



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2261

Admission authority: The Boulevard Primary Partnership for Germander Park School, Milton Keynes

Date of decision: 26 October 2022

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed reduction in the published admission number for September 2023 determined by the Boulevard Primary Partnership for Germander Park School, Milton Keynes.

I determine that the published admission number will be reduced from 45 to 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. Germander Park School (the school) is part of the Boulevard Primary Partnership (the Partnership) which is a federation of a number of schools. The Partnership, as the admission authority, has referred a proposal for a variation to the admission arrangements for September 2023 for the school to the adjudicator. The school is a foundation school for children aged four to seven in Conniburrow, Milton Keynes and Milton Keynes is the local authority.
2. The Partnership also includes Southwood School, for children aged seven to eleven, and Downs Barn School, for children aged three to seven. Germander Park and

Downs Barn are both feeder schools for Southwood School. The Partnership has also applied for a reduction in the published admission number for Southwood School (VAR2257).

3. The proposed variation is to reduce the published admission number (PAN) from 45 to 30 in 2023.

Other Matters

4. The arrangements for the school set out three oversubscription criteria if there are more applicants than places available: a looked after or previously looked after child; pupils with brothers and sisters attending the school at the time of admission; and pupils who live in the defined area. When I reviewed the arrangements, I considered that there were a number of matters which did not conform with the Code and need to be amended so that they do so conform. These were a lack of clarity as to the catchment area; requesting information which is already covered on the local authority common application form (CAF); an out of date reference to 'residence orders'; a lack of clarity in referring to oversubscription criteria; an incomplete definition of looked after and previously looked after children; lack of required information about allocation of places; the absence of a final tie-breaker; unlawful reference to a 'temporary PAN cap', and incorrect information about starting school and the waiting list. These issues are set out in more detail and addressed under 'Consideration of the arrangements' from paragraph 16 onwards.

Jurisdiction and procedure

5. 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".

6. The local authority, on behalf of the Partnership, has provided me with confirmation that the appropriate bodies have been notified. I find that the appropriate procedures were

followed, and I am 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 they conform with the requirements relating to admissions and, if not, in what ways they do not so conform.

7. 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 local authority, submitted on behalf of the Partnership, sent on 30 May 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 from the Executive Headteacher of the Partnership and the chair of governors on the proposed variation;
- d. a map showing the location of the school and other relevant schools; and
- e. information available on the websites of the local authority and the Department for Education.

The proposed variation

8. The proposed variation is to reduce the PAN of the school from 45 to 30 for September 2023. The arrangements for the school were determined by the governing board of the Partnership on 21 March 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. This application to reduce the PAN is one of several in the area; as mentioned above, the Partnership has applied for a reduction in the PAN at Southwood School and earlier in the year the local authority applied for a reduction in the PAN at Bradwell Village School (VAR2248) which was agreed in April 2022. The Executive Headteacher told me:

“A reduction of the PAN from 45 to 30 would ensure economic stability across the whole school whilst also reducing the overall borough surplus. A reduction to 30 places per year group should ensure that the school will be full, or almost full, in each year group thus providing more financial stability for the school and reducing the number of surplus places

across the borough. The Headteacher and the school’s governing body have consulted the council about the variation requested and the council fully supports the proposal.” I was also told, “The reason for this proposed reduction is that we currently [that is during the 2021/22 academic year] have 28 children in our Reception class and we currently have 24 children due to start with us in September [that is September 2022]. We have had lengthy conversations with the Sufficiency and Access team at Milton Keynes Council and they have advised us that the birth rate in the local area is not showing that we should expect significantly more pupils in the coming years.”

11. Germander Park School and Downs Barn School are both feeder schools (with current PANs of 45 and 30 respectively) for Southwood School where the Partnership has applied to reduce the PAN from 75 to 60 (VAR2257). Before 2020, the PAN for the school was 60. At that time, forecasts prepared by Milton Keynes Council, including information about births and housing demand, suggested that there would be an increasing need for places in the catchment area of the school and that the PAN of 60 would not suffice to meet demand. However, in practice, demand for the school has fallen significantly over the last three years; the school has not admitted to its PAN and all those who made the school their first preference were offered places. To put it another way, rather than 60 places being too few it would seem that even 45 may be rather more than enough. It is that matter I go on to consider now, taking account of the information in the table below.

Table 1: All applications to Germander Park School in the last three years.

Year	PAN	1st preference	2nd preference	3rd preference	4th preference	No. allocated
2022	45	23	7	3	4	24
2021	45	15	10	3	5	27
2020	45	26	10	5	5	30

12. The local authority has a duty to make sure that there are sufficient school places for the children in its area. In order to carry out this duty the local authority considers the availability of places and the need for places in planning areas, which are geographical groups of schools. The local authority calls its planning areas ‘liaison groups’.

13. Milton Keynes Council has set out 14 liaison groups which cover all geographical areas across the local authority area and every school will know which liaison group they are members of. Germander Park School is part of the Stantonbury liaison group of schools which is the relevant planning area in this case. There are seven infant schools in the liaison group which admit to the Reception Year (YR) and six primary schools which also admit to YR. Great Linford Primary School admits at both YR and Y3. In addition, there are four schools which admit to Y3 in the Stantonbury liaison group.

Table 2: The number of children expected to be requiring a place in the Reception Year in the Stantonbury Liaison Group

Stantonbury Liaison Group: Reception Year	2022	2023	2024
Number of places available (PAN)	627	597	597
Total number of places required for /expected to be required for YR	492	448	441
Surplus places	135	149	156
Surplus places as a % of places available	22%	25%	26%

14. It is clear to me from this data that the reduced PAN will not adversely affect the ability for demand for YR places in the planning area to be met. Nor does the data suggest that the reduction from a PAN of 45 to 30 for the school will prevent parental preferences being met, given that the highest number of children admitted to YR in the past four years has been 30 or fewer. This is important in my consideration as 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. I am told that “The Governing Board will consult on a reduction in PAN for 2024 during the 2024/25 admission arrangements consultation period between 1 October 2022 and 31 January 2023.”

15. In the light of all the information provided to me, I find that the variation is justified because of the reduction in demand for places at the school and I approve the proposed variation.

Consideration of the arrangements

16. I turn now to the arrangements. Under the heading “Admissions Criteria” the arrangements state (bullet points in original):

“Priority will be given to children with an Educational Health Care Plan (EHCP), naming Germander Park, in the normal round of admissions for children starting school for the first time.

If the school is over-subscribed places will be allocated using the following criteria:

- A looked after child or previously looked after child, or a child who immediately after being in care became subject to an adoption, residence, or special guardianship order
- Pupils with brothers and sisters attending the school at the time of admission
- Pupils who live in the defined area

A sibling is a brother or sister, which for admission purposes means brothers and sisters of whole or half blood or any other child (including an adopted child) who permanently resides at the same address and for whom the parent also has parental responsibility.

In the case of multiple births, places will be offered in priority according to alphabetical forename order.

In the event of over-subscription, once places have been allocated under the above criteria, the remaining places will be awarded according to the proximity of the child's home to school as measured by the nearest available route. This is from the child's front door to the school gate."

The "defined area" referred to in the third bullet point is defined as "Conniburrow including Dansteed Way, Silbury Boulevard, Saxon Gate, Marlborough Street, including up to North Thirteenth Street, Witen Gate West and Portway.". There is also some further information on a range of matters.

17. Paragraph 14 of the Code sets out that:

"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."

18. I brought the matters which concerned me to the attention of the Partnership. These matters were (with the relevant paragraph of the Code in brackets):

- a. The arrangements refer to the defined area (in oversubscription criterion three). This is what the Code refers to as a catchment area and the Code requires at paragraph 1.14 that this be, so far as is relevant here, "clearly defined". I have set out the definition used by the school above. This is not adequate to meet the Code's requirements as the reference to "including" does not make it clear whether some other streets might also be within the area or not.
- b. Under the section 'Proof of home address' the applicant is asked to provide documentary evidence. However, this information is requested by the local authority as part of the (CAF) and does not, therefore, need to be requested by the Partnership

as well, and the school is not permitted to ask for information included on the CAF.

- c. The arrangements refer to 'residence orders' in the section dealing with looked after and previously looked after children. These were replaced some years ago by 'child arrangements orders' and this is explained in footnote 18 of the Code. The use of obsolete terms renders the arrangements potentially unclear (paragraph 14).
- d. The heading 'Admissions Criteria' should be replaced with 'Oversubscription Criteria' as the criteria apply only when there are more applications than places available. If the number of pupils who apply is less than the PAN, they must all be admitted.
- e. The school has three oversubscription criteria, and it may appear obvious but by putting a bullet point against each criterion it does not explicitly say that this is the order in which applications are considered if the school is oversubscribed. Paragraph 1.6 of the Code provides that the admission authority for the school must 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.
- f. The first oversubscription criterion gives priority to looked after and previously looked after children but there is no explanation about these criteria including, under previously looked after children, that the term includes 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).
- g. The arrangements say, 'once places have been allocated under the listed criteria, the remaining places will be awarded according to the proximity of the child's home to school.....' As this is also an oversubscription criterion it should be included with other oversubscription criteria (paragraph 14).
- h. Paragraph 1.8 of the Code requires that there is a clear tie-breaker 'to decide between two applications that cannot otherwise be separated.' The example given in the arrangements is not effective if two addresses are the same distance and they are not in a block of flats. It is not clear whether the tie-breaker applies to the arrangements as a whole or just to the final category of 'other children' (paragraph 14). To give an example, if the school reached and exceeded its PAN from among children living in its defined area would the distance criteria be applied to them? This is not clear given that the arrangements say that remaining places will be allocated by reference to proximity of home to school once places have been allocated under the listed criteria. In the situation where the school is oversubscribed within its defined area, there will be no "remaining places".
- i. The arrangements refer to an 'official limit' (correctly referred to as the Published Admission Number (PAN)) of 45 for Reception Year (YR) pupils. The arrangements go on to refer to a 'temporary PAN cap' for other years in the school. Paragraph 1.2 of the Code

requires that admission authorities must set a PAN, however the PAN applies only to the relevant year or years of entry to a school. In this case the only normal year of entry is YR. If applications are made for other year groups, the Partnership, as the admission authority, must consider them. As paragraph 1. 4 of the Code states, in so far as is relevant here: “The PAN only applies to the relevant age group. This means that admission authorities may not refuse admission to other age groups on the grounds that they have already reached their PAN. They may, however, refuse admission where the admission of another child would prejudice the provision of efficient education or efficient use of resources.” (Paragraphs 1.2 and 1.4).

- j. The arrangements say, ‘It is the policy of the Governors for admission to the Reception Class in the autumn term only, full time, unless there are agreed medical, social or education needs which have been discussed and agreed with the school in advance including deferred entry into the Reception class.’ If this is the policy, then it is not a lawful one. The Code makes quite clear at paragraph 2.17 that parents have a number of rights when it comes to the admission of children under compulsory school age. While all children have a right to a full-time place from the September following their fourth birthday, they are not required to attend full time or, indeed, at all from that point. Rather, parents have a right for their child to attend part time until he or she reaches compulsory school age and to defer their child’s admission until they reach compulsory school age. All of this is set out in paragraphs 2.17 to 2.20 of the Code. These rights are not dependent upon medical, social or education needs.
- k. Paragraph 2.15 of the Code sets out that admission authorities **must** maintain a waiting list until at least 31 December of each school year of admission. The arrangements must also state clearly that ‘each added child will require the list to be ranked again in line with the published oversubscription criteria.’ The arrangements do not provide for more detail about the waiting list or describe how the list should be managed and maintained.

19. The Executive Headteacher of the Partnership wrote “I have reviewed all the 881 issues and agree that all issues will be amended once the Adjudicator has made her determination. We have a Governor’s Resources meeting on October 31st and will share our updated Policy at this point.” I welcome the positive response to these matters.

Determination

20. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed reduction in the published admission number for September 2023 determined by the Boulevard Primary Partnership for Germander Park School, Milton Keynes.

21. I determine that the published admission numbers will be reduced from 45 to 30.

22. 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

23. 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 October 2022

Signed:

Schools adjudicator: Lorraine Chapman