



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2274

**Admission authority:** The governing board for Pierrepont Gamston Primary School, Nottinghamshire

**Date of decision:** 26 September 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 Pierrepont Gamston Primary School for September 2023.

I determine that the oversubscription criteria for community places will give priority to children living within the catchment area shown in the appendix to this determination after that for siblings of children attending the school.

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 this determination.

## The referral

1. The governing board for Pierrepont Gamston Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2023 (the arrangements) for the school to the adjudicator. The school is a voluntary aided school for children aged 4 to 11 with a religious character of Church of England. The school is situated in Nottingham and Nottinghamshire County Council is the local authority; the religious authority for the school is the Diocese of Southwell and Nottingham (the diocese).

2. The proposed variation is to introduce an oversubscription criterion for community places which will give priority for children living in a catchment area after the existing priority given to children with siblings at the school.

## 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 governing board has provided me with confirmation that the appropriate bodies have been notified. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction. I am also satisfied that it is within my jurisdiction to consider the determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention and determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

5. In considering these 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 governing board dated 27 July 2022, received 7 September 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 local authority and the diocese;
- d. a map showing the location of the school and other relevant schools; and

- e. information available on the websites of the local authority.

## **The proposed variation**

7. The school has a published admission number (PAN) of 45 and within this number, offers 'foundation' places and 'community' places. The first oversubscription criterion is for looked after and previously looked after children. Up to nine 'foundation' places are then offered to children who, with at least one parent, have attended a place of worship for a stated time and frequency. The oversubscription criteria for these places give priority to siblings of children attending the school followed by those living closest to the school. The remaining places are the 'community' places. Priority for these is given to siblings followed by "other applicants".

8. The proposed variation is to introduce a new oversubscription criterion for the community places. The new criterion would be inserted after the sibling criterion and would give priority to children living in the proposed catchment area shown in the appendix to this determination.

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. This application for a variation was submitted following a change to the local authority's website. This has altered the way in which parents can identify schools near to their homes. In the view of the school, this makes it more difficult for parents to become aware of schools which do not use residence in a catchment area as an oversubscription criterion. The school considers this variation is necessary to give "a fair representation to parents looking to select a school for their child." The purpose of introducing the catchment area is to make the school more visible to parents who use the local authority's website to identify which schools are near their home.

11. I have noted that the local authority and the diocese both support the proposed variation and have been involved in its preparation and there have been no negative responses to the proposal following the notification to other schools in the area. One commented that it thought the school already had a catchment area.

12. The local authority's website has a facility which shows a map of the county with all primary or secondary school catchment areas shown on it. Entering a postcode or clicking on the map identifies which primary or secondary school catchment area an address is in. It is also clear if an address is not in any school catchment area. The website also explains that some schools do not have catchment areas and includes a link to the Church of England's website through which Church of England schools near to any address can be

identified. However, it is not possible to identify schools on the interactive map if they do not have a catchment area. From the application form I understand that the local authority intends to make further changes that will address this issue at some point in the future. However, there is a need for parents to be able to find out if the school is near their homes in the coming months before they apply for primary school places for September 2023.

13. Using the interactive map on the local authority’s website it is possible to see that a parent living in the north of the proposed catchment area would be told that they live in the catchment area for Abbey Road Primary School, while parents living in the south of the proposed catchment area would be told that they live in the catchment area for Edwalton Primary School. The catchment areas of both these schools overlap the proposed catchment area and also terminate on the Gamston Lings Bar Road although they extend further to the west of the area shown on the map.

14. Paragraph 1.14 of the Code says, “Catchment areas **must** be designed so that they are reasonable and clearly defined.” The map of the proposed catchment area is of a suitable scale for me to see that the northern and eastern boundary of the proposed catchment area follow dual carriageway roads and that in the residential areas, the boundary is along the middle of the roads. The proposed catchment area is clearly defined.

15. The school is located centrally in the proposed catchment area. The areas to the north and east of the dual carriageways are not residential areas, mainly consisting of farmland and other open spaces. The boundaries formed by the dual carriageways are reasonable.

16. Turning to the boundary in the residential area, I was provided with details about the intake in the last three years and how many of the children live in the proposed catchment area. I note that the school is not oversubscribed and so all first preferences for the school could be met.

Year	Total places allocated	Foundation places	Community places	Number of children offered community places who live in the proposed catchment
2020	40	4	36	28
2021	35	5	30	23
2022	37	3	34	29

17. While living in a catchment area does not guarantee a place at a school, parents will have an expectation that it would be unusual for a catchment area child not to be offered a place. The number of children living in the catchment area who would like a place at the

school appears to be within the limit of the published admission number. The entire catchment area is within walking distance of the school.

18. I have noted that the south-western corner of the catchment area includes the site of Edwalton Primary School. However, Edwalton Primary School includes the site of Pierrepont Gamston Primary School in its catchment area; I see no disadvantage to children from this. I find the catchment area to be reasonable.

19. Paragraph 14 of the Code requires that admission arrangements are clear and fair. I have therefore considered the wording and position of the new oversubscription criterion in the arrangements. The proposed wording is “Places will next be allocated to those applicants living in catchment.” This follows the criterion giving priority to siblings. By putting the new criterion in this position, it does not alter the priority for children from families with an existing connection to the school.

20. There are some houses outside the proposed catchment area which are closer to the school than parts of the proposed catchment area. Children living in these houses would have lower priority for places than they have now if I were to approve this proposal. However, I see no unfairness from this as these areas are in the catchment of either Edwalton Primary School or Abbey Road Primary School and are also nearer to those schools.

21. Having considered the factors above I have decided to approve the proposed variation.

## **Consideration of the arrangements**

22. The current arrangements say, “As this is a Voluntary Aided school, the Governors are also able to consider applications without the constraints of a catchment area.” This is not an accurate statement; the Code does not require the admission authority for any type of school to use a catchment area, nor does it prohibit any type of school from using one. Paragraph 14 of the Code requires that the arrangements are clear; including inaccurate statements in the arrangements is inconsistent with this requirement. It would also be inconsistent for the sentence to remain in the arrangements when the school will now be using a catchment area.

23. In the section of the arrangements headed “Admission of children below compulsory school age and deferred entry to school”, it says “parents can request that the date their child is admitted to school is deferred until later in the school year 2023-2024, or until the term in which the child reaches compulsory school age within this year.” This does not make it clear that parents of a summer born (1 April to 31 August) child cannot defer admission to Year R beyond the start of the summer term unless they apply for the child to be admitted outside the normal age group.

24. In the section “Admission of children outside the normal age group” much of the wording appears to be taken directly from paragraphs 2.18 to 2.20 of the code. This can be helpful to

ensure that the arrangements do conform with the Code. However, care needs to be taken when moving from general statements to specific ones. The arrangements use the words “the views of the head teacher of the school concerned”. This makes the arrangements unclear as they only apply to one school.

25. In the first oversubscription criterion the arrangements say, “Priority over places will be given to children who are ‘looked after’ by the Local Authority or ‘previously looked after’ which will reduce the number of places available to other applicants.” The purpose of this sentence is not clear because children meeting any of the oversubscription criteria reduce the number of places available to other applicants. When this matter was raised with the school it agreed to address it.

26. The arrangements say, “Foundation Places (no more than 20% of the total places available in any admission year).” The published admission number (PAN) is 45, 20 per cent of 45 is nine, from the arrangements it is not clear whether there are nine or a lower number of foundation places available for 2023. When this was raised with the school, it confirmed that the number of foundation places was nine. If that is the case, then that should be stated clearly without requiring parents to perform a calculation or suggesting that the number of foundation places may be lower.

27. The arrangements should also be clear that if the foundation places are oversubscribed, then unsuccessful applicants for them will also be considered for community places. The arrangements should also be clear that if any foundation places are not allocated, they cannot be left empty and must be allocated as community places. This may be why the number of community places available is given as “at least 80% of the total places” in the arrangements. However, if a place was allocated under the first oversubscription criterion to a looked after child and then nine foundation places were allocated, there would be 35 places left for allocation as community places. This is less than 80 per cent of the places. Until the number of children offered places as looked after or previously looked after children and the number of foundation places offered is known, the number of community places is uncertain. This could be clearly stated in the arrangements with a phrase such as “All remaining places are allocated as community places”; saying “at least 80%” is not clear and also inaccurate.

28. Paragraph 1.37 of the Code says, “Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied.” The arrangements say “The parent and child(ren) must have attended a place of worship, within Churches Together in England or the Evangelical Alliance, at least monthly, on average, over the two years immediately prior to the application, in order to be considered for a foundation place. Preference will also be given to those who also attended other acts of worship outside of Sunday services during the last two years.”

29. Parents may make the application at any time before 15 January 2023, consequently the two-year period during which attendance at a place of worship could be different for each family. This may not be clear to families or religious leaders asked to confirm attendance. If the governing board have a specific two-year period in mind, they should say what it is.

30. It is also not clear whether attending acts of worship outside of Sunday services gives a child greater priority than those who only attend on Sundays and how this may be given. The

Supplementary Information Form (SIF) does not refer to this and so how this other type of attendance would be evidenced is unclear.

31. The second oversubscription criterion for foundation places reads “Places will then be given to other applicants, based on the proximity of their main family home to school as assessed by the local authority.” This does not say whether it is children living closest to the school that get priority and is the only oversubscription criterion which says how children will be given priority within it. This suggests that something different may happen in other oversubscription criteria. Under the heading “Tie Breaker” the arrangements say “In the event of a tie whereby two children are equal after all of the criteria have been applied a tie break will be applied for the remaining place. In the event of two distances being equal, lots will be drawn and verified by someone independent of the school.” The school pointed out to me that earlier in the arrangements there is a statement: “In the event of oversubscription within any of the following criteria, priority will be given to applicants who live nearest the school”. In my view a consistent approach to describing how priority is given within each criterion is necessary for the arrangements to be clear.

32. The section of the arrangements headed “Special Circumstances” says that “Governors may accord a higher priority (above community places) to the applicant [with medical or other needs] with regard to any or all of the above criteria.” This is not clear. There are only foundation and community places in the arrangements; there is nothing in between that could be described as “above community places”. If the governors want to give priority for community places to children with social or medical needs above siblings and catchment area children, they could do so by inserting an oversubscription criterion above the existing criteria for community places in the arrangements. Alternatively, the governors could also give priority to children with medical or other needs within existing criteria through the tie-break. Any such provision would need to meet the requirement of paragraph 1.16 of the Code which says, “If admission authorities decide to use social and medical need as an oversubscription criterion, they **must** set out in their arrangements how they will define this need and give clear details about what supporting evidence will be required (e.g. a letter from a doctor or social worker) and then make consistent decisions based on the evidence provided.”

33. Paragraph 1.6 of the Code requires that the governors “set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied.” Paragraph 1.8 requires “Oversubscription criteria **must** be reasonable, clear, objective [and] procedurally fair”. As the arrangements stand, the section concerning “Special Circumstances” does not conform with these provisions of the Code.

34. I am pleased to note that when I raised these matters with the school, it acknowledged they did not conform with the Code and undertook to revise the arrangements to address the issues. My jurisdiction does not enable me to comment on the proposed revisions sent to me. However, I would recommend careful study of this determination together with the Code and consultation with the local authority and diocese to ensure the necessary revisions meet the requirements of the Code.

## Determination

35. 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 Pierrepont Gamston Primary School for September 2023.

36. I determine that the oversubscription criteria for community places will give priority to children living within the catchment area shown in the appendix to this determination after that for siblings of children attending the school.

37. 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.

38. 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: 26 September 2022

Signed:

Schools adjudicator: Phil Whiffing



Appendix – Map of proposed catchment area as provided by the governing board

