



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2415

Admission authority: The governing body of The Canons C of E Primary School in Bedworth, Warwickshire

Date of decision: 25 June 2024

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 body for The Canons C of E Primary School for September 2024 and 2025.

I determine that the reference to full membership of the Inter Faith Network for the UK within the oversubscription criteria shall be removed from the arrangements for 2024 and 2025.

I have also considered the arrangements for both years 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. The governing body of The Canons C of E Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2024 and September 2025 (the arrangements) for the school to the adjudicator. The school is a Church of England voluntary aided school for children aged four to eleven in Bedworth, Warwickshire in the Warwickshire County Council local authority area. The school's faith body is the Diocese of Coventry.

2. The proposed variation is that the reference to full membership of The Interfaith Network within the oversubscription criteria be removed from the determined arrangements for both 2024 and 2025.

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 body 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. It is also 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 the governing body dated 22 April 2024, supporting documents and further information provided at my request;
- b. the determined arrangements for 2024 and 2025 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the local authority and faith body; and

- d. information available on the websites of the local authority, the school, the faith body and the Department for Education.

The proposed variation

7. The governing body of the school has requested a variation to their determined arrangements for 2024 and 2025 to remove the reference to full membership of the Interfaith Network from their oversubscription criteria.
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. The governing body has requested the variation to remove the reference to membership of the Interfaith Network from their oversubscription criteria.
10. Within the oversubscription criteria set out in the arrangements for both 2024 and 2025, it is stated:

“The order of priority within each criterion will be given where children and at least one parent can demonstrate regular [as defined] attendance at public worship:
 - c) Other major world faiths: Buddhist, Hindu, Islamic, Jewish and Sikh organisations that are full members of The Inter Faith Network for the UK.”
11. The Interfaith Network was a UK based charity founded to promote understanding, cooperation and good relations between organisations and persons of different faiths in the UK.
12. On 22 February 2024, The Interfaith Network issued a press release confirming that the charity would be closing on 30 April 2024 due to a withdrawal of government funding.
13. As a consequence of this, the reference to membership of The Interfaith Network within the oversubscription criteria has ceased to be applicable.
14. The governing body has therefore proposed that they remove the words “and that are full members of the Inter Faith Network for the UK” from the arrangements.
15. The Diocese of Coventry have confirmed that they fully support the variation request.
16. Given that The Interfaith Network has ceased to function, it is appropriate that the reference to the organisation be removed from the arrangements for both 2024 and 2025.

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

Consideration of the arrangements

18. Having considered the arrangements for both years (which are the same in all substantive respects) 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 body. I have set out these matters below referring to the relevant paragraphs of the Code and the reasons why I do not consider that the arrangements conform to the requirements.

19. The school has not set out clearly the process that parents must follow in order to apply for a place at the school as required in paragraphs 15 a) and d) of the School Admissions Code (the Code). These paragraphs say:

- a) “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.

- d) In the normal admissions round parents apply to the local authority in which they live for places at their preferred schools. Parents are able to express a preference for at least three schools. The application can include schools outside the local authority where the child lives: a parent can apply for a place for their child at any state-funded school in any area. If a school is undersubscribed, any parent that applies **must** be offered a place. When oversubscribed, a school’s admission authority must rank applications in order against its published oversubscription criteria and send that list back to the local authority. Published admission arrangements **must** make clear to parents that a separate application must be made for any transfer from nursery to primary school, and from infant to junior school.”

There is no reference in the arrangements to the need for parents to apply to their home local authority (LA) via a common application form (CAF). Nor is the deadline of 15 January for applications included. The arrangements are therefore in breach of paragraphs 15a) and 15d) of the Code.

20. Paragraph 14 of the Code requires 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 clear. The use of the term ‘centroid’ in the phrase “All applications are considered together by a committee set up by the Governors within the timetable set by the Local Authority, using information supplied by the Local Authority in cases where home-centroid distances are required” is not clear for parents as required in the Code at paragraph 14. While this is a term also used by the local authority in its own

admissions arrangements, I did not find this clear as an adjudicator and it is likely that parents will also be unclear as to the meaning of the term.

21. The arrangements say, “Places are considered together and subsequently offered in the first instance in February for the following September”. The timeline for application is not set out (the deadline for primary applications is 15 January) and the offer date is not correct as set out in paragraph 15 e) of the Code. The offer date is 16 April. The arrangements are, therefore, incorrect and misleading and therefore in contravention of the requirement for clarity in paragraph 14 of the Code.

22. The terminology within the arrangements is not in accordance with the Code, and I note particularly: references to “admissions criteria” rather than “oversubscription criteria” as set out in the Code at paragraph 1.7 and a reference to Special Educational Needs statements (which are no longer current) as well as to Education, Health and Care plans. The use of references which are incorrect and no longer current, and the use of differing terminology for the same thing make the arrangements confusing and unclear and therefore in breach of paragraph 14 of the Code.

23. Paragraph 1.8 of the Code says: “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation”. The oversubscription criteria in the arrangements are not clear in the following respects:

- i. The arrangements state at point 1 of the oversubscription criteria: “Children within Local Authority care as defined in section 22 of the Children’s Act 1989, for example children in residential homes of foster care, and also children who were looked after, but ceased to be so because they were adopted (under the terms of the Adoption and Children’s Act 20023) or because they became subject to a residency order or special guardianship order (under the terms of the Children’s Act 1989).”

Paragraph 1.7 of the Code below states:

“All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children, including 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. Previously looked after children are children who were looked after but ceased to be so because they were adopted (or became subject to child arrangements order or special guardianship order).”

The notes are as follows:

“15 A ‘looked after child’ is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social

services functions (see the definition in Section 22(1) of the Children Act 1989) at the time of making an application to a school

16 A child is regarded as having been in state care outside of England if they were in the care of or were accommodated by a public authority, a religious organisation, or any other provider of care whose sole or main purpose is to benefit society.

17 This included children who were adopted under the Adoption act 1976 (see Section 12 adoption orders) and children who were adopted under the Adoption and Children Act 2002 (see section 46 adoption orders).

18 Child arrangements orders are defined in Section 8 of the Children Act 1989, as amended by Section 12 of the Children and Families Act 2014. Child arrangements orders replace residence orders and any residence order in force prior to 22 April 2014 is deemed to be a child arrangements order.

19 See Section 14A of the Children Act 1989 which defines a 'special guardianship order' as an order appointing one or more individuals to be a child's special guardian (or special guardians)."

The wording of oversubscription criterion 1 itself is inconsistent with the definitions of looked after and previously looked after children set out in paragraph 1.7 of the Code, and indeed the wording is inconsistent with the definitions of these terms set out in the notes. The oversubscription criterion makes no reference to children previously in state care outside of England being previously looked after children, therefore the note defining the meaning of this terminology has no context. It also contains references to terms such as 'residency orders' which do not exist, residence orders having been replaced some time ago. The oversubscription criterion does not conform to paragraph 1.7 of the Code.

ii. The arrangements state:

"2. Children with a sibling in the school at the time of admission – priority order is given to those in a, b, c and d below.

3. Children living in the priority area of the school at the time of admission – priority order is given to those in a, b, c and d below.

3. Children living outside the priority area at the time of admission – priority order is given to those in a, b, c and d below.

The order of priority within each criterion will be given where children and at least one parent can demonstrate regular attendance at public worship:

a) All Saints Parish Church, Bedworth or St Andrews Parish Church, Bedworth

b) A Christian church. Where 'church' refers to any Church of England or Roman Catholic Church, or a church that is a member church of the 'Evangelical Alliance', 'Fellowship of Independent Evangelical Churches', 'Churches Together in England', 'Churches Together in Britain and Ireland

c)

d) other children, where no faith commitment is evidenced.

They then say:

"Priority will be given within each of these categories (a-d) to children living nearest to the school".

The arrangements do not make it clear in my view that if published admission number (PAN) is reached within, for example, sub-criterion 3. b) (or any other sub criterion), then proximity of the home address to the school will be used to determine the order of the allocation of places within that sub-criterion. As stated above, paragraph 14 of the Code states that “admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are, clear. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” It is not possible to look at these arrangements and understand the order in which places are allocated.

It should also be noted that, because sub-criterion c) is blank, all references to it will need to be amended to reflect the variation which needs to be made.

24. The arrangements say, “Where the final place in a year is offered to one of twins (or triplets etc), it is normally our policy to admit the other twin unless it would be prejudicial to the efficient education or the efficient use of resources for the existing children.” The arrangements are unclear because of the use of the word ‘normally’, which does not convey certainty. It is not possible for a parent of multiple birth siblings to know whether all of the siblings would be offered a place or not. This is therefore in contravention of the requirement for clarity in paragraph 14 of the Code.

25. The arrangements describe how home to school distances are measured in Note 12 as follows:

“Within each criterion priority is given in order of distance between the child’s home and school (shortest distance = highest priority). Distance will be calculated as a straight line measurement and applies equally to those living inside and outside the County boundary.

A straight-line measurement will be made, using a computerised mapping system, from the child’s home address to the centre of the school site, on the basis of information provided to the school by the Local Authority. The shortest measurement will have the highest priority.”

Paragraph 1.8 of the Code states that: “Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two application that cannot otherwise be separated.”

There is no such tie-breaker in the arrangements whereby parents can see how a decision would be made if two or more applications are equidistant. The arrangements are not compliant with paragraph 1.8 of the Code.

26. The arrangements state:

“If our school is over subscribed the Local Authority will hold a waiting list for children initially unable to secure a place. Places, which have become available, will be

offered using the admissions criteria, in order of priority, as previously stated. The list will be maintained until the end of the Autumn Term. The amount of time the child's name has been on the waiting list is not relevant. Parents should be aware that the priority order of children on the list can alter."

Paragraph 2.15 of the Code says that:

"Each admission authority **must** maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not** be given to children based on the date their application was received, or their name was added to the list. Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol must take precedence over those on a waiting list".

The dates and information relating to waiting lists set out in the arrangements are not in accordance with this paragraph. The arrangements do not state that a waiting list will be held until 31 December, and they do not state that the oversubscription criteria are applied as each new child is added and therefore the list is re-ranked. The arrangements therefore do not comply with the requirements of paragraph 2.15 of the Code.

27. The arrangements state, at note 9, ii) that, "Applications are refused if the numbers on roll in the appropriate year group are equal or higher than the planned admission number."

Paragraph 1.4 of the Code states that: "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 the PAN which they have determined for the relevant year group. They may, however, refuse admission where the admission of an additional child would prejudice the provision of efficient education or efficient use of resources."

Since the arrangements contain a statement which is incorrect, they are misleading and therefore in contravention of the requirement in paragraph 14 of the Code for clarity.

28. Paragraph 2.17 of the Code says, "Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that where they have offered a child a place at a school:

- a) that child is entitled to a full-time place in the September following their fourth birthday;
- b) the child's parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory

school age and not beyond the beginning of the final term of the school year for which it was made; and

- c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.”

There is no reference in the arrangements to the admission of children below compulsory school age or to deferred entry to school as set out above. The arrangements are therefore in contravention of paragraph 2.17.

29. Paragraph 2.18 of the Code says, “Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1. Admission authorities **must** make clear in their admissions arrangements the process for requesting admission out of the normal age group.”

There is no reference in the arrangements to the admission of children outside their normal age group as required by the Code at paragraph 2.18 above. The arrangements are therefore in contravention of paragraph 2.18.

30. The arrangements say, “Children of UK service personnel and other Crown Servants will be treated as being resident at an address once proof of posting has been provided.”

Paragraph 2.21 a) of the Code says: “For families of service personnel with a confirmed posting, or crown servants returning from overseas, admission authorities **must**:

- a) Allocate a place in advance of the family arriving in the areas (as long as one is available), provided the application is accompanied by an official letter that declares a relocation date. Admission authorities **must not** refuse a place solely because the family do not yet have an intended address, or do not yet live in the area.”

Although admission authorities are able to allocate a place in advance of the family having an intended address, the application does need to be accompanied by an official letter confirming the relocation date. This is important because allocating places to these applicants in a school which is oversubscribed without making the necessary checks risks displacing another applicant. This is potentially unfair to that applicant and in breach of paragraph 14 of the Code which requires 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.

31. The paragraph within the arrangements stating that ‘priority will be given within each of these categories (a-d) (referred to above), refers to some explanatory notes that are

either irrelevant or non-existent, making the arrangements unclear and therefore non-compliant with paragraph 14 of the Code.

The school's supplementary information form (SIF) includes a required response to be completed by the relevant faith representative. However, this requirement is not obvious from the form. It needs to be made clear that the parent/carer must take the SIF to the responsible person for completion. The SIF forms part of the school's admission arrangements and this lack of clarity causes it to be in breach of paragraph 14 of the Code and paragraph 1.37 of the Code which states: "Admission authorities must ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied."

32. The governing body has not responded to my concerns in relation to the other matters within the arrangements which I have now found to be non-compliant with the Code under 88I of the Act. The Code requires that the arrangements for both 2024 and 2025 be revised to address the points set out above within two months of the date of this determination.

Determination

33. **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 The Canons C of E Primary School for September 2024 and 2025.**

34. **I determine that the reference to full membership of the Inter Faith Network for the UK within the oversubscription criteria shall be removed from the arrangements for both September 2024 and 2025.**

35. **I have also considered the arrangements for both years 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.**

36. **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: 25 June 2024

Signed:

Schools adjudicator: Mrs Tess Gale