



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2386

Admission authority: The governing board of St Oscar Romero Catholic School, Worthing

Date of decision: 23 January 2024

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the proposed variation to the admission arrangements determined by the governing board for St Oscar Romero Catholic School, Worthing for September 2024.

I determine that, for September 2024, the arrangements for entry to Year 12 shall be as in the appendix to this determination.

The referral

1. The board of governors of St Oscar Romero Catholic School (the school) has referred a proposal for a variation to the existing admission arrangements for September 2024 (the arrangements) for the school to the adjudicator. The school is a voluntary aided school. The local authority for the school is West Sussex Council (the local authority). The school has a Roman Catholic religious character and the faith body for the school is the Diocese of Arundel and Brighton (the diocese).

2. The school determined its arrangements on 19 January 2023. At that point it was a school for children aged 11 – 16. It had no sixth form and therefore no admission arrangements providing for young people to join in Year 12. In September 2023 the local authority granted permission for the school to introduce sixth form provision from September 2024, which will increase the age range at the school to 11-18. This followed a period of statutory public consultation. The school intends that its sixth form should cater not only for children joining it from its own Year 11 but also from outside the school. Year 12 will accordingly become a normal year of entry for the school and it will, therefore, require

admission arrangements for Year 12. The variation sought is to add suitable Year 12 admission arrangements to the current arrangements.

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 via the process of statutory consultation. I find that the appropriate procedures were followed, and I am satisfied that the proposed variation is within my jurisdiction.

5. The parties to this case are the school’s governing board, the local authority and the diocese.

6. 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 school dated 17 November 2023, supporting documents and further information provided at my request;
- b. the determined arrangements for 2024;
- c. evidence that the existing arrangements were determined;
- d. the proposed arrangements for entry into Year 12 in 2024 (the proposed arrangements);
- e. comments on the proposed variation from the parties;

- f. information I received during a meeting which I convened on 10 January 2024 which was attended by representatives of all parties (the parties' meeting);
- g. amendments made by the school to the proposed arrangements as a result of the above meeting; and
- h. information available on the websites of the local authority, the school and the Department for Education (DfE).

Background

7. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. However, the consultation and statutory representation period which preceded this referral as part of the process for making the prescribed alteration to add the sixth form did provide an opportunity for interested parties to make their views known. The local authority stated that they received “no evidence of material significance objecting to the proposals [to add the sixth form]”.

8. In September 2024 the school will admit students to Year 12 for the first time and must have admission arrangements in order to do so. This is in accordance with the Code, including paragraph 15a which states, “All schools **must** have admission arrangements that clearly set out how children will be admitted, including the criteria that will be applied if there are more applications than places at the school. Admission arrangements are determined by admission authorities.”

9. The school does not have determined arrangements for Year 12 as the existing arrangements were determined before the agreement to establish the sixth form was reached. The school provided proposed Year 12 arrangements for my consideration.

10. The proposed arrangements specify both “Conditions of Entry” and “Minimum Entry Requirements”. The Conditions of Entry are as follows:

“Students will only be admitted into the Sixth Form if, in the judgement of the Sixth Form Team, a suitable course is available for them that is appropriate and meets their needs.

Students who achieve a place in the Sixth Form will be guided by the Sixth Form Team on suitable courses to follow, and students will not be permitted to follow a course deemed unsuitable.

Students are only eligible to study at St. Oscar Romero Catholic School if they are following a full time course. A full time course comprises a minimum of 3 A levels. (This condition may be waived in exceptional circumstances and at the discretion of the Sixth Form Team.)”

11. The Minimum Entry Requirements are:

“Students already educated at St Oscar Romero Catholic School during Years 7-11 will automatically be eligible for St Oscar Romero Catholic School Sixth Form, as long as they meet both the minimum entry requirements and the Conditions of Entry as listed above.

Applications are welcomed from students who attended other high schools and wish to apply for a place at St Oscar Romero Catholic School Sixth Form. To be admitted, students from other schools must meet both the minimum entry requirements and the Conditions of Entry as listed above.

At St Oscar Romero Catholic Sixth Form, we are committed to students following a pathway of study that meets their aspirations and that they study courses that will allow them to flourish. Our entry requirements are summarised as:

1. To access our Sixth Form provision students must achieve 5 or more GCSE qualifications at grade 4 or above, including English Language and Mathematics.
2. To study a full A Level Pathway (i.e. between 3-4 A Levels), in addition to the above, students will need to have an average GCSE point score (known as Attainment 8) of at least 5.3.
3. Students who meet the criteria outlined in point 1, but not in point 2 above will be able to select a Blended Pathway which may include at least 1 or more BTEC qualifications.
4. In addition to points 1-3 above, students will also need to meet the subject specific entry requirements for the courses offered on our Post 16 curriculum. Information on these is available on the curriculum section on the school website.”

12. The proposed arrangements state a published admission number (PAN) of 30. In the case of admission to Year 12 the PAN applies only to external applicants; that is, to those seeking to join the school in Year 12. The proposed arrangements state, “If there are more than 30 external applications received, who all meet both the minimum entry requirements and the Conditions of Entry, those external places will be allocated according to the following criteria and in the order stated.” The accompanying oversubscription criteria are:

1. “‘Looked after’ students who are in the care of the Local Authority and ‘previously looked after’ students who were in the care of the Local Authority.
2. Catholic students who have exceptional medical, social, compassionate or family need.
3. Catholic students attending other high schools.
4. Non-Catholic children who have exceptional medical, social, compassionate or family need.
5. Students of other Christian denominations whom attend other schools and who can provide evidence of religious commitment.

6. Students from other schools who would like to study in St. Oscar Romero Catholic School Sixth Form.”

Consideration of the proposed variation

13. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or certain other limited and specified circumstances. In this case the change of circumstances is clear; the school is to expand its provision via the establishment of a sixth form and received agreement to do so after the existing arrangements were determined. I am therefore satisfied that the variation requested is justified by the change in circumstances.

14. Whilst the need for Year 12 arrangements is evident, I must consider the arrangements that have been proposed. That is, I must determine whether the proposed arrangements comply with the requirements of the Code and the law as it relates to admissions. Having had sight of the proposed arrangements it appeared to me that there were some matters which did not conform to the requirements of the Code.

15. I determined that the following parts of the Code were applicable regarding these matters:

Paragraph 14 : “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.”

Paragraph 2.6: “Children and their parents applying for sixth form places may use the CAF, although if they are already on the roll, they are not required to do so in order to transfer into year 12. Admission authorities can, however, set academic entry criteria for their sixth forms, which **must** be the same for both external and internal places. School sixth form admission arrangements for external applicants **must** be consulted upon, determined, and published in accordance with the same timetable as for admission arrangements for other entry points. As with other points of entry to schools, highest priority in oversubscription criteria for sixth form places **must** be given to looked after children and previously looked after children who meet the academic entry criteria. As stated in paragraph 1.9 m) above, any meetings held to discuss options and courses **must not** form part of the decision process on whether to offer a place”.

16. During the parties’ meeting I brought those matters which did not comply with the Code to the attention of the school; consequently, the school amended the proposed arrangements. Below I detail the matters which did not comply with the Code, the amendments made by the school, and whether these amendments mean that the proposed arrangements are now compliant with the Code.

17. The first matter which did not comply with the Code was that the proposed arrangements referred to an application form for entry to Year 12 but did not specify where this may be found or how it should be submitted. This rendered the proposed arrangements unclear and therefore not in compliance with paragraph 14 of the Code.

18. The proposed arrangements were amended to include the sentence, "The application form can be found via the school website" and to provide a weblink from which the application form is accessed. It is clear that the form is then completed and submitted online. I find this to be clear for parents and am satisfied that the amendment made by the school addresses this matter appropriately.

19. The second matter was the school's use of the words "category" and "categories". This wording appeared in several places in the proposed arrangements when referring to oversubscription criteria, including, "If accepting all applicants in a particular category would cause St. Oscar Romero Catholic School Sixth Form's external admission number in that year group to be exceeded, a tie-breaker will be used". The word "category" was not defined, and as this was likely to be unclear to parents the proposed arrangements did not comply with the requirements of paragraph 14 of the Code.

20. In amending the proposed arrangements the school removed all reference to categories. For example, the above sentence now reads, "If accepting all applicants in a particular oversubscription criterion would cause St. Oscar Romero Catholic School Sixth Form's external admission number in that year group to be exceeded, a tie-breaker will be used". I find this to be clear for parents and am satisfied that the school has addressed this matter appropriately.

21. The final matter which I brought to the attention of the school in the parties' meeting appeared in the Conditions of Entry which I have set out above.

22. Paragraph 2.6 of the Code allows admission authorities to set academic entry criteria for admission to sixth form; academic requirements are the only criteria which may be stipulated. The proposed arrangements did not conform to the Code in that the Conditions of Entry implied that an applicant will not be eligible for admission to Year 12 if they do not fulfil the academic requirements of the specific course they wish to study.

23. Refusing access to a particular course is not the same as refusing admission to Year 12. The school retains the right to, say, stipulate that applicants are unable to study A-level Criminology if they did not achieve highly enough at English Literature GCSE, or to decide that an applicant's ideal choice of three A-levels cannot be accommodated within timetabling restrictions. That is not the same as saying that the applicant cannot be admitted into the sixth form. If an applicant meets the academic entry criteria, encapsulated in the proposed arrangements as Minimum Entry Requirements, and there is a place available, then that applicant must be offered a place at the school.

24. The school amended the first sentence of the Conditions of Entry to:

“Students will only be admitted into the Sixth Form if they meet the academic requirements of the courses they wish to study.”

25. This amendment fails to meet the requirements of the Code as the proposed arrangements continue to state that meeting the course requirements is a condition of entry to Year 12.

26. Section 88E(6)(b) of the Act allows the adjudicator to modify variation proposals. I determine that the proposed arrangements be modified so that the following sentences which appear in the revised proposed arrangements:

“Students will only be admitted into the Sixth Form if they meet the academic requirements of the courses they wish to study.

Students who achieve a place in the Sixth Form will be guided by the Sixth Form Team on suitable courses to follow, and students will not be permitted to follow a course deemed unsuitable.”

Be replaced by:

“Students will only be admitted into the sixth form if they meet the Minimum Entry Requirements.

Students who achieve a place in the Sixth Form will be guided by the Sixth Form Team on suitable courses to follow. Students will need to meet the academic requirements for the particular courses they wish to study.”

27. Following the parties’ meeting I considered further the clarity of the oversubscription criteria in the proposed arrangements. As these criteria apply only to external applicants, I am concerned that reference to “other schools” in the third, fifth and sixth criteria may be confusing to parents and therefore contrary to the Code. I accordingly determine that the proposed arrangements be modified as follows:

That the wording:

“Catholic students attending other high schools.”

Be replaced by:

“Other Catholic students.”

That the wording:

“Students of other Christian denominations whom attend other schools and who can provide evidence of religious commitment.”

Be replaced by:

“Students of other Christian denominations who can provide evidence of religious commitment.”

And that the wording:

“Students from other schools who would like to study in St. Oscar Romero Catholic School Sixth Form.”

Be replaced by:

“Other students.”

Determination

28. In accordance with section 88E of the School Standards and Framework Act 1998, I approve with modification the proposed variation to the admission arrangements determined by the governing board for St Oscar Romero Catholic School, Worthing for September 2024.

29. I determine that, for September 2024, the arrangements for entry to Year 12 shall be as in the appendix to this determination.

Dated: 23 January 2024

Signed:

Schools adjudicator: Jennifer Gamble