



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2305**

**Admission authority: the governing board of St Edward's RC/CE School, Poole, Dorset**

**Date of decision: 30 March 2023**

## Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board for St Edward's RC/CE School, Poole, Dorset for September 2023.

I determine that a suitable PAN for the admission of external pupils to the sixth form will be in place and the sixth form arrangements will be modified to conform to the Code.

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 unless an alternative deadline is specified by the adjudicator. In this case the arrangements relating to the sixth form must be amended by 31 May 2023. The other non-compliant sections of the admission arrangements must also be amended by 31 May 2023 with the exception of the oversubscription criteria relating to priority for Roman Catholic students and these must be amended for the admission by 28 February 2024 in time to apply to admission arrangements for September 2025.

## The referral

1. The governing board for St Edward's RC/CE School (the school) has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) for the school to the adjudicator. The school is a voluntary aided school for

children aged 11 to 18 in Poole, Dorset. The school is in the Bournemouth, Christchurch and Poole local authority area and has a joint Roman Catholic and Church of England religious character.

2. The proposed variation is to bring the sixth form admission arrangements in line with the Code by introducing a Published Admission Number (PAN) for external students and to amend a section on re-sitting English and Mathematics examinations so that it is clear to prospective students.

## 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 governing board dated 4 January 2023, supporting documents and further information and correspondence;

- b. the determined arrangements for 2023 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the school and the local authority;
- d. responses to my correspondence from the Roman Catholic Diocese of Plymouth;
- e. responses to my correspondence from the Church of England Diocese of Salisbury; and
- f. information available on the websites of the local authority, the school and the Department for Education.

## The proposed variation

7. The school's proposed variation was in response to a challenge to its sixth form admission arrangements. It proposed to indicate a PAN for the admission of external students and clarify the entry requirements to make them clearer for prospective applicants.

8. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

## Consideration of proposed variation

9. In its proposed variation form, the school does not indicate who challenged the arrangements which prompted the request. Looking at the current arrangements they do not contain a PAN for external student entry at the sixth form level. The Code at paragraph 1.2 says 'As part of determining their admission arrangements, all admission authorities must set an admission number for each 'relevant age group'. Year 12 is further defined as a relevant year group. In the case of admission to school sixth forms, internal students which are those who are continuing in education from year 11 to 12 do not 'count' towards the year 12 PAN but must be admitted using the same admission criteria and/or entry requirements as external students. This poses an issue for schools such as this one where they want to allow as many students as possible to progress from year 11 to year 12 but are required to set a PAN for the admission of external students and they must admit up to this PAN if enough applicants from outside the school fulfil the entry requirements.

10. Subsequent correspondence from the school indicated that they would like to introduce the wording 'to a maximum of 30 places'. I took this to mean that they are suggesting a PAN of 30 and drew their attention to the fact that if they set a PAN of 30 and 30 external students fulfil the entry requirements then all those students MUST be admitted. The school confirmed that they understood this and further confirmed that they would set the PAN at 30. This would conform to the Code.

11. The published arrangements include the requirement for some students to retake English and mathematics GCSE examinations during their time in the sixth form. The school considered this section of the arrangements to be unclear and I agree. The proposal is to remove this section of the arrangements. This will now conform with the Code.

12. I find that the variation is justified by the circumstances and approve the proposed variation.

## Consideration of the arrangements

13. As part of the consideration of the arrangements I requested comment from both Dioceses. The Church of England Diocese of Salisbury responded by providing me with the guidance issued to their schools on admissions.

14. I received two communications from the Roman Catholic Diocese of Plymouth. The first read 'As the authorising authority for the Diocese of Plymouth I am satisfied that the Admission Arrangements and proposed variations for St Edward's RC CE Joint Church School are in accordance with guidance on school admissions issued by the Diocese of Plymouth as the religious authority'. In response to my request to see this guidance the second correspondence read 'The Diocese of Plymouth have not issued guidance on admissions'.

15. It is for the Diocese of Plymouth to decide whether or not to issue guidance on admissions to its schools and that is a matter for it and not for me. However, its decision to do so or not does have implications for what the schools for which it is the religious body may or may include in their oversubscription criteria and that is a matter for me. Paragraph 1.38 of the Code reads 'Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based admission arrangements, to the extent that the guidance complies with the mandatory provisions and guidelines of this Code.' Paragraph 1.9i of the Code provides, so far as is relevant here that admission authorities for '...schools which have been designated as having a religious character may take account of religious activities as laid out by the body or person representing the religion or religious denomination.'

16. In a High Court judgment in relation to another school with a religious character Mr Justice Cobb said 'the phrase [in the Code] 'laid out' means specifically 'laid out' in schools admissions guidance published by the religious authority – i.e. 'specifically provided for in or authorised by' such guidance'. Because the Diocese of Plymouth has chosen not to give guidance and hence cannot have laid out activities as part of such guidance, it follows that schools for which it is the religious body cannot avail themselves of the provision in 1.9i and cannot give priority to children on the basis of participation in religious activities. For the avoidance of doubt, in the case of this school, it can take account of activities laid out by the Church of England Diocese of Salisbury in relation to the places for which priority is given on the basis of Church of England affiliation.

17. I recognise that while this determination relates only to this school, there are other schools in the Roman Catholic Diocese of Plymouth who will also have faith-based arrangements which may well involve religious activities likely in the main to concern attendance at Mass. I have therefore decided to allow time for the Diocese to provide guidance to schools and for schools to have regard to that guidance and to ensure that any religious activities used have been laid out in that guidance so that by February 2024 when the September 2025 admission arrangements are to be determined oversubscription criteria relating to membership of or attendance at a Catholic Church will conform to the Code including paragraphs 1.38 and 1.9i.

18. Having considered the arrangements as a whole it appeared to me that the following matters may not conform with requirements of the Code and so I brought them to the attention of the governing board. I have listed these matters below setting out the relevant paragraphs of the Code and where the arrangements did not conform to requirements.

With reference to the sixth form admission arrangements;

1. In the section which begins 'Places are awarded in our Sixth Form.... The criteria are numbered (i) and (ii) implying that there is a priority in operation. (paragraph 14 of the Code). The school responded by suggesting that the priorities i and ii are removed and the section is made clearer.
2. The section includes a statement to explain how applicants are prioritised if the number of qualifying students exceeds the PAN. It states 'the general admission categories for years 7 to 11 will be used.' The admission arrangements are set for relevant years of entry, in this school this will only be year 7 and year 12. (paragraph 14 of the Code). The school accepted this and suggested an amendment which refers to criteria for year 7 admission only.

With reference to the admission arrangements for year 7;

1. Beginning the arrangements with the entire text of the agreed variation obtained due to Covid might confuse parents. (paragraph 14 of the Code). The school responded that this section would be removed.
2. The quota system is unclear. 'Not more than 75%' and not less than 25%' of the two main faiths. I asked the question '75% of which number?' If fewer than 25% of applications are from CofE applicants how can the 'not less than 25%' be fulfilled. (paragraph 14 of the Code). The school suggests that this section is removed and replaced with a statement of intent regarding proportions at the time of establishing the joint church status.
3. The definition of Looked After Children and Previously Looked after Children is out of date. (Paragraph 1.7 of the Code.) The school states that this will be amended.
4. There is no mention in the oversubscription criteria of the quotas mentioned earlier in

the arrangements. (Paragraph 14 of the Code). This is covered by amendments in point 2 above.

5. Criterion five of the oversubscription criteria is unclear, the faith communities are not defined and the attendance at worship within those faith groups may not be required by the faith. (Paragraph 14 of the Code). The school suggests amendments to this section which allow applicants to confirm membership of the faith from their religious institution.
6. Children who have an EHCP which names the school must be admitted - the unnecessary detail about the process of obtaining an EHCP may be confusing for parents. (Paragraph 1.6) The school suggested that children with an EHCP which names the school should appear under oversubscription criteria one with Looked after and previously looked after children – this does not conform to the Code and the admission of children with an EHCP which names the school should be a statement made in the arrangements before the oversubscription criteria are recorded and separate from them.
7. In the section on Waiting Lists and Late applications;
  - i. A two week acceptance period is mentioned here but not explained elsewhere in the arrangements. The school has suggested clarification.
  - ii. The arrangements say that the waiting lists cease on 31 August – it is not clear which year this is in. (Paragraph 2.15). The school suggests specific reference to the dates of the waiting list and the appropriate year.
8. The section on in-year applications is unclear. Admission arrangements are determined for the relevant year group only and do not apply to other years. (Paragraph 1.2 of the Code). The school has suggested amendments to this section.

19. The governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. 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.

## **Summary and date for changes**

20. I approve the variation request; the arrangements will be amended to include a suitable sixth form PAN and to clarify the qualification requirements for admission. Other amendments will be made to the arrangements in order to conform to the Code as set out in paragraph 18 above.

21. I have considered how long I should allow for the admission authority to make changes in order to bring its arrangements into conformity with the requirements relating to admission arrangements. I am setting a deadline of 31 May 2023 for most of the changes, so that they will be in place in good time for applications made later this year for places in September 2024. I am setting a later deadline of 28 February 2024 in relation to the inclusion of faith-based arrangements for those places for which priority is given to Roman catholic children in order to allow as much time as possible for the Diocese of Plymouth, if it chooses to do so, to issue guidance on admissions to its schools.

## Determination

22. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board for St Edward's RC/CE school, Poole, Dorset for September 2023.

23. I determine that a suitable PAN for the admission of external pupils to the sixth form will be in place and the sixth form arrangements will be modified to conform to the Code.

24. 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.

25. 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 unless an alternative deadline is specified by the adjudicator. In this case the arrangements relating to the sixth form must be amended by 31 May 2023. The other non-compliant sections of the admission arrangements must also be amended by 31 May 2023 with the exception of the oversubscription criteria relating to priority Roman Catholic students and these must be amended by 28 February 2024 in time to apply to the admission arrangements for September 2025.

Dated: 30 March 2023

Signed:

Schools adjudicator: Ann Talboys