



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2204

Admission authority: the governing board for St Anne's Church of England Primary School in the London Borough of Wandsworth

Date of decision: 9 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 St Anne's Church of England Primary School for September 2022.

I determine that for admission in September 2022 the faith-based oversubscription criteria will be as described in this determination.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the 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 St Anne's Church of England Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 to the adjudicator. The school is a voluntary aided school for children aged three to eleven in local authority area of Wandsworth Council (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.

Jurisdiction

2. 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”.

3. 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.

4. In considering this matter I have had regard to all relevant legislation, and the Code. The information I have considered in reaching my decision includes:

- 4.1. the referral from the faith body provided 1 November 2021, supporting documents and further information provided at my request;
- 4.2. information provided by the governing board;
- 4.3. the determined arrangements for 2022 and the proposed variation to those arrangements;
- 4.4. the faith body’s guidance on admissions to schools with a Church of England religious character in its area; and
- 4.5. information available on the websites of the local authority and the Department for Education (the DfE).

The proposed variation and consideration of the proposed variation

5. 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 some times 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. Since the school's oversubscription criteria include attendance at public worship of a specified frequency over a specified period of time, 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 at worship will only have been required at times when places of public worship are open for such public worship.
6. The oversubscription criteria in the admission arrangements include priorities for those who attended worship at least twice a month at either a Christian church or the place of worship of other named faiths (depending on the criterion) and have done so for at least 12 months at the time of application. The proposed variation is the insertion of the words, "In the event that during the period specified for attendance at worship the church or, in relation to those of other faiths, relevant place of worship 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 in relation to those of other faiths, relevant place of worship or alternative premises have been available for public worship."
7. It is beyond question that the Covid-19 pandemic represents a major change of circumstances. I am satisfied that the proposed variation is a pragmatic and appropriate response. I approve the variation.

Consideration of the arrangements

8. As the school has a religious character which is Church of England, the admission authority can, as discussed above, use faith based oversubscription criteria. The oversubscription criteria for the school are (in summary):
- 1) Looked after and previously looked after children
 - 2) Children with a medical or social need to attend the school
 - 3) Children with a parent who teaches at the school
 - 4) Up to 15 foundation places for where a parent is a regular worshipper at a Christian church with further criteria if oversubscription within the criterion.
 - 5) Up to 15 open places, prioritised as follows:

- a. Children living in the catchment area for the school with a sibling at the school
- b. Children living in the catchment area for the school with a parent who is a regular worshipper of another religious faith
- c. Children living in the catchment area for the school with priority given to the child living closest to the school
- d. Children living outside the catchment area with priority given in the same order as 5a. to 5c. above.

9. Definitions of relevant terms and provisions are included and the arrangements make clear that where there is oversubscription within any criterion then priority will be given to the child living closest to the school measured in a straight line.

10. Having considered the arrangements as a whole it appeared to me that a number of the provisions in the arrangements may not conform with requirements of the Code and so I brought them to the attention of the governing board and the faith body through a letter on 10 November 2021. The governing board responded on 3 February 2022 and expressed its intention to address these matters which is welcomed. I set out my findings below.

11. Paragraph 1.50 of the Code requires that “Once admission authorities have determined their admission arrangements, they...**must** publish a copy of the determined arrangements on the school’s website...and continue displaying them for the whole offer year (the school year in which offers for places are made).” Clearly if the arrangements are not published as required by the Code, then it is not possible for parents and other interested parties to see them. The arrangements for 2021 and 2022 were not published on the admission authority’s website as required by the Code and so the governing board has not complied with the Code in this matter.

12. Criterion 1 is for looked after and previously looked after children. The current Code came into force on 1 September 2021 and paragraph 1.7 of the Code provides that “those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted” are previously looked after children. The arrangements do not make this clear as there is no reference to such children. Paragraph 14 of the Code says, “In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” In addition, paragraph 1.8 of the Code requires that oversubscription criteria **must** be clear. As the definition of previously looked after children is not complete, it is not clear and so the arrangements do not comply with paragraphs 14, 1.7 and 1.8 of the Code.

13. Paragraph 1.13 of the Code requires that arrangements must include a definition of how distance will be measured and says, “This 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.” The arrangements do not include such provision and so do not comply with the Code in this matter.

14. Paragraph 2.4 of the Code explains that an admission authority may use a supplementary information form (SIF) to request additional information so that the oversubscription criteria can be applied. In this case the SIF is described as for those applying for foundation places which are for those of the Christian faith. It is not clear how those who are of other faiths may show that they meet the criterion “Children with at least one parent who is a regular worshipper of another religious faith.” Paragraph 1.37 says, “Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.” The arrangements do not comply with the requirements of paragraphs 14, and 1.8 and 1.37 of the Code in this respect.

15. As described above, paragraph 14 of the Code requires admission arrangements to be clear. However, the SIF includes questions regarding whether the ‘family’ has attended services or worship while the requirement in the relevant criteria is for “at least one parent.” Obviously, a parent and a family are quite different and so this makes the arrangements unclear and thus not comply with the Code in this regard.

16. As the governing board has said that these matters will be addressed, I will not discuss these matters further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.

Determination

17. 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 Anne’s Church of England Primary School for September 2022.

18. I determine that for admission in September 2022 the faith-based oversubscription criteria will be as described in this determination.

19. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the way set out in this determination.

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 by 28 February 2022.

Dated: 9 February 2022

Signed:

Schools Adjudicator: Deborah Pritchard