



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2188

Admission authority: The Governing Board of Yesodey Hatorah Senior Girls School, Hackney, London

Date of decision: 30 November 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 of Yesodey Hatorah Senior Girls School, Hackney for September 2022.

I determine that no places shall be offered for admission to Years 5 and 6.

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 unless an alternative timescale is specified. In this case, I determine that the arrangements must be revised no later than 15 January 2022.

The referral

1. The board of governors of Yesodey Hatorah Senior Girls School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 to the Office of the Schools Adjudicator. The school was established in 2005 as a voluntary aided school for girls aged 11 to 16 in Hackney, London. Since 2019 it has also offered places for girls in Years 5 and 6, meaning that Year 5 was a "relevant age group" for admissions.

2. The proposed variation is that the places in Years 5 and 6 be no longer offered.

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 board of governors dated 9 September 2021 and supporting documents;
 - b. the determined arrangements for 2022, evidence of their determination and the proposed variation to those arrangements;
 - c. a copy of the letter notifying the appropriate bodies about the proposed variation; and
 - d. comments received on the proposed variation from the local authority.
7. I have also taken account of the information I received during a meeting I convened on 18 November 2022 attended by representatives of the school and the local authority.

Consideration of the arrangements

8. These same arrangements have been the subject of an objection made in accordance with section 88H(2) of the Act, as a result of which the adjudicator has used his power under section 88I to consider the arrangements as a whole. My decision concerning the matters raised in the objection and by me will be set out in a separate determination, case reference ADA3781.

The proposed variation

9. When the school made its request to vary its admission arrangements, it said that it had consulted in 2018 on expanding its provision to offer education to additional year groups – Years 5 and 6. Places were first offered in September 2019 and when the admission authority determined the arrangements for September 2022, it included a published admission number (PAN) for Year 5 of 65. The school also said that “There was however no actual take-up of these placesat the start of the school years 2019 -21 and for all practical purposes the school’s entry year has remained Y7.” The school’s admission arrangements, other than the PAN (which applies only to a relevant age group), have effectively been applied only in relation to admissions to Year 7, since it is only for places in this year group that applications have been made.

10. The school has said that there has been a change in circumstances since the arrangements were determined, and that this is, first, a “significant growth in Year 7 and above” with larger cohorts being admitted than those leaving the school. It says that this has resulted in staffing and accommodation difficulties. Second, an intended capital investment to improve teaching accommodation which was expected to be available via the school’s trustees has not materialised, as the school has described it “Due to circumstances, primarily Covid-19 related”. It has also recently become known to the school that the headteacher, whose own background is in primary education, will be leaving at the end of the current academic year. Further, Yesodey Hatorah primary school, which is an independent school attended, the school says, by the majority of girls who apply for places at the Senior School in Year 7, will no longer offer the school any practical support for its provision of places to children of primary school age.

11. 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.

12. 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

13. When the school informed the local authority on 15 September 2021 of its intention to seek the variation to its admission arrangements for 2022, it told it that there had been no applications for admission to places in Years 5 or 6 for 2022 at that time. At the meeting which I held concerning both this variation request and the objection which has been made to the school’s arrangements, the local authority confirmed that there had been no such applications which had been properly made (that is, those very few which it had received

were made in error for girls for whom the normal year group in September 2022 will be Year 7). It has also confirmed that no applications for Year 5 or Year 6 places were made in 2020 and 2021.

14. The local authority has stated that it supports the school's proposed variation, but in doing so has made reference to the PAN for Year 7, which had been 80 before places were offered in Years 5 and 6. It has done so because demand for places in Year 7 at the school has grown steadily, because there are very few surplus Year 7 places in the borough for admissions in 2022 and 2023 in particular, and because it considers that the school is operating well below its net capacity currently. This matter was discussed at length at the meeting which I held when I raised with the school my view that if its requested variation were approved, a PAN of 65 for Year 7 may then not be reasonable in the light of the demand for these places, and so not in accordance with the requirements of the Code. This matter will therefore be considered further as part of the consideration of the school's admission arrangements as a whole in ADA3781.

15. I return now to a consideration of the requested variation. The school has told me that it offered 81 places in Year 7 in 2020, and 72 in September 2021. There had been 88 and 82 applications respectively for these places. Notwithstanding any further detailed consideration of the capacity of the school buildings, which as I have said will take place elsewhere, it is clearly the case that the greater the number of Year 7 admissions, the more pressure there is on the school's accommodation, such that having up to 65 additional girls in each of Years 5 and 6 may now be impractical. The school's own view is that it is "operating at practical capacity" with its current roll of 353. Were each year group from Year 5 to Year 11 to have 65 pupils, the roll would be 455 (that is seven year groups each of 65 pupils). The recent increased demand for Year 7 places, in the absence of any practical demand for places in Years 5 and 6, clearly argues in favour of fewer (or no) places being made available in Years 5 and 6 in the future. The support of the local authority for the school's proposed complete removal of these places persuades me that the requested variation will not have a detrimental impact on the provision of places for primary aged children locally or on other schools.

16. The school's other arguments concerning the absence of anticipated investment in the school buildings and the loss of expertise in primary education and the removal of practical support from a closely-associated independent primary school are all in my view further justifications for the school wishing no longer to offer places in these primary school years. I therefore approve the proposed variation to the admission arrangements.

17. In view of the closing date of 15 January 2022 for primary school applications relating to admissions in September 2022, it would be inappropriate for the school to offer any places in Years 5 and 6 after that date, and I therefore specify it as the last date by which the school must revise its arrangements in line with its requested variation.

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 of Yesodey Hatorah Senior Girls School, Hackney for September 2022.

19. I determine that no places shall be offered for admission to Years 5 and 6.

20. 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 unless an alternative timescale is specified. In this case, I determine that the arrangements must be revised no later than 15 January 2022.

Dated: 30 November 2021

Signed:

Schools Adjudicator: Dr Bryan Slater