



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2205

Admission authority: The governing board for The Queen's Church of England Primary School, Kew in the London Borough of Richmond upon Thames

Date of decision: 10 February 2022

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 Queen's Church of England Primary School for September 2022.

I determine that the faith based oversubscription criteria will be as described in this determination.

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 way 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 by 28 February 2022.

The referral

1. The governing board for The Queen's Church of England Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) for the school to the adjudicator. The school is a voluntary aided school for children aged four to eleven in Kew in the London Borough of Richmond upon Thames (the local authority). The school has a Church of England religious character. The proposed variation makes changes to the faith-based oversubscription criteria and is made in the light of the Covid-19 pandemic. The faith body for the school is

the Diocese of Southwark (the faith body) which submitted the referral on behalf of the governing board and with its authority.

2. The proposed variation is the addition of words so that parents are still able to meet the faith based oversubscription criteria despite the challenges of church attendance during the Covid-19 pandemic.

Jurisdiction and procedure

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which deals with variations to determined arrangements. Paragraphs 3.6 and 3.7 of the School Admissions Code (the Code) say (in so far as relevant here):

“3.6 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 this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it must consult the governing body of the school before making any reference.

3.7 Admission authorities **must** notify the appropriate bodies of all variations”.

4. The governing board has provided me with confirmation that the appropriate bodies have been notified. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction. 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.

5. In considering these matters I have had regard to all relevant legislation, and the Code.

6. The information I have considered in reaching my decision includes:

- a. the referral from the faith body received 1 November 2021 and supporting documents;
- b. a response from the governing board and the faith body received on 4 February 2022 to a letter sent on 15 November 2021 on my behalf requesting further information;

- c. the faith body's guidance on admissions to schools with a Church of England religious character in its area; and
- d. the determined arrangements for 2022 and the proposed variation to those arrangements.

Consideration of the proposed variation

7. The proposed variation makes changes to the faith based oversubscription criteria and is made in the light of the Covid-19 pandemic. Where the school is oversubscribed priority may be given on the basis of faith. The school's arrangements take account of attendance at places of worship. During the Covid-19 pandemic places of public worship have at sometimes been closed altogether and at other times not available for public worship or access to such worship has been restricted in the interests of public health. It is against that background that the request for a variation is made.

8. The proposed variation is the insertion of the following words into the arrangements. "In the event that during the period specified for attendance at worship the church has been closed for public worship and has not provided alternative premises for that worship, the requirements of these admissions arrangements in relation to attendance will only apply to the period when the church or alternative premises have been available for public worship."

9. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or 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. Since the school's oversubscription criteria include priority on the basis of attendance at church of a specified frequency for a specified period, parents and their children are unable to meet this criterion under the terms of the school's current admissions arrangements. In consequence the proposed variation provides that attendance will only have been required at times when places of public worship are open for such public worship.

11. It is beyond question that the Covid-19 pandemic represents a major change of circumstances. I am satisfied that the proposed variation as modified is a pragmatic and appropriate response. I approve the variation as proposed above.

Consideration of the arrangements

12. Having considered the arrangements as a whole it appeared to me that there was a matter that may not conform with requirements of the Code and so I brought it to the attention of the faith body and the governing board. The last criterion, and where there is oversubscription within a criterion, is based on proximity of the home to the school. The arrangements include a definition of distance. Paragraph 1.13 of the Code says, in so far as

is relevant here, that the definition of distance “should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.” There is no such provision in the arrangements and so the arrangements do not comply with the Code in this regard.

Determination

13. 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 Queen’s Church of England Primary School for September 2022.

14. I determine that the faith based oversubscription criteria will be as described in this determination.

15. 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 way set out in this determination.

16. 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 by 28 February 2022.

Dated: 10 February 2022

Signed:

Schools adjudicator: Deborah Pritchard