



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2254

Admission authority: The governing board for St Francis de Sales Roman Catholic Infant School, Tottenham

Date of decision: 16 June 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 Francis de Sales Roman Catholic Infant School for September 2022.

I determine that the published admission number be 60.

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 governing board for St Francis de Sales Roman Catholic Infant 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 three to seven in Tottenham. The London Borough of Haringey (the local authority) is the local authority for the area in which the school is situated. The local authority provided the referral to the adjudicator on behalf of the governing board for the school. The school has a Roman Catholic religious character and the faith body is the Archdiocese of Westminster (the faith body).

2. The proposed variation is that the published admission number (PAN) be reduced from 90 to 60.

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 local authority, on behalf of the governing board, has provided me with confirmation that the appropriate bodies have been notified. I find that the correct 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. The information I have considered in reaching my decision includes:

- a. the referral from the governing board, provided by the local authority on 11 May 2022, supporting documents and further information provided at my request;
- b. the determined arrangements for 2022 and the proposed variation to those arrangements;
- c. a map showing the location of the school and other relevant schools;
- d. a previous determination for the school (case reference VAR2115) published on 18 May 2022; and

- e. information available on the websites of the school and the Department for Education (DfE).

The proposed variation

6. The proposed variation is to reduce the PAN for admissions to YR in 2022 from 90 to 60. A fellow adjudicator considered previous referrals for variations to the admission arrangements for 2021 and 2022. A determination does not set a precedent for future determinations and each case is considered on its merits. The previous referrals were for reductions in the PAN of the school for 2021 from 90 to 60 and similarly for 2022. The adjudicator determined that the request for the reduction in the PAN for 2021 was justified. The adjudicator also concluded that, “it would be premature to reduce the 2022 PAN at the school until the demand for places is better known. More fundamentally, approving the reduction now would lead to the admission authority being able to keep it at the new level in subsequent years without consulting parents and others.”

7. The current referral says that the number of children requiring primary school places has been falling and that “Since March 2020 Covid-19 has led to a pronounced out-migration from Haringey and lowered demand for Reception places further.” Fewer preferences for the school have been received for the school than in previous years and on national offer day, 19 April 2022, 54 children were offered places for reception year (YR) for September 2022. The referral further explained that “The school wishes to organise its staffing and class structure according to the lower number of children. The governing board is conscious that the admission of further children may require it to deploy a further teacher to comply with infant class size regulations and wishes to avoid this scenario.” I understand that the governing board intends to consult on reducing the PAN to 60 for 2024.

8. 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

9. The governing board has set the PAN for 2023 at 90. This means that my determination will only affect admissions to YR in 2022 and no other year.

10. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. 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 which makes it particularly important that proposed variations are properly scrutinised and I have accordingly given careful consideration to the data to try to ascertain if there will be sufficient school places in the local area if the PAN is reduced from 90 to 60 for September 2022. I have considered

the demand for places at the school, the reasons given for the change, the potential effect on parental preference and whether the change is justified in these circumstances.

11. The school is located in an urban area. According to the DfE website, 'Find and compare schools in England', there are 18 other state funded primary schools within one mile of the school which admit children to YR. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical groups of schools, for this purpose. There are 15 state funded schools which admit children to YR in the planning area for the school. Table 1 below summarises the number of children admitted to the schools in the planning area in recent years.

Table 1: numbers of school places and numbers of children admitted to YR or offered a place in YR in schools in the planning area

	2019	2020	2021	2022
Sum of PANs of schools in the planning area for YR	1020	960	900	990
Number of children admitted to or offered a place in YR	820	766	688	676 offered as of 30 May 2022
Vacant places	200	194	212	Potentially 314
Number of vacant places as a percentage of the sum of the PANs	20%	20%	24%	32%

12. Table 1 shows that demand for places in the planning area has reduced by around 144 places between 2019 and 2022, although of course there will still be changes before children are admitted in September 2022. In each year at least a fifth of places have been vacant. National offer day was 19 April 2022 and so most of those seeking a place for September 2022 will have been offered a place at this stage in the admissions process. Table 1 shows for admissions in 2022 that nearly one third of all places in YR in the planning area may be vacant. I am therefore assured that if the PAN for the school were to be reduced by 30 that there would be sufficient capacity to meet late applications. The local authority has requested a reduction to the PAN of another school in the planning area. I have taken this into consideration and remain confident that if the PANs for both schools were reduced, which would be a reduction of 60 places, then there would remain sufficient places in the planning area for late applications. Table 2 provides information on admissions to the school in recent years.

Table 2: the number of children admitted to the school in recent years or offered a place for 2022

	2019	2020	2021	2022
The PAN for the school	90	90	60 ¹	90
Number of children admitted or offered a place	89	70	60	54 offered as of 30 May 2022
Vacant places	14	16	0	Potentially 36

13. Table 2 shows that the number of children admitted to the school reduced steadily between 2019 and 2021 and there has been a further reduction in demand for 2022. YR is subject to the provisions of the School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations). The infant class size regulations require that infant classes (those where the majority of children will reach the age of five, six or seven during the school year) must not contain more than 30 pupils with a single qualified school teacher, except in specific exceptional circumstances.

14. The infant class size regulations have implications for class organisation and school finances. This is because schools are largely funded on the number of pupils attending and staffing is normally the greatest cost to a school's budget. Classes are likely to be financially efficient if they contain approaching 30 pupils. If classes are much smaller than 30 pupils then the cost of providing a class can be more than the income created. I note that many successful schools have more than one year group to a class but many schools organise their classes on the basis of single year groups as they find it easier to manage the learning. The current YR pupils, the 60 children admitted in 2021, can be organised in two classes of 30. This will be financially efficient. However, were just over 60 children admitted to the school in 2022, say 63, then using this model of single year groups to a class and meeting the infant class size regulations, would require three classes of around 21 children. Many schools would find this difficult financially and it is this risk that the governing board wishes to avoid by reducing the PAN to 60.

15. There are ample surplus places close to the school if the PAN for the school were to be reduced by 30 and so no child would be without a school place close to home. The admission authority has offered 54 children a place and so 36 places remain vacant. If the PAN were to be set at 60 then the governing board could plan on the basis of two classes for YR for September 2022. If the PAN remained at 60 then it is possibly that just over 60

¹ The PAN for 2021 was reduced to 60 following the previous determination (VAR2115).

children would be admitted which would be expensive for the governing board to manage. There may be late applications for the school but at this point all applications made on time and some late applications have been considered. I therefore believe that parental preference will not be frustrated if the PAN is reduced to 60. I have taken these points into consideration and decided that the variation is justified by the circumstances and agree that the PAN for 2022 will be 60.

Consideration of the arrangements

16. The previous determination (case reference VAR2115) had brought to the attention of the governing board various matters that did not conform with the Code. The governing board was required by paragraph 3.1 of the Code to address these matters within two months of the date of the determination. I can see that the governing board had taken steps to address these matters. However, having considered the arrangements as a whole it appeared to me that the following matters did not conform with requirements of the Code and so I brought them to the attention of the governing board which told me that it plans to address these matters, as required by paragraph 3.1 of the Code, which is welcomed. These matters were:

- a. The definition of previously looked after children does not include 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. Paragraph 1.7 of the Code says,

“All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children, including 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. Previously looked after children are children who were looked after but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order).”

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.”

Paragraph 1.8 of the Code says (in so far as is relevant here): “Oversubscription criteria **must** be reasonable, clear [and] objective”.

As the definition of previously looked after children does not include all previously looked after children as defined by the Code, the arrangements unclear and so the arrangements do not conform to paragraphs 14, 1.7 and 1.8.

- b. Paragraph 1.8 of the Code includes that “Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.” The arrangements say that the tie-breaker is distance of the home to the school. This could lead to two or more applications that cannot be separated without an additional tie-breaker. The arrangements do not comply with the Code in this respect. I note that in the previous determination the adjudicator had raised this matter and said, “The governing board agreed that there was no provision in the arrangements for cases where two children lived the same distance from the school and proposed using random allocation if such a situation arose.” The governing board has not addressed this matter in the arrangements for 2022 and so has not complied with paragraph 3.1 of the Code which says, “The admission authority **must**, where necessary, revise their admission arrangements to give effect to the Schools Adjudicator’s decision within two months of the decision”.
- c. The oversubscription criteria give greater priority to those who live within the parish but there is no information on the parish on the school’s website. In this case, the parish is the catchment area and, as such, is part of the arrangements. Paragraph 1.50 of the Code says:

“Once admission authorities have determined their admission arrangements, they...**must** publish a copy of the determined arrangements on the school’s website...by 15 March in the determination year and continue displaying them for the whole offer year (the school year in which offers for places are made).”

The catchment area is not available on the school’s website on the catchment area so the arrangements are unclear and the governing board has not complied with paragraphs 14, 1.8 and 1.50 of the Code in this respect.

- d. The arrangements for 2022 say, “Applications are invited for September 2022 from families whose child attains 4 years of age between 01/09/2022 and 31/08/2023.” This would appear to be an error which may make the arrangements unclear and so not comply with paragraph 14 of the Code.
- e. Paragraph 2.17c) of the Code says, “The authority **must** make it clear in their arrangements that where they have offered a child a place at a school: ...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.” The arrangements say that a parent may “request” that their child may attend part-time which implies that it is not a right for parents so to do and so makes the arrangements unclear.
- f. Paragraph 1.13 of the Code says, “Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the ‘home’ address will be determined and the point(s) in the school or nodal points from which all distances will be measured. 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 say that ‘Home

address' means the place where the child resides for more than 50% of the school week." This does not meet the need to define the home address where two separated parents share care of the child equally and so is not clear. The arrangements do not comply with paragraphs 14, 1.8 and 1.13 in this respect.

- g. The supplementary information form (SIF) says, "Have you included...Proof of residential address: Council Tax document and two utility bills". Paragraph 2.4 of the Code says, "In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria". Paragraph 2.5 of the Code says, "Admission authorities may need to ask for proof of address where it is unclear whether a child meets the published oversubscription criteria." It is inappropriate to ask for such information for all applicants who complete the SIF and so the arrangements do not comply with paragraphs 2.4 and 2.5 of the Code.

17. The local authority has offered its support to the governing board to address these matters. As the governing board has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here within two months of the publication of this determination.

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 for St Francis de Sales Roman Catholic Infant School for September 2022.

19. I determine that the published admission number be 60.

20. 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.

21. 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: 16 June 2022

Signed:

Schools adjudicator: Deborah Pritchard