



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2223**

**Admission authority: The governing board of English Martyrs' Catholic Primary School, London Borough of Southwark**

**Date of decision: 01 March 2022**

## Determination

**In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the governing board of English Martyrs' Catholic Primary School, London Borough of Southwark for September 2022.**

**I determine that the published admission number for September 2022 will remain at 60.**

## The referral

1. The London Borough of Southwark (the local authority) on behalf of the school has referred a proposal for a variation to the admission arrangements (the arrangements) for September 2022 for English Martyrs' Catholic Primary School (the school) to the adjudicator. The school is a Voluntary Aided Catholic school for children aged 4 to 11 years.
2. The proposed variation is to reduce the published admission number (PAN) from 60 to 30.

## 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 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. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

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

- a. the referral from the local authority on behalf of the school dated 1 December 2021 and supporting documents;
- b. the determined arrangements for September 2022 and the proposed variation to those arrangements;
- c. minutes of the governing board of the school at which the variation was discussed;
- d. a response from the school;
- e. a response from the Catholic Diocese of Southwark;
- f. a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2022;
- g. data from the local authority showing previous and projected numbers in the school; and
- h. information available on the websites of the local authority, the school and the Department for Education.

6. Paragraph 3.6 of the Code requires that the appropriate bodies in the relevant area be notified of a proposed variation. The local authority 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.

## Other matters

7. In reviewing the arrangements, I noted twelve elements of the arrangements which appeared not to conform with the requirements relating to admissions and brought this to the attention of the school. These elements concerned;

- 1) Deferred and part time arrangements
- 2) Inaccuracy in references to schedules made in the arrangements
- 3) Requirement to complete the Supplementary Information Form (SIF)

- 4) Confusion about the naming of the forms
- 5) Inaccuracy in terms of when the birth certificate is required
- 6) Waiting lists dates
- 7) Misprint about appendices (schedules)
- 8) Definition of looked after children
- 9) Date of the Code
- 10) Reference to catechumen
- 11) Map of area
- 12) SIF requiring ethnicity.

## **The proposed variation**

8. The local authority, on behalf of the school, has requested this reduction in PAN for the school because it says that the number of applications to the school is falling and that the impact of these reductions is more acute than anticipated. The local authority says that this is 'borough-wide' and that there has been a fall in numbers in 2019 and 2020.

9. The variation is requested because with a PAN of 60 the local authority says that the school has to plan for staffing and accommodation for pupils 'who do not exist'. I take this to mean that the school is expected to plan for classes up to PAN in reception and that this number is two classes with two teachers and associated staffing and resource costs. In the delegated budget scheme, funds are allocated to the school based on a number of factors. Most important among these factors is the allocation of funds based on actual pupil numbers on roll. This means that the school will only receive funding for those pupils who are admitted. The local authority suggests that this would put the school's finances under considerable pressure.

10. Paragraph 3.6 of the Code 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.

## **Consideration of proposed variation**

11. In the admission arrangements determined by the governing board for admission in September 2022, the PAN is recorded as 60.

12. The actual numbers being admitted to Reception (YR) at the school in the last three years has been 29 in 2019, 41 in 2020 and 36 in 2021. Following this year's admission round there are 30 first preference applications for the school and a total of 56 applications. At the deadline of 28 February 2021 for the school to determine its 2022 arrangements it would have known about the number of applications and admissions for 2019 and 2020. It would also have known about earlier years. It may not have known about the numbers for 2021 as the closing date for those applications was 15 January 2021 and it might not have received full information from the local authority by the time it determined its 2022 arrangements. However, the school would have known that numbers being admitted to the school over recent years have fluctuated and do not appear to have exceeded 41. First preference applications of 30 this year continues this fluctuation. It is quite feasible for second, third, fourth, fifth or even sixth preference applications to be allocated to the school and this would bring the intake number to greater than 30. This pattern of application has been known to the school and the local authority for some years.

13. An extra-ordinary meeting of the governing board was called in September 2021 to discuss falling rolls across the local authority. At a meeting of the governing board on 10 November 2021, which was attended by the Principal Strategy Manager and the Assistant Director for the local authority, the governing board raised a number of questions about the proposal to request an in-year variation. In the school's response, they say that they agree with the variation request and that the local authority is 'working on a process of rightsizing capacity in the locality'. The school says that the variation will mean that the school is in a better position to plan ahead and move forward knowing that staffing and other needs will be based on a cohort intake of a maximum of 30 children. The school says that this has been an issue in recent years when numbers went slightly over 30 and they had to employ two qualified teachers even though the number of children in YR was just over 30 pupils. It goes on to say that with a reduced PAN the school will not need as many classrooms and that in the future the current split site arrangements will not be required. The school acknowledges a loss to the current budget but says that the consequent reduction in staff and resources will contribute to a greater degree of financial stability for the school.

14. The response from the diocese says that 'given their current roll and future forecasts and prediction from the local authority we have no objections to this proposal. Having reviewed our baptism data, it (a reduction in PAN) would certainly not limit parental choice for Catholic parents seeking a Catholic School'.

15. 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 may 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.

16. If the school's PAN had been 30 in the past three years, then seventeen families would have been refused admission to this school, 11 in 2020 and 6 in 2021. There is no real pattern discernible to me in the numbers of applications. It is, however, reasonable to assume that the fluctuation of numbers below and above 30 may continue and is unlikely also to rise to 60 or near to 60. The school says it would welcome the reduction in PAN to 30 as it would be easier in terms of resource planning. This may well be the case but parental preference is also very important when planning school places. If the pattern of fluctuation of numbers continues then there would be more unsuccessful applications to the school even though the school can accommodate larger numbers, as evidenced by the school the net capacity assessment provided by the local authority.

17. I do not accept that the school has to plan for a two-form entry. Looking at the numbers admitted in the last three years, there are available places in Years 1 and 2 which could accommodate a small number of additional pupils without reaching the maximum class size of 30 and without having to plan for an intake of over 30 in YR. A vast number of primary schools across the country teach key stage one pupils in mixed age classes very successfully and this should be considered if the application numbers reach over 30. In this way the school's finances are protected and parental choice can be accommodated.

18. By the time the variation request was submitted on 1 December, the local authority's composite prospectus for admissions in September 2022 would have been published for nearly three months and parents would have begun to make decisions about the preferences they wished to express for school places. They would have done so expecting there to be 60 places available at this school. They will now have made their applications. The final number of applications with their preferences was sent to me on 8 February 2022.

19. My role in this matter is to determine whether the proposed variation is justified by the change in circumstances identified by the school. The change in circumstances being the falling demand. In this case I do not consider that the variation is justified, because of the number of preferences expressed in the past and the scope to adopt mixed aged classes. If the governing board, in association with the local authority wish to reduce the PAN to 30, then this should be processed by the normal process for changing the admission arrangements of a school. This process is detailed in paragraphs 1.2 to 1.4 of the Code and involves wide consultation. In this case I believe it is essential that local parents, whose applications may be unsuccessful if the PAN were to be reduced, should be provided with an opportunity to comment on such proposals. However, if at final offer day, the numbers allocated are 30 or fewer, then a further proposal for a variation for September 2022 admission could be submitted as, if this were the case, there would be no denial of preference for parents.

## Other matters

20. In reviewing the arrangements, I noted twelve elements of the arrangements which appeared not to conform with the requirements relating to admissions and brought this to

the attention of the school. I am grateful to the school who promptly reviewed the arrangements and has amended them in line with the Code.

## Summary

21. I do not approve this proposed reduction in PAN for admission in September 2022 as this reduction may well lead to unsuccessful applications to the school, I believe that parents should have an opportunity to make comments on the proposal via the due process outlined in the Code for a change in the admission arrangements to a school prior to determination.

## Determination

22. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the governing board of English Martyrs' Catholic Primary School, London Borough of Southwark for September 2022

23. I determine that the published admission number for September 2022 will remain at 60

Dated: 01 March 2022



Schools adjudicator: Ann Talboys