



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2135

Admission authority: The Governing Board for St Mary's Catholic Primary School, Kensington

Date of decision: 7 June 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 St Mary's Catholic Primary School for September 2022.

I determine that the published admission number for admissions in September 2022 shall be 30.

The referral

1. The governing board for St Mary's Catholic Primary School has referred a proposal for a variation to the admission arrangements (the arrangements) for September 2022 to the Office of the Schools Adjudicator. The school is a voluntary aided school for children aged 3 to 11 in the Royal Borough of Kensington and Chelsea (the local authority), with a Roman Catholic religious character.
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 information I have considered in reaching my decision includes:

- a. the referral from governing board dated 4 May 2021, supporting documents and further information provided at my request;
- b. the determined arrangements for 2022 and the proposed variation to those arrangements;
- c. a map showing the location of the school and other relevant schools;
- d. details of the number of children admitted to the school and other local schools in recent years and the forecast demand for places; and
- e. confirmation that the appropriate bodies have been notified of the proposed variation and the responses of the local authority and the Diocese of Westminster (the diocese), which is the religious authority for the school.

The determined arrangements

7. The governing board provided me with a copy of the arrangements for admission in September 2022 that it determined in September 2020. These arrangements differed in several significant respects from the arrangements determined for admission in September 2021, including a lowering of the priority for siblings from practising catholic families and the removal of a priority for “children of other faiths.” When I reviewed the arrangements, I identified a number of ways in which they did not comply with the requirements relating to admissions. I was also provided with no evidence that a consultation had taken place in respect of the changes to the arrangements, as required by paragraph 1.42 of the Code. I asked the governing board to comment on these observations.

8. In response, the headteacher acknowledged that no consultation had taken place on the changes to the arrangements. She explained that a decision had now been taken to revert “to the admissions criteria for 2021/22 with dates amended.”

9. Paragraph 3.6 of the Code stipulates that,

“Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary

to give effect to a mandatory requirement of the Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements.”

The arrangements for admission in September 2021 meet the requirements relating to admissions. Therefore, the effect of revising the arrangements for admission in September 2022, so that they are unchanged from the previous year, is to ensure that the mandatory requirements of the Code and admission law are met, which was not the case when they were originally determined. Variations to determined arrangements in order to give effect to mandatory provisions of the Code do not require my consideration or approval. I therefore say no more about these matters other than that I consider that the school has taken appropriate action

The proposed variation

10. In the determined arrangements for admission to the school in September 2022, the PAN was set at 60, as it had been for several years. In its request for a variation to these arrangements, the governing board explains that the local authority is undertaking “a high-level review of primary school provision to agree action/mitigations to address falling rolls, current school deficits and forecast deficits that will, if not addressed, leave schools vulnerable to closure.” By March 2021, the review had “established beyond any reasonable doubt that a permanent reduction [in the school’s PAN] is necessary to plan effectively for the future and open up to explore opportunities such as federating with other schools.” The governing board agreed with this conclusion.

11. The Code requires admission authorities to determine their admission arrangements by 28 February in the year before that to which they apply. The outcome of the local authority’s review was known shortly after this date. The governing board wishes to reduce the school’s PAN for admission in September 2022, rather than wait for another year. It says, “it is considered appropriate to submit a variation request at the earliest opportunity.”

12. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, other than for the reasons laid out above, if there is a major change in circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

13. Paragraph 3.6 of the Code also requires that the appropriate bodies in the relevant area 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.

Consideration of proposed variation

14. Although the school has had a PAN of 60, none of the four youngest year groups at the school contains more than 30 children. The arrangement of the classes is shown in Table One below.

Table One. Number of pupils in each class at the school (excluding Nursery)

YR	Y1	Y2	Y3	Y4	Y5	Y6	Total
29	18	26	29	20 and 19	20 and 18	30	209

It should be noted that there are two classes in each of year groups 4 and 5. The local authority reports that 28 children have currently been allocated places at the school for admission in September 2021, but this figure may fall to 25.

15. The school has been in receipt of “falling rolls funding” from the local authority. It does not see this as a “long-term solution” and believes that “The PAN needs to be reduced permanently to enable informed planning of appropriate staffing and budgeting”, providing the certainty that the school can continue to operate with one class in each year group.

16. I recognise the school’s concerns. Pupil numbers in YR and key stage 1 cannot exceed 30 in each class taught by a single qualified teacher due to the regulations relating to the size of infant classes. A reduction in the school’s PAN from 60 to 30 would enable it to plan to continue to operate with one class for children in YR in September 2022 with one teacher. If the PAN were to remain at 60 and the number of children allocated places in YR exceeded 30 by a small margin, which admittedly is unlikely based on past experience, two qualified teachers would be required for pupils in YR. This would either necessitate two YR classes to be established or, if numbers permitted, for YR children to be in a mixed aged class with older children. As schools are funded principally on the basis of the number of pupils on roll, the former course of action could pose a severe financial challenge; the latter solution is often not favoured by schools and can be unpopular with parents.

17. The review undertaken by the local authority confirmed that the demand for places in Kensington and Chelsea is expected to show a generally downward trend until at least 2024/25. For planning purposes, the borough is divided into two areas. St Mary’s is one of 12 primary schools located in the North Planning Area. The total of the PANs of these schools is currently 575; this figure would reduce to 545 if the PAN at St Mary’s were to be reduced to 30. In September 2020, 467 children were admitted to YR at the 12 North Planning Area primary schools. In September 2021, 450 children are expected to be admitted; the forecast for September 2022 is 464.

18. Clearly, more than sufficient school places would remain to meet demand in the local area if the school’s PAN were to be reduced to 30 for admission in September 2022. Forecasting pupil numbers for individual schools, particularly faith schools, is more difficult, but the local authority does not expect St Mary’s to admit more than 30 pupils in 2022. In the unlikely event of the demand for places at the school exceeding 30, alternative schools

are located within a short distance, including two other catholic primary schools in the North Planning Area.

19. Both the local authority and the diocese have expressed their support for the request to reduce the school's PAN by way of variation. I am satisfied that the change of circumstances cited by the school, that is, the outcome of the local authority review, justifies a reduction in PAN for September 2022. Prospective parents will be able to be aware of the reduced PAN in good time, as it will appear in material provided by the school and the local authority relating to the process of applying for school places. I approve the proposed variation.

Determination

20. 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 Mary's Catholic Primary School for September 2022.

21. I determine that the published admission number for admissions in September 2022 shall be 30.

Dated: 7 June 2021

Signed:

Schools adjudicator: Peter Goringe