



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2247

Admission authority: the governing board of All Saints C of E Primary School in Hammersmith and Fulham, London

Date of decision: 1 July 2022

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the proposed variation to the admission arrangements determined by the governing board for All Saints C of E Primary School in Hammersmith and Fulham, London for September 2023.

I determine that the arrangements are to be varied to allow the school to give priority to children from a wider range of Christian churches for its foundation places.

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 All Saints C of E Primary School (the school) has referred a proposal for a variation to its admission arrangements for September 2023 (the arrangements) to the adjudicator.**
- 2. The school is a voluntary aided school for children aged 3 to 11 in Fulham, in the London Borough of Hammersmith and Fulham (the borough). Hammersmith and Fulham Council is the local authority (LA) for the school. The school has a Church of England religious character. The school is situated in the parish of All Saints in Fulham (the parish)**

which is itself within the Deanery of Hammersmith and Fulham (the deanery), and in the area covered by the London Diocesan Board for Schools (the LDBS). The LDBS is the school's religious authority. Ofsted rates the school as 'Good'.

3. The proposed variation is to the school's faith-based oversubscription criteria, referred to in the arrangements as 'church places'. Priority for church places is restricted to applicants who attend one of four named local Church of England churches. The school wishes to increase the number of Christian churches in the area attendance at which will give priority for places at the school.

Jurisdiction and procedure

4. 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 (insofar 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”.

5. The arrangements for 2023 were determined by the school's governing board on 14 March 2022. This is after the deadline for determining arrangements which was 28 February 2022. This does not affect the standing of the arrangements or my power to consider them or the proposed variation. The governing board has provided me with confirmation that the appropriate bodies, including the LA, the LDBS and local schools, have been notified of the proposed variation to those arrangements. I find that the correct procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.

6. 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. I will refer to these as 'other matters' and these are covered in the section of the determination entitled 'Consideration of the arrangements'.

7. In considering the variation requested and other matters, I have had regard to all relevant legislation and the Code.
8. The information I have considered in reaching my decision includes:
- a. the referral from the governing board dated 25 March 2022, supporting documents and further information provided at my request;
 - b. the determined arrangements for 2023 and the proposed variation to those arrangements;
 - c. comments on the proposed variation from the LA, LDBS, and a parent at the school;
 - d. a map showing the location of the school and other relevant schools;
 - e. information available on the websites of the school, LA, LDBS (including the diocesan 'Advice to Admission Authorities – March 2022'), the Department for Education (DfE) and Ofsted;
 - f. the ArcGIS website which provides a map of the parishes within the Diocese of London;
 - g. Google maps of Fulham and of the churches in Fulham;
 - h. the IoD2019 (indices of deprivation in 2019) Interactive Dashboard website from the Ministry of Housing, Communities and Local Government; and
 - i. the websites of 'Churches Together in Britain and Ireland', 'Churches Together in England' and 'The Evangelical Alliance UK'.
9. I have also taken account of the information I received during a meeting I convened for all parties on 29 April 2022 at 12pm (the parties' meeting). This meeting was attended by the chair of the governing board at the school and the LA's Principal School Admissions Officer. The representative of the diocese was unable to attend on that date and made a written submission instead.

Consideration of proposed variation

10. 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 under certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

11. In the arrangements as originally determined for 2023, after the admission of those children with an Education Health Care Plan (EHCP) that names the school and those that are looked after (the arrangements do not refer to previously looked after children and I

deal with that under 'other matters'), the school considers applicants for places within two groupings:

- Of the remaining places, 50 per cent are reserved for church places. (From this point forward, I will refer to this grouping as 'foundation places'. The reason for this is that it accords with how the school and LDBS both refer to the faith-based places (though the school does not do so in its arrangements, it does in other correspondence) and also to avoid any confusion with the descriptor the school uses for Category 3 of its oversubscription criteria – see below). Foundation places are only for applicants who are 'committed and practising' at one of four local churches: All Saints (Fulham), St Etheldreda and St Clements (Fulham), St Dionis (Parsons Green), and St Peter's (Fulham). Membership of All Saints and St Etheldreda and St Clements churches carries a higher priority than those from St Dionis and St Peter's churches. This grouping is divided into Categories 1 and 3 in the oversubscription criteria (see below).
- The remaining places are referred to in the arrangements as 'open places' and take no account of Christian commitment. This grouping is divided into Categories 2 and 4 in the oversubscription criteria (see below). To avoid confusion between the use of the term 'open places' by the school for both this grouping and Category 4, from this point forward, I will use the term 'non-faith places' when referring to this grouping.

12. The oversubscription criteria as they were originally determined can be summarised as follows:

- Looked after children.
- Category 1 'Church Siblings' – foundation places for children who will have a sibling in the school at the time of attendance.
- Category 2 'Open Siblings' – non-faith places for children who will have a sibling in the school at the time of attendance.
- Category 3 'Church Places' – foundation places for children of families who are committed and practising at one of the four named churches.
- Category 4 'Open Places' – all other applicants.

13. As I have outlined above, priority for the Category 1 and 3 places is half of the remaining places after the allocation of places to those with an EHCP or who are looked after or previously looked after. When allocating places, applications are sorted into one of the four categories and then ranked within each category by distance from the school, with those living closest ranked highest.

14. The variation originally requested was to remove the reference to St Dionis and St Peter's Churches under the foundation places grouping and instead to provide that foundation places not allocated to children whose parents attended All Saints (Fulham) and St Etheldreda and St Clements (Fulham), would be open to 'children whose families are committed regular members of a Church of England church'. I was told that the school wished to take this approach to ensure its distinct Christian character and ethos are maintained. The school further proposed that: "Christian churches will only be recognised if they are Church of England or within the deanery or a full member of 'Churches Together in Britain and Ireland' [CTBI] or 'The Evangelical Alliance UK' [EAUK]".

15. In my initial assessment of the request, I found this statement unclear and internally contradictory as it appeared to say both that priority for foundation places was to be only for children who were Church of England but with no reference to a geographical area in which their churches were located and that the priority was to include other Christian denominations. Clearly, both of these cannot be true at the same time. The use of the word 'or' further muddied the waters, not least as it was not clear how a non-Church of England church located in the deanery but not in membership of CTBI or EAUK would fall to be treated. My concern was that, if agreed, the varied arrangements would be unclear and would contravene the following paragraphs of the Code:

- 14: "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."
- 1.8: "Oversubscription criteria **must** be [...] clear [...]"
- 1.37: "Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied. [...]"

16. Since raising this concern with the school, the chair of the governing board has worked with the LDBS to address this issue. The school has confirmed that it wishes to extend priority for faith places beyond the Church of England, that it wishes to restrict this priority to churches in membership of 'Churches Together in England' (CTIE) or 'The Evangelical Alliance UK (EAUK)' and that in all cases the priority is to be restricted to attendance at churches in Fulham. The variation now proposed is that priority for foundation places will be given as follows:

- a. To children whose parents attend All Saints Church (Fulham) and St Etheldreda and St Clements Church (Fulham).
- b. To children whose parents attended: other Church of England schools located in Fulham; the Roman Catholic churches of St Thomas of Canterbury and Our Lady of Perpetual Help churches; Fulham United Reformed Church; West

London Family Church; Barclay Hall Christian Fellowship; London Fulham Seventh-day Adventist Church; and Fulham Broadway Methodist Church; The Redeemed Evangelical Mission; and Kingdomcity, London.

My view is that this approach will be effective in assisting parents to understand how the faith-based criteria are satisfied by being clear about from which churches in Fulham pupils would be admitted to the school's foundation places. I note here that the CTBI organisation has been replaced by the CTIE in the wording. I set out in detail the precise geographical area meant by 'Fulham' in paragraph 23.

17. I am conscious that this is an unusual variation request and I think it is worth setting out in some detail the background to it. The school explained the reason why it has requested this variation to its arrangements:

“Currently, pupils on roll total 198. The school has capacity for 236 pupils, with 38 spaces to be filled. As the majority of the school budget is set by the number of pupils on roll, now would be an ideal time to review the current admissions policy. By opening up some of the admission criteria, the school will be accessible to more local families, increase pupil occupation, be more diverse and potentially increase our LA income allocation.”

18. In the parties' meeting, the chair of the governing board explained that the school, up to three years ago, only admitted applicants to its foundation places from All Saints Church. Three years ago, the three other churches named in the arrangements originally determined for 2023 were added after a consultation, with those from St Etheldreda and St Clements Church being given equal priority to those applying from All Saints Church (and therefore given priority before those from St Dionis and St Peter's churches). The three churches were added because the school wanted to address a declining number of children securing places on the basis of church attendance. At that time, priority for 60 per cent of places was given to foundation places in the oversubscription criteria.

19. Prior to determining its arrangements for 2023, the school held a consultation in which it proposed a change to the ratio of foundation:non-faith places from 60:40 to 50:50. The school proposed this change because: it wanted to continue to address its falling roll and felt it could do so by providing more non-faith places; and the school wished to align with guidance from the LDBS which advised a 50 per cent allocation of faith places. This proposal has been adopted by the school and its arrangements have been determined on that basis for 2023.

20. I noted that the school had stated in the variation request form: “[...] now would be an ideal time to review the current admissions policy”. I asked the school to explain why it had not, in the recent consultation process, made the changes it now seeks. 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 variations are made via the process of determination following consultation as the consultation process allows those

with an interest to express their views on what is proposed. It also allows for objections to the adjudicator. None of this is afforded by the variation process (though I note later that the school has informed the parent body of the variation requested). The chair of the governing board of the school explained in the parties' meeting that the idea had been suggested in the governing board meeting in which the arrangements had been determined. A new member of the school's leadership team had looked at the situation afresh and suggested this as a possible way of reversing the decline in numbers seeking places. It was simply a matter of timing and was an idea that had not occurred to the governing board prior to the determination of the arrangements for 2023. I was told that the governing board are so concerned about the falling intake that it decided to pursue this through a variation rather than wait to consult on this change for the 2024 arrangements.

21. The chair of the governing board confirmed its view that there are two purposes that justify the variation requested: increasing pupil numbers; and to increase the socio-economic diversity of the school population. The latter was reported to have been something that the school governing board were told they should attempt to address during their last Ofsted inspection (though I note this was not something that was recorded in the report arising from that inspection). I will cover these two purposes in turn in this determination, after evaluating the impact of the change on the number of churches that would be covered by the arrangements, if varied.

22. I note here first that the chair of the governing board of the school told me that governors are conscious of a view of the school held locally that 'you have to go to All Saints Church to get in'. I have been presented with no evidence to support this, but I can see that a school would wish to ensure that parents were not put off from applying. Moreover, given the name of the school and the fact that All Saints Church was the only church at which attendance afforded priority for a foundation place, I can understand how a view such as this might have developed. If such a view does prevail, then one way to address it might be through increasing the number of churches attendance at which gives eligibility for a foundation place. I also pause here to note that it is a universal requirement of all school admission arrangements that – where the school has places – all who seek one must be admitted. While a Church of England primary school can give priority to children of its denomination and to those of other denominations or faiths, it cannot keep places empty. The school is not of course doing this; but I want to emphasise that in law places are not 'reserved' for children from a particular denomination or faith; rather, priority is given to children of particular denominations or faiths for those places when there is oversubscription.

23. The chair of the governing board told me in the parties' meeting that the school had not carried out an assessment of how many more, and which, churches in the locality the proposed variation would include in admissions for foundation places. Had the governing board done so, it would likely have highlighted the issue I raised earlier (in respect of the contradictory wording of the variation requested) prior to the form being submitted to the adjudicator. Putting that aside, in the context of the variation as it was originally worded, I

began my assessment by first looking at the map of the Diocese of London provided on the ArcGIS website to identify Church of England churches through the map of parishes in Fulham. (I stress that the school does not and is not proposing to use parishes in its arrangements).

24. Prior to this, as Fulham is only one part of the larger borough, I used Google maps to delimit only the area of Fulham by using the search term 'Fulham, London' and using the resulting map. On that map, Fulham is bordered to the west and south by the River Thames. The eastern boundary of the map of Fulham starts at Chelsea Creek and then works north-north-west passing Coleridge Gardens until it reaches the West Brompton underground station. The northern boundary from the West Brompton underground station follows the A3218 west-south-west until the Lillie Road Recreation Ground and then west following a line between Niton Street and Crabtree Lane until it reaches the River Thames. That is the area covered when I refer to Fulham in this determination. The school is located in the south-west of Fulham close to Fulham Palace which is itself next to the river. The school is close to the Putney Bridge, and it is conceivable that parents may transport their children over the river to get to the school. However, as it is the school's intention only to make the change to include churches from Fulham, I did not look beyond Fulham itself.

25. The ArcGIS website shows that there are eight parishes in Fulham. Four of those parishes belong to churches currently named in the arrangements for the school. The remaining four are Christ Church (Fulham), St Matthew (Fulham), St John (Walham Green) and St Alban (Fulham), with the latter being the only parish which is not entirely in Fulham (it crosses over the northern boundary and is mostly in Hammersmith). All of these churches are in the deanery. As the church of St Alban and most of its parish are not in the area of Fulham delimited on Google maps, I have not included it in the count. Therefore, and so far, this means there are five churches in addition to the two that would be named in the varied arrangements.

26. As noted above, the varied arrangements would also give priority to children whose parents attended one of a number of Christian churches. Looking at the membership list for CTIE, and cross-referencing with churches shown on the Google map of Fulham, I can see that the school would give priority for admission to those who attend and apply from the following Christian churches:

- Those of the Roman Catholic faith: St Thomas of Canterbury and Our Lady of Perpetual Help churches.
- Those from Protestant Christian denominations other than Anglican in Fulham: Fulham United Reformed Church; West London Family Church; Barclay Hall Christian Fellowship; London Fulham Seventh-day Adventist Church; and Fulham Broadway Methodist Church.

27. Membership of EAUUK would also extend priority on the basis of attendance at the following Fulham churches: The Redeemed Evangelical Mission; and Kingdomcity, London.

In sum, this adds another nine churches to the seven Church of England churches (16 churches overall) from which attendees would be able to apply for foundation places at the school.

28. I now turn to look at the two purposes which the school uses to justify the variation requested: increasing pupil numbers; and to increase the socio-economic diversity of the school population. I will also look at other considerations of the proposed variation.

Increasing pupil numbers

29. At my request, the LA provided data on admissions for 2019 to 2021 and offers for 2022 for each of the oversubscription criteria in the arrangements. This data is shown on Table 1.

Table 1: Number of children with EHCPs and under each of the oversubscription criteria admitted into Reception (YR) from 2019 to 2021 and offered for 2022

Order of allocation of places	2019	2020	2021	2022
Children with EHCPs	1	0	0	0
Looked after / previously looked after children	2	0	2	1
Category 1 – ‘Church Siblings’	5	6	3	1
Category 2 – ‘Open Siblings’	12	7	13	9
Category 3 – ‘Church Places’	6	13	6	5
Category 4 – ‘Open Places’	4	4	6	14
Total	30	30	30	30

The data show that the school has been full in YR for the last three years and has made offers up to PAN in 2022. The chair of the governing board told me in the parties’ meeting that the school has been oversubscribed in all the years on Table 1.

30. Arrangements are for the normal point of entry into a school. In the case of the school this is YR in 2023. The data in Table 1 clearly show that the variation would not be needed at the point of entry to the school for the purpose of increasing pupil numbers. I was concerned that the school’s request was made on the basis that it believed that this change would make a difference to the numbers of students in other year groups in the school. I asked the school for clarification. The school confirmed that its concern about the numbers in year groups other than YR was one of the reasons for the variation requested, and provided data which showed this issue. I have presented that data in Table 2.

Table 2: Numbers of pupils in each year group of the school in May 2022

Year group	Numbers as of May 2022
YR	28
Year 1	27
Year 2	31 *

Year 3	30
Year 4	22
Year 5	24
Year 6	24
Total	186

* the extra child is a sibling, and one child will be leaving at the end of the year.

31. Given that the school has admitted up to PAN in each of the past few years, what appears to be happening is that more children leave the school other than at the end of Year 6 than join it after the beginning of YR. The proposed variation will not have any effect on the admission of children to year groups other than YR in 2023 and will have effect in relation to that year group only if it is oversubscribed. As set out in paragraph 2.28 of the Code: “With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have places available **must** offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria, unless admitting the child would prejudice the efficient provision of education or use of resources.” Even more fundamentally, the PAN does not apply beyond the normal year of entry. If a child seeks a place in any other year group and can be accommodated without prejudice to the efficient provision of education or use of resources then he or she must be admitted. Therefore, I do not agree that the variation requested can be justified on the basis of improving pupil numbers.

32. However, after looking at the data in Table 1 more closely, I raised with the school that there is a decline over the period 2019 to 2022 in the number of pupils admitted to its foundation places. Apart from 2020, the data show that the number of pupils admitted to foundation places was lower than those admitted to non-faith places. Over the period covered by the data in Table 1, the number of children admitted to foundation places declined. The number of children offered foundation places in 2022 is at its lowest in the period covered by the data in the table. I show this issue in Table 3.

Table 3: Decline in the number of admissions to the school’s foundation places from 2019 to 2021 and offered for 2022

Admissions to groupings	2019	2020	2021	2022
Admitted prior to the two groupings	3	0	2	1
Admitted to foundation places	11	19	9	6
Admitted to non-faith places	16	11	19	23
Total	30	30	30	30
Difference between foundation and non-faith places	-5	+8	-10	-17

33. The school confirmed that the variation requested is in order to maintain ‘the distinct Christian ethos of the school’ and that increasing the number of students admitted to its foundation places would achieve that aim. The school stated:

“I can confirm our request is about the number of pupils in [foundation] places which have been declining relatively over the years to the pupils in [non-faith] places. We are seeking through our variation request to find a way that the falling number of [foundation] places is reversed and not about the number of pupils entering reception overall. In other words we are asking through our variation request to find a way to make our school more diverse and open up our [foundation] places to a wider audience. It is not about the number of pupils entering Reception overall. It is about ensuring inclusive admissions arrangements are in line with the School’s vision and LDBS idea of inclusivity/ and about filling our church places.

We currently struggle to fill our church places in reception intake, by opening up our foundation/church places to a wider audience this will in turn increase the number of [foundation] places and fill the 50% allocation for [foundation] places. In other words it is actually less about getting pupils in to fill spaces (which there are none to fill in terms of PAN), and more about increasing the number of pupils in the 50% allocation for [foundation] places rather than those in [non-faith] places.”

34. Putting aside that this could have been made clearer on the variation request form by the school, the data show that this does appear to be something that the school would want to address. In doing so, I recognise that the numbers of pupils admitted to non-faith places could be decreased. However, as a school with a designated religious character, it is able to give priority to children on the basis of faith as provided for in both Schedule 11 (Part 2) to the Equality Act 2010 and in accordance with paragraph 1.36 of the Code.

To increase the socio-economic diversity of the school population

35. The school told me that it is mindful that its intake is from affluent areas of Fulham, given the number of places allocated on the basis of distance from the school. The school would like to increase the socio-economic diversity of its intake by admitting children from less affluent areas of Fulham, which are further away. I evaluated whether it is likely that, by agreeing to the variation, the school would be able to reach its goal of increasing the socio-economic diversity of its intake, first by using the IoD2019 (Indices of Deprivation data from 2019) dataset. The IoD2019 uses Lower-Layer Super Output Areas (LSOAs), which are standard statistical geographical areas designed to be of a similar population size, with an average of approximately 1,500 residents or 650 households. After levels of deprivation in each LSOA are calculated using socio-economic data, it is ranked relative to the outcomes of calculations for all other LSOAs in ‘deciles’ (deciles are calculated by ranking the 32,844 LSOAs in England from most deprived to least deprived and dividing them into 10 equal groups, where ‘1’ is the 10 per cent most deprived and ‘10’ is the 10 per cent least deprived). Fulham (as I have defined it above) is made up of 40 LSOAs. The area has 26 LSOAs in deciles 6 to 9 (there are no LSOAs in decile 10) and out of the 14 LSOAs in deciles 1 to 5, only one LSOA is in decile 1 and five LSOAs in deciles 1 to 3. The school is situated in LSOA 024A (decile 7) to the south-west of Fulham, next to the River Thames which delimits its western and southern border. Six LSOAs directly border 024A, five of which are in deciles 7, 8 and 9 and one of which is in decile 6. Out of the four LSOAs in

decile 9, two border the school's LSOA and two are in close proximity. It is clear that the school is amongst, and draws its school population from, the most affluent areas of Fulham.

36. The most deprived areas (deciles 1 to 4) can be found in the north and north-east (LSOAs 015A (decile 1), 020A (decile 3), 021F, 017D and 017E (decile 4)) and south of Fulham (LSOAs 023D, 025D (both decile 3), 19A, 19B and 025B (all decile 4)). LSOA 021D (decile 2) is located to the east of the centre of Fulham.

37. As a result of the school's initial variation request, I had looked first at the Church of England parishes. I found that the most deprived LSOAs in Fulham can be found in the parishes of St Dionis (Fulham), St Matthew (Fulham) and St John (Walham Green), with the most deprived LSOAs in the latter parish. St Dionis is currently named in the arrangements for the school. Therefore, if the school is to increase its socio-economic diversity, varying the arrangements to extend the eligibility of the school's foundation places to include children whose parents attend St Matthew and St John churches would appear to be a way the school could work towards achieving that aim. It is also possible that by extending priority to those children whose parents attend churches of other Christian denominations, more children from families in lower socio-economic would secure places.

38. After the school had confirmed that it would include applications from other Christian churches in the varied arrangements, I also looked at the LSOAs that each of those churches are located in, and placed the results in Table 4 along with its decile.

Table 4: LSOA / decile of the location of other Christian churches that would be included in the varied arrangements

Name of church	LSOA	Decile
Barclay Hall Christian Fellowship	021F	4
Fulham Broadway Methodist Church	020A	3
Fulham United Reformed Church	018D	8
Kingdomcity, London	021F	4
London Fulham Seventh-day Adventist Church	019D	4
Our Lady of Perpetual Help	023C	5
St Thomas of Canterbury	019C	6
The Redeemed Evangelical Mission	017E	4
West London Family Church	019A	4

39. Only the LSOA of the location of each of the churches is included in this table and I have not looked at the impact of the inclusion of these churches in the arrangements through their equivalent of a 'parish' as I have for the Church of England churches. I note here that the churches are highly likely to draw their congregations from wider geographical areas than their immediate locations (and hence from other LSOAs). However, putting aside the fact that data on congregations is not readily available, it is not necessary to look at the issue in that much depth in order to check the school's justification for the variation

requested. Using the immediate location of each church in its LSOA appeared to me to be a sufficient indicator.

40. The chart shows that out of the nine churches in Table 4, only one (Fulham United Reformed Church) is located in an LSOA with a higher decile than where the school is located. Along with the finding that the Church of England parishes further away from the school include LSOAs in lower deciles, there is evidence that, by varying its arrangements in the way that the school now proposes, there is the potential to increase the socio-economic diversity of the school population.

41. However, whilst I am minded to view the sharp decrease in the numbers of pupils admitted to the school's foundation places as a major change in circumstances, I am not inclined to view the school's stated need to increase the socio-economic diversity of the school in the same way. It is indeed a laudable goal and, in that context, is one which could be viewed as the school intending for a change in its circumstances rather than having a major change thrust upon it. Although I do not view this purpose, in and of itself, as a reason for the variation to be agreed, if this change is to be realised it is likely to occur as a by-product of the move to increase the intake of Christian pupils from across Fulham in any event.

Other considerations

42. Using Google map's 'measure distance' tool, I calculated that the school is under 2.4km from the entirety of the Fulham border as defined earlier (by straight line distance), with the furthest point being at Chelsea Creek. Taking into account the availability and variety of transport methods and road routes in the area, it is possible that pupils from any part of Fulham could either walk, or be transported to, the school relatively easily should they be admitted.

43. At the parties' meeting, I asked if there had been any work undertaken by the LA to assess the impact of the variation requested by the school on other schools in the area. The DfE website 'Get Information About Schools' (GIAS) lists 11 primary schools in Fulham, with two schools having Church of England religious character (the school and St Johns Walham Green Church of England Primary School). St Johns Walham Green Church of England Primary School has the capacity for 446 pupils which is just under twice as much as the school and is less than a mile away by road, according to Google maps. It also has spare places. This is not uncommon as primary numbers have been falling across London in the last few years. If the school is to draw on pupils from other parts of Fulham, I was concerned that pupil numbers in other primary schools might be affected. The LA's Principal School Admissions Officer confirmed in the parties' meeting that his team had analysed the potential impact of the variation requested by the school and confirmed to me that it was 'not expected to have any impact on other schools in the area' and there would be 'no effect on the viability of closer schools'.

44. The LDBS provided the following in response to my request for a view on the variation requested:

- “• I can confirm that the school did consult with the [...] Diocesan admissions adviser [...].
- The chair of the governing board has confirmed to me that the governors held a robust discussion about the likely impact of the proposed variation within the context of local churches and church schools. In my view, this satisfies the recommendation in the Diocesan admissions guidance to be mindful of the impact of the policy on other churches and other local Church schools.
- The diocese therefore has no objection to the proposed variation and notes that the proposed variation has adopted the language of Diocesan admissions guidance in this matter.”

45. The LA and diocese have stated they are in favour of the proposed variation. No comments were received from other local primary schools as a result of the notification process. The school wrote to parents about the proposal and brought to my attention a comment from a parent at the school who said: “We won't be around next year to see the impact of this, and the school governors need to decide the future, but this is a terrible weakening of the schools [sic] ethos. What a bad direction the school is moving in from the close knit church school that attracted us.” I have viewed this in the context that it is the only negative comment about the requested variation.

46. The justifications put forward by the school for the variation requested are to increase the numbers of pupils admitted to foundation places in order to maintain the Christian ethos of the school, and to increase the socio-economic diversity of the school population. The LA and diocese are supportive of the change and the LA has confirmed that the variation is unlikely to impact on other schools in the area. As a result of the outcomes of the clarifications I have sought from the school and my resulting analysis, I am of the view that the variation – as intended but not as worded in the initial request from the school – has the potential to do both.

47. The school judged that the matters prompting the submission of a variation request are a major change in circumstances. As a result of my assessment of the evidence in regard of the two purposes presented by the school in respect of the reasons for the variation requested, I am convinced by the evidence which shows that there has been a significant decrease in the number of children being admitted to its foundation places and that the school would want to make changes which would allow it to maintain its Christian ethos. Whilst it is clear that there is likely to be an increase in the socio-economic diversity should the school admit attendees from more churches in Fulham, I do not view that purpose in and of itself as a major change in circumstances.

48. Therefore, It has been justified to my satisfaction that the variation requested is warranted on the basis of needing to increase the numbers of pupils admitted to foundation

places at the school in order to maintain its Christian ethos. However, I am concerned that the way the variation was originally worded would not make the arrangements clear to parents and would therefore contravene paragraphs 14, 1.37 and 1.8 of the Code. The school has since provided a different version of the variation which would meet the requirements of the Code, whilst addressing the major change in circumstances it has identified. For the reasons detailed in this determination and under Section 88E(6)(b) of the Act (which allows for modification of variation proposals), I approve the variation request as most recently provided by the school and include a modification delimiting the area from which priority will be given for church places to Fulham. This means that the following varied arrangements will apply to the school's foundation places:

- Places will be available to children of committed and practising members of All Saints Church (Fulham) and St Etheldreda and St Clements (Fulham). Applicants from those churches for foundation places will have higher priority.
- Then priority will be given to committed and practising members of any other Christian church in Fulham. Those Christian churches will only be recognised if they are Church of England, a listed member of 'Churches Together in England' or a church listed as a 'church' member of 'The Evangelical Alliance UK'.

This wording must replace the original wording in the chart showing the oversubscription criteria and in the definition section of the arrangements, and must also be reflected on the supplementary information form.

49. The school has also recognised that the wording in other parts of the arrangements will also need to be varied in order to be inclusive of the broader range of churches from which applications can now be made. The following variations to the arrangements are approved in order that the entirety of the arrangements is compliant with the Code:

- In the 'definitions of terms' section of the arrangements:
 - "Church applicants have to be a "committed and practising member" where the family has worshipped for at least twice a month for two years prior to the application and is regularly involved in the worship in at least two of the following ways:

a parent/carer is a Church Officer or involved in Sunday or weekday activities;

the child has been baptised;

a parent/carer is on the electoral roll of the church."

is to be varied to:

"Church applicants have to be a "committed and practising member" where the family has worshipped for at least twice a month for two years prior to the

application and is regularly involved in worship in at least two of the following ways:

a parent/carer is a Church Officer or involved in Sunday or weekday activities;

the child has been baptised or has been the focus of a service of thanksgiving for the gift of a child;

a parent/carer is on the electoral roll of the church.”

- “A reference is required from the applicant’s Vicar [...]”

is to be varied to:

“A reference is required from the applicant’s vicar / priest / minister [...]”

- The variations to the wording above must also be reflected in the supplementary information form.

Consideration of the arrangements

50. Having considered the arrangements as a whole it appeared to me that the following matters do not conform with requirements of the Code and so I brought them to the attention of the governing board. These matters were (with the relevant paragraph of the Code in brackets):

- The arrangements state: “There is a legal requirement for the School to offer a place to children where the School is named on their statement of special educational needs or Education Health Care Plan. The Governors will also give the highest priority to Looked After children*.” It is not as clear as it ought to be that children with EHCPs are admitted first, before all other children (Paragraph 1.6). Statements of special educational need have now been replaced by EHCPs and so using an obsolete term renders the arrangements unclear, paragraph 14 requires that arrangements are clear.
- Throughout (and until the definitions section), the arrangements only refer to ‘looked after children’ and not ‘previously looked after children’. Whilst the definition includes reference to ‘previously looked after children’, parents may well be left with the impression until that point that ‘previously looked after children’ are not admitted in the same way as ‘looked after children’, or at all (Paragraphs 14 and 1.7).
- The reference to, and definition of, previously looked after children in the oversubscription criteria does not meet the requirement set out in the revised Code which came into force on 1 September 2021. It is now a requirement to extend the same level of priority for looked after and previously looked after

children to 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. All admission authorities were required to vary their admission arrangements accordingly by 1 September 2021 (this could be done without requesting a variation from the adjudicator). There appears to be no reference to this requirement in the arrangements (Paragraph 1.7 of the Code, and also see separate guidance entitled ‘Admissions priority for children adopted from state care outside of England: Guidance for admission authorities and local authorities – July 2021’).

- The notes in the arrangements that define the faith-based criteria, in part, state:

“Church applicants have to be a “committed and practising member” where the family has worshipped for at least twice a month for two years prior to the application and is regularly involved in the worship in at least two of the following ways:

a parent/carer is a Church Officer or involved in Sunday or weekday activities; the child has been baptised; a parent/carer is on the electoral roll of the church. [...]

(Other than the word ‘two’, the underlining is my emphasis)

The two underlined statements do not make clear how this can be evidenced in the past two years given that the COVID-19 pandemic has prevented church attendance. The arrangements do not define how ‘worship’ can otherwise have taken place during the periods of lockdown. There is an attempt to do so in the supplementary information form and on the school’s website, but this information is not in the arrangements.

- The definition of ‘distance to the school’ is not clear. It states: “All distance measurements are from the applicant’s front door to the centre of the school’s grounds when measured in a straight line. In cases of dispute it will be the distance as measured by the Local Authority.” Paragraph 1.13 of the Code states: “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:
 - do not make clear whether the Local Authority undertakes all of the measuring of distances and, if not, how it is calculated;
 - state that the local authority only calculates distances in cases of dispute, but it is not clear what ‘cases of dispute’ would be in this circumstance; and

- do not define clearly how the home address will be determined in respect of 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.
- Paragraph 1.8 of the Code states: “Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.” There is no tie-breaker in the arrangements.
- The supplementary information form includes information for parents who have moved to the parish within the two years preceding the published closing date. The note confirms that parents in that situation may still apply for a place for their child if they provide written evidence of an equivalent commitment from their current vicar. This information is not in the arrangements.

51. The governing board said that it will address these matters, which is welcomed. I have also seen that the LDBS has provided support to the school on 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 this determination as required by paragraph 3.1 of the Code.

Determination

52. In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the proposed variation to the admission arrangements determined by the governing board for All Saints C of E Primary School in Hammersmith and Fulham, London for September 2023.

53. I determine that the arrangements are to be varied to allow the school to give priority to children from a wider range of Christian churches for its foundation places.

54. 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.

55. 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: 1 July 2022

Signed:

Schools adjudicator: Dr Robert Cawley