



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2337 and VAR2338

Admission authority: The Governing Board for St Francis Primary School,
Chandlers Ford, Hampshire

Date of decision: 27 June 2023

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by the governing board for St Francis Primary School for September 2022 and September 2023.

I determine that from September 2022 the published admission number will be reduced from 60 to 36 and I also determine that from September 2023 the published admission number will be reduced from 60 to 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 way 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 St Francis Church of England Primary School, Chandler's Ford (the school) has referred proposals for a variation to the admission arrangements (the arrangements) for September 2022 and a variation to the admission arrangements for September 2023 for the school to the adjudicator. The school is a Church of England voluntary aided school for children aged 4 to 11 in Chandler's Ford, Eastleigh, Hampshire. The local authority is Hampshire County Council (the local authority) and the Diocesan authority is the Diocese of Portsmouth (the diocese).

2. The proposed variation for 2022 is to reduce the published admission number (PAN) for Year R from 60 to 36. The proposed variation for September 2023 is to reduce the PAN from 60 to 54.

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 board has provided me with evidence that the appropriate bodies have been notified. I find that the appropriate procedures were followed, and I am satisfied that the proposed variations are 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 to 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 26 May 2023, supporting documents and further information provided at my request;
- b. the determined arrangements for 2022 and 2023 and the proposed variations to those arrangements;
- c. comments on the proposed variations 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 school and the Department for Education.

The proposed variations

7. The proposed variation for September 2022 is that the PAN is reduced from 60 to 36. The proposed variation for September 2023 is that the PAN is reduced from 60 to 54.
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 variations requested are justified by the change in circumstances.

Consideration of proposed variations

9. When an admission authority wants to reduce the PAN at a school before it determines its arrangements, it is required to consult parents and others listed in paragraph 1.44 of the Code for at least six weeks. This allows public scrutiny of the proposed new PAN. Once arrangements have been determined, they may only be varied in limited circumstances. The variation process is set out in paragraph 3.6 of the Code. That process is designed for use when there is a “major change in circumstances” occurring since the arrangements were determined. An example of a major change in circumstance might be where an unanticipated problem occurs with a school building requiring remedial work that temporarily reduces the capacity of the building without leaving time to consult on any necessary changes to admission arrangements. The variation process does not include the wider consultation process. In this case I note that the school has undertaken consultation on its arrangements for 2024 and has determined following this consultation that the PAN will be 45. Given that this consultation has taken place and parents have had the opportunity to express their views about such a reduction, the lack of consultation through the variation process is to some extent mitigated.

10. In this case the variations requested are for a reduction in the PAN from 60 to 36 at the school for September 2022 and for a reduction in the PAN for 2023 from 60 to 54. The school explains that the reason for requesting the variations is to allow it to reorganise the school and operate with three mixed age classes across Years 1 and 2 instead of having two classes in each of Year 1 and Year 2 with effect from September 2023. This will enable it to manage within its budget which is allocated on the basis of pupil numbers. The School Admissions (Infant Class Sizes) (England) Regulations limit the class size that the school may have to 30 children and the school argues that if the PAN can be reduced, the school will then be able to ensure that its pupil numbers across the two years do not exceed 90 children, thus enabling the organisation into three classes.

11. I can understand the reason for the variations requested and can see that balancing the budget necessity provides a clear reason for the reorganisation of the school. I also note that the school has already consulted on a PAN reduction for 2024 which allays any

concern that I might have had about the absence of consultation with parents and other parties about such a change.

12. There is an important point I should make here for the avoidance of doubt. The Code in paragraph 1.2 requires an admission authority to set a PAN for each relevant year group, which in this case is Year R. Decisions about whether or not there are places available in the cohort in subsequent years, for example in Year 1, are made by the admission authority. The Code states that places will be offered if there is space available. The decision about whether or not there is space available is judgement made by the admission authority made on the basis of any potential prejudice to the efficient delivery of education or use of resources in the school. For year groups other than Year R, the admission authority could choose to argue that the number of places are limited by the number of classes and the number of children within them to the extent that in order to admit a child it might be necessary to create an additional class in order to comply with the School Admissions (Infant Class Sizes) (England) Regulations 2012 but that the school would not receive sufficient budget to be able to fund such an additional class. In which case the admission authority could decide not to offer a place. If an applicant wishes to appeal against a refused application for in-year admission they have the right to do so to the admission authority's independent appeal panel. The independent appeal panel would look at the arguments made by the school and made by the applicant and decide whether or not to uphold the appeal.

13. In this case I am satisfied that the variations requested are justified by the change in pupil numbers that the school is experiencing. I have noted that the school has consulted on a reduction in its PAN from 60 to 45 for 2024 and has determined the admission arrangements for this year including the reduction in the PAN from 60 to 45 having taken account of any consultation responses. Both the diocese and the local authority have confirmed their support for these PAN reductions and for its part, the local authority has also confirmed that there are sufficient places in neighbouring schools to ensure that it can meet its responsibilities to provide places for in year admissions for any children who move into the area up to September 2024. This determination is concerned only with the period up to September 2024. In conclusion, I find that the variation is justified by the circumstances and approve the proposed variations.

Consideration of the arrangements

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

The supplementary information form asks for the signature of both parents while the oversubscription criterion itself refers to the attendance of a parent at church. The School Admission Code 2021 says in paragraph 2.4 "Admission authorities **must not** ask or use supplementary forms that ask.....: e) both parents to sign the form...".

15. The governing board has told me that it will address this matter, as permitted by paragraph 3.6 of the Code, and I welcome this response. 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 point set out here.

Determination

16. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by the governing board for St Francis Primary School for September 2022 and September 2023.

17. I determine that from September 2022 the published admission number will be reduced from 60 to 36 and I also determine that from September 2023 the published admission number will be reduced from 60 to 56.

18. 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 way set out in this determination.

19. 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: 27 June 2023

Signed:

Schools adjudicator: David Lennard Jones