the area. The local authority has a duty to make sure that there are sufficient school places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical groups of schools, for this purpose. The school is one of 13 schools admitting children to reception year (YR) in planning area 3 (the planning area). Table 1 below summarises the number of children admitted to these schools in recent years and the forecast of future demand.

Table 1: pupil numbers and forecasts of pupil numbers in the planning area for the school

	January 2019¹	January 2020²	October 2020³	September 2021 (forecast)	September 2022 (forecast)
Sum of PANs of the schools in the planning area	780	780	780	780	780
Number of pupils	721	752	695	691	672
Number of vacant places	59	28	85	89	108
Number of vacant places as a percentage	8%	4%	11%	11%	14%

21. The local authority also provided information on its forecasts for years beyond 2022 and this shows the number of children seeking a school place in 2023 as 624, 635 in 2024 and 637 in 2025 so a significant reduction on current demand. In the current year, for admissions in 2020, there are 85 vacant places which is over 11 per cent of the whole. I am therefore assured that there would be sufficient places in the planning area if the PAN were reduced by 15 to 45.

22. Table 2 shows the number of children admitted to the school and the number still at the school in the relevant year group. This shows a significant reduction from when the relevant year group joined the school in every year group. I understand that such reductions will create problems in terms of class organisation and financial management. However, my jurisdiction is for the admission arrangements to YR for 2021, with some consideration for future years for the reasons given above. The fact that there is a tendency for children to leave the school after admission is not a reason not to admit children; they still need a school place. I also note that the PAN is for the year of entry only and admissions to other

¹ Admitted September 2018

² Admitted September 2019

³ Admitted September 2020

year groups is dependent on whether or not such admission would compromise the provision of efficient education or efficient use of resources; the PAN only applies to the year of entry which is YR in this case.

Table 2: Admissions to YR and the number of pupils at the school

Year of admission	Number of children admitted	Number of children in relevant year group October 2020
September 2015	60	32
September 2016	60	25
September 2017	60	45
September 2018	56	44
September 2019	56	45
September 2020	43	43

23. Table 2 also shows that the numbers of admissions until 2019 were either 60 or close to 60. It is only in 2020 that the number of admissions reduced significantly. The closing date for parents to state their preferences for admissions in 2021 was 15 January 2021 and parents would have made their applications on the understanding that the PAN for the school is 60. In order to form a view whether reducing the PAN to 45 would frustrate parental preference I asked the local authority to provide the number of first preferences (meaning the school a parent would most like their child to attend) for 2021 and previous years. This is shown, together with the number of admissions again for clarity, in table 3 below.

Table 3: number of first preferences for the school and the number of admissions

	Number of first preferences	Number of children admitted
2018	40	56
2019	35	56
2020	19	43
2021	14	Not known

24. Table 1 shows a drop in demand for places in the area in 2020 and this is reflected in a sharp drop in demand for the school. This reduction in demand may not have been anticipated when the governing board determined its arrangements in February 2020. In September 2020, 43 children were admitted following 19 first preferences made; and across the planning area there were 85 surplus places. As there are 14 first preferences for the school for 2021 and a similar proportion of surplus places I am satisfied that if the PAN were reduced to 45 then parental preference would not be significantly frustrated.

25. Some frustration is possible as some parents may have made a first or higher preference for another school or schools where there was little chance of admission on the assumption that a place would be available at the school. However, the governing board has described how it would have a better chance of addressing its substantial financial deficit if it were able to plan on the basis of a PAN of 45. The governing board explained

that it has restructured its staffing body twice in order to address the deficit and, “we need to go further with mixed classes and combine our nursery and Reception classes into a single Early Years unit, again to protect the budget. Without a PAN of 45, we may find ourselves in a position where we have for example 48 children in Reception which would require three teachers (two teachers in Reception and one in Nursery) rather than two teachers with a PAN 45 limit.” There is therefore strong justification to reduce the PAN to 45.

26. I have considered that if the PAN were reduced to 45 for 2021 that there would be sufficient places in the area to meet demand; that parental preference would not be unduly frustrated; and that the governing board would be more able to address the financial challenges faced by the school. I therefore find that the variation is justified by the circumstances and approve the proposed variation that the PAN is reduced to 45 with 20 foundation places and 25 open places.

Determination

27. 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 the Priory Church of England Primary School for September 2021.

28. I determine that the published admission number is 45 with 20 foundation places and 25 open places.

29. 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.

30. 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: 24 February 2021

Signed:

Schools Adjudicator: Deborah Pritchard