



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2234**

**Admission authority: The governing board of Leigh St Peter's Church of England Primary School, Wigan.**

**Date of decision: 30 March 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 of Leigh St Peter's Church of England Primary School for September 2022.

I determine that the published admission number (PAN) for admissions in September 2022 will be 30.

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 ways 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 within two months of the date of the determination.

## The referral

1. The Headteacher of Leigh St Peter's CE Primary School on behalf of the governing board has referred a proposal for a variation to the admission arrangements (the arrangements) for September 2022 for Leigh St Peter's CE Primary School (the school) to the adjudicator. The school is a voluntary aided school for children aged 2 to 11 in Wigan with a Church of England religious character.

2. The proposed variation is to reduce the PAN from 60 to 30 for admission in September 2022.

## 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 headteacher 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 this and these other 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 headteacher on behalf of the governing board dated 3 March 2022, supporting documents and further information provided at my request;
- b. the determined arrangements for 2022 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the local authority;
- d. comments on the proposed variation from the Anglican Diocese of Manchester; and
- e. information available on the websites of the local authority, the school and the Department for Education.

## Other Matters

7. Having considered the admission arrangements for the school as a whole it would appear that the following matters do not, or may not, conform with the requirements relating to admissions as follows:

- 1) The use of the term SEN statement (paragraph 1.6 of the Code)
- 2) The inclusion of previously looked after children from state care out of England as a lower priority than looked after children (paragraph 1.7 of the Code)
- 3) The use of the recipient of child benefit to establish parental priority (paragraph 1.8 of the Code)
- 4) The definition of length of time a waiting list is in place (paragraph 2.15 of the Code)
- 5) The use of the term 'request' when referring to part time admissions (paragraph 2.17 of the Code)
- 6) The absence of reference to deferred entry (paragraph 2.17 of the Code)
- 7) Reference to the previous Admission Code.

## The proposed variation

8. Local authority planning for pupil numbers has consistently forecast that the school would be a two-form entry primary school. Documents shared with the school in 2019 and 2020 show predicted entry numbers for the school as 40 in 2022 (in the 2019 paper) and 41 in 2022 (in the 2020 paper). The actual number expected to be admitted in September 2022 is 25 and this was communicated to the school by the local authority on 16 February 2022. The school has therefore proposed a reduction in PAN to 30 to facilitate a one form entry in September 2022.

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.

## Consideration of proposed variation

10. The school is a voluntary aided school with a Church of England religious designation in Wigan. It caters for 2 to 11 year olds and the governing board is the admission authority for the school. Over the last six years the number of pupils in the school has reduced from 418 to 358. This has resulted in a number of surplus places in each of the seven school years. 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 on roll. The fall in roll has had an effect on the school's budget and the headteacher reports that the budget this year may go into a deficit situation.

11. Based on the numbers projected by the local authority the school has planned for a two-form entry in September 2022. It came as a surprise to the school that the numbers applying for places this year are considerably down on the predicted figures and below the numbers to support a one form entry, let alone two forms. The school reports this as a major change in circumstances and I agree. A reduction to a one form entry for September 2022 would allow the governing board to adjust staffing and resources and support their financial planning whilst allowing all first parental preference applications to be admitted.

12. The governing board's ranking and admissions meeting and the full governing board meeting, both held on 14 March 2022 discussed and agreed the proposed variation request. It was noted at the first meeting that the projected numbers for 2023 admissions were back to the pattern of previous years and therefore this PAN reduction would only be for one year.

13. The headteacher reports that even if late applications were received, the school would still have additional places available. In addition, from the local authority predicted figures there are clearly surplus places at other local primary schools.

14. In its response to the variation the diocesan representative provided copies of the guidance provided to voluntary aided schools in the diocese and said that they were fully supportive of the request to reduce the PAN for one year.

15. In its response to the variation the local authority confirmed the school's numbers, explaining that there were 25 pupils allocated to the school for September via first preference and two late additions making the total 27. The local authority reports that they do not have any objection to the reduction in PAN for one year.

16. 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, except the governing board of a community or voluntary controlled school, can 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. However, as the fall in numbers has been sudden and unexpected it is, in my view sensible to arrange for a one form of entry in September 2022.

17. The governing board has already determined the arrangements for admission in 2023 and have set the PAN at 60. This remains in place and is unaffected by this determination.

## Consideration of the arrangements

18. Having considered the admission arrangements for the school as a whole it would appear that the following matters do not, or may not, conform with the requirements relating to admissions as follows:

- 1) The use of the term SEN statement (paragraph 1.6 of the Code). SEN statements have been replaced with Education and Health Care statements and therefore this section in the arrangements should reflect this.
- 2) The inclusion of previously looked after children from state care out of England as a lower priority than other looked after children (paragraph 1.7 of the Code). Paragraph 1.7 in the Code says that the highest priority (priority one) must be given in the oversubscription criteria to all looked after and previously looked after children including those who appear to have been in state care outside of England. In the school arrangements this latter group is identified as priority two. This requires amendment.
- 3) The use of the recipient of child benefit as the sole determinant of a child's address when parents do not live together for the purposes of priority for places (paragraph 1.8 of the Code). There are many families across the country in which the recipient of the child benefit allowance is not, in fact the parent with whom the child lives for most of the school week, term or year. It follows that if child benefit is used as the only way to determine where a child lives for the purposes of priority for a school place, this may not give an accurate result. It could result of a child having a lower or, indeed, a higher priority than would be afforded by the use of the address where the child actually did live for most of the school week, term or year. Both would be unreasonable and therefore non-compliant with paragraph 1.8 of the Code which states that; 'Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. This section of the arrangements requires review.
- 4) The definition of length of time a waiting list is in place (paragraph 2.15 of the Code). The arrangements report that the waiting list will operate until the end of the autumn term only. Paragraph 2.15 of the code states that 'Each admission authority must maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.' The date therefore requires amendment.
- 5) The use of the term 'request' when referring to part time admissions (paragraph 2.17 of the Code). The word 'request' infers that the decision to allow the take up of a part time admission rests with someone other than the parent and that such a request could be rejected. Paragraph 2.17 states that 'where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.' This makes it clear that taking up part time admission before a child reaches compulsory school age is a parental entitlement and does not require the parent to 'request' it. This requires amendment.
- 6) Paragraph 2.17 of the Code states that the child's parents can defer the date

their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made'. This entitlement does not appear in the admission arrangements and this requires amendment.

- 7) Under the section of the arrangement entitled Right of Appeal, there is reference to the previous Admission Code. (School Admission Code 2012). This has now been superseded by the School Admission Code 2021. This element of the arrangements required amendment.

19. Paragraph 3.6 of the Code states 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 this Code, admissions law, a determination of the Schools Adjudicator or any misprint in the admission arrangements.' This means that the amendments to the arrangements as identified in the paragraph 17 above can be made immediately and without consultation and can be applied to both the arrangements for admission in 2022 and to those for admission in 2023.

## Summary

20. I agree with the school that the significant drop in numbers for September 2022 was unexpected and constitutes a major change in circumstances. In order to support planning in resources, staffing and consequently budget, I agree that the PAN should be reduced from 60 to 30 for admission to YR for admission in September 2022.

## Determination

21. 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 Leigh St Peter's Church of England Primary School for September 2022.

22. I determine that the published admission number (PAN) for admissions in September 2022 will be 30.

23. 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 ways set out in this determination.

24. 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.

Dated: 30 March 2022

Signed:

Schools adjudicator: Ann Talboys