



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2311

Admission authority: London Borough of Haringey for Earlham Primary School in Wood Green

Date of decision: 28 March 2023

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Haringey for Earlham Primary School for September 2023.

The referral

1. The London Borough of Haringey (the local authority) has referred a proposal for a variation to the admission arrangements (the arrangements) for September 2023 for Earlham Primary School (the school) to the adjudicator. The school is a community school for children aged four to eleven in Wood Green.
2. The proposed variation is that the published admission number (PAN) be reduced from 60 to 30 for admissions to reception year (YR) in September 2023.

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 has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school's governing board has been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.
5. In considering this matter 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 local authority dated 8 March 2023, supporting documents and further information provided at my request;
 - b. the determined arrangements for 2023 and the proposed variation to those arrangements;
 - c. a map showing the location of the school and other relevant schools;
 - d. information available on the websites of the local authority, the school and the Department for Education; and
 - e. an earlier adjudicator determination relating to the school's arrangements (VAR2172).

The proposed variation

7. It is proposed to reduce the PAN for YR entry in September 2023 from 60 to 30. This is one of a number of requests from admission authorities in the local authority in relation to their admission arrangements for 2023. In all these cases, the proposed variations are to reduce the PANs for the schools concerned.

8. The referral states that “Earlham was part of the borough wide consultation (6 weeks) for permanent reductions in schools across several planning areas in 2022/23 and it has been formally agreed that the school will permanently reduce its PAN from 60 to 30 for September 2024. We are seeking early implementation via an in-year variation request from 2023 to allow the school leadership team in offering [sic] a more accurate number of places and also help with financial planning.”

9. The referral also states that “The reduction in the supply of primary places to align demand more closely will benefit the school budget for 2023/24 and future years. More permanent reductions going forward will assist schools to ensure financial viability in achieving economies of scale and to enable them to continue to deliver on high quality of education.”

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 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

11. 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 note that the local authority has carried out a consultation in respect of borough-wide PAN reductions for admission in September 2024, and also that the PAN for the school in 2021 was reduced to 30 following the approval of a variation request (VAR2172). This means that were the proposed variation for 2023 to be approved, this would be the second time in a three year period that a reduced PAN had been set without consultation.

12. It is therefore particularly important that the proposed variation is properly scrutinised. I have accordingly given careful consideration to the latest available data in order to form a view about the sufficiency of school places in the local area were the PAN to be reduced from 60 to 30 for September 2023. I have also 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.

13. 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. The school is one of 11 schools admitting children to YR in its planning area. Table 1 below summarises the number of children admitted to these schools in recent years.

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

| | 2020 | 2021 | 2022 | 2023 |
|---|-------------|-------------|-------------|----------------------|
| Sum of PANs of schools in the planning area for YR | 656 | 626 | 626 | 656 |
| Number of children on roll as at October census or projected to be offered a place | 593 | 528 | 566 | 590 (projected) |
| Vacant places | 63 | 98 | 60 | 66 (potentially) |
| Vacant places as a percentage | 10% | 16% | 10% | 10% (potentially) |

14. Table 1 shows that ten per cent of all places for YR are expected to be vacant for 2023. I am therefore assured that if the PAN for the school were to be reduced to 30, and if this were to be the sole variation being sought in the planning area, then there would be sufficient places left for those seeking a place in YR. However, I have been informed by the local authority that there is another school in the planning area which is also applying for a variation to reduce their PAN by 30, which if approved would significantly reduce the number of potentially vacant places.

15. I now turn to the numbers of children at the school and the reasons given by the school in support of the variation request. Table 2 summarises the numbers admitted to the school in recent years.

Table 2: numbers of children admitted to YR or predicted to be offered a place in YR at the school

| | 2020 | 2021 | 2022 | 2023 |
|---|-------------|---------------------------------|-------------|---------------------|
| The PAN for the school | 60 | 30 (reduced from 60 by VAR2172) | 60 | 60 |
| Number of children on roll as at October census or projected to be offered a place | 49 | 28 | 45 | 40 (projected) |
| Vacant places in YR | 11 | 2 | 15 | 20 (potentially) |

16. The request for a variation refers to the local authority's wish to align the school's staffing and budget to a reducing number of children. The school is one affected by 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. The infant class size regulations apply to YR and this means that if the number admitted to YR in September 2023 exceeds 30, as projected, and the school wishes to teach only in single year group classes, there will need to be two YR classes. The projected number of admissions is 40, which is well short of the 60 children required for the most economically advantageous situation. The financial calculations supplied by the school support this analysis.

17. The information provided by the school also shows that for 2023/24, if the variation is not approved, the school intends to organise their infant classes so that there are five classes, each containing one year group only. Whilst the school may consider that there are sound reasons for doing this, it is not required to do so in law, the only requirement being that the infant class size regulations are not breached. It is therefore open to the school to arrange infant classes so that there is more than one year group to a class, as it already does for some junior classes. Many schools do this successfully, although it may initially be unpopular with parents and teachers if they are not accustomed to it. The school tells me that in September 2023 that there will be 30 children in year 2 and 46 in year 1. The projected intake into YR is 40 and whilst the organisation of these children is a matter for the school, I note that this total of 116 children in infant classes could be organised into four classes without breaching the infant class size regulations.

18. I now consider the impact of the variation on parental preference. The projections from the LA are that if it were approved, there are ten children currently projected to receive an offer who would not be offered a place. All of these children would, in accordance with the provisions of the equal preference co-ordination scheme used across England, receive an offer of a school place at a school less preferred by their parents than this one. The projections also indicate that some would be allocated to a school that was not one of the preferences on their application form. The timing of the variation request is also important. At the time of making their preferences, any parent who had chosen to look at the data for the school would have seen a PAN of 60 and an intake well below that number for each of the last three years. I cannot rule out the possibility that some parents would have made a different set of preferences had a PAN of 30 for September 2023 been in place by 15 January 2023, the deadline for applying for a school place.

19. After consideration of all the factors above, and in particular the frustration of parental preference, I find that the variation is not justified by the circumstances and I do not approve it.

20. It remains open to the local authority to request a variation again if the administration of the admissions process brings a change in circumstances, for example if there are 30 or fewer offers a few weeks after national offer day on 17 April 2023.

Determination

21. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Haringey for Earlham Primary School for September 2023.

Dated: 28 March 2023

Signed:

Schools adjudicator: Clive Sentence