



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2439

Admission authority: The governing body for Yesodey Hatorah Senior Girls School in the London Borough of Hackney

Date of decision: 13 August 2024

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 governing body for Yesodey Hatorah Senior Girls School.

The referral

1. The governing body for Yesodey Hatorah Senior Girls School has referred a proposal for a variation to the admission arrangements for September 2025 (the arrangements) for Yesodey Hatorah Senior Girls School (the school) to the adjudicator. The school is a voluntary aided school for girls aged 11 to 16 in Stamford Hill in the London Borough of Hackney (the local authority). The school has a Jewish religious character and its faith body is the Union of Orthodox Hebrew Congregations (the faith body).
2. The proposed variation is that the published admission number (PAN) be reduced from 80 to 74 for admissions in 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 also satisfied that the proposed variation is within my jurisdiction. In considering this matter I have had regard to all relevant legislation, and the Code.

5. The information I have considered in reaching my decision includes:

- a. the referral from the governing body dated 18 June 2024, supporting documents including the school capacity report commissioned by the governing body and dated June 2023 (the capacity report), and further information provided at my request;
- b. the determined arrangements for 2025 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the local authority;
- d. previous determinations regarding the school: ADA3361 (published August 2018), VAR2118 (published November 2021), ADA3781 (published January 2022), and REF3904 and REF4089 (published January 2023); and
- e. the Ofsted reports on the school published by Ofsted in 2021 and 2024.

6. No comments were received from the faith body.

The proposed variation

7. The governing body consulted on reducing the PAN from 80 to 74 for admissions in 2025. Following the consultation the governing body determined the arrangements on 25 February 2024 with a PAN of 74. The governing body were then advised that the consultation did not meet the requirements of the Code and increased the PAN to 80 on 14 March 2024. The request for a variation said,

“The admission authority intended to reduce PAN from 80 to 74 for the school admission year 2025/2026 to alleviate the serious operational challenges that are being faced by staff with the current PAN of 80. This proposal is supported by an

expert report on the school's capacity who have advised that a lower PAN will reduce the health and safety risk to pupils that will (at present) continue to increase if the PAN for year 7 were to remain at 80."

8. The school opened as a voluntary aided school in 2005, having previously been an independent school. The admission arrangements say, "The school seeks to meet the needs of Charedi Jewish families who desire a Charedi Jewish education for their daughters." The school's oversubscription criteria are, in summary:

- 1) Jewish girls who are looked after children or previously looked after children
- 2) Charedi Jewish girls with sisters at the school at the time of application
- 3) Other Charedi Jewish girls
- 4) Other girls who are looked after children or previously looked after children
- 5) Other girls.

9. Ofsted judged the school to require improvement in 2021 and then in May 2024 judged the school to be good. The most recent Ofsted report said, "The school's intake is exclusively from the Charedi community in Stamford Hill, Hackney."

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. Once the PAN has been set for a particular year then no body, except the governing board of a community or voluntary controlled school, can object if that PAN remains the same in subsequent years. 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.

12. In this instance, the governing body consulted on reducing the PAN for 2025 from 80 to 74. The governing body then determined the arrangements with the PAN at 74. Subsequently, the governing body was informed that its consultation process was flawed and increased the PAN to 80. Paragraphs 1.3 and 3.6 of the Code permit admission authorities to increase their PANs following determination without consultation or requiring a variation to be agreed.

13. However, if I agree that the PAN can be set at 74, then, as the PAN for 2026 has not yet been set, the PAN could remain at 74 for 2026 and future years and no body could object as explained above. I have therefore taken the forecast admissions for 2026 into account.

14. There have been several determinations by fellow adjudicators in recent years, with some references to the PAN set. In summary:

14.1. ADA3361 (published August 2018): the objection included consideration of the PAN set at 65 when previously it had been 80. The adjudicator determined that as the age range of the school had been extended to include years 5 and 6, reducing the PAN to 65 was reasonable in the circumstances.

14.2. VAR2118 (published November 2021): the adjudicator determined that years 5 and 6 could be removed so that there were no places being offered for these year groups.

14.3. ADA3781 (published January 2022): the governing body had set the PAN at 65 and the local authority objected. The adjudicator determined that setting the PAN at 65 for year 7 (Y7) "would fail to be reasonable in my view, by virtue of being too low."

14.4. REF3904 and REF4089 (published January 2023): following an objection by a member of the public, the adjudicator said in his determination, "Based on my understanding of the capacity of the school's buildings, and of the present and likely future demand for places there, I have come to the view concerning the school's arrangements for 2022, and those for 2023, that the PANs of 70 are unreasonable by virtue of being too low and therefore the arrangements as a whole are unfair."

15. No determination by an adjudicator sets a precedent for any other determination and I will consider the information provided afresh. I will first consider the need for places for Y7 in the area, the demand for places in Y7 at the school and then the governing body's reasons for requesting that the PAN be reduced from 80 to 74.

16. The local authority has a duty to make sure that there are sufficient school places in its area for the children in its area. The local authority assesses the need for school places and the capacity to meet that need on the basis of planning areas, which are geographical areas. For secondary education the local authority uses its whole area as the planning area (the planning area). Inevitably, in an urban area like London, there is considerable movement of children across local authority boundaries and the London boroughs will liaise with each other in order to make sure that there is sufficient capacity.

17. There are 16 secondary schools in the planning area which provide for Y7. Table 1 below provides information on the provision of places and demand for places in Y7 across the planning area.

Table 1: provision of places and demand for places for Y7 in the planning area

	2023	2024	2025	2026
Sum of the PANs for the planning area	2539	2569	2559	2559 ¹
Number of admissions or offers	2533	2446	N/A	N/A
Forecast demand	N/A	N/A	2245	2284
Number of vacant places known or forecast	6	123	314	275

18. Table 1 illustrates that demand for places in Y7 in the planning area reduced between 2023 and 2024 admissions and is expected to fall again for 2025 admissions. The forecast of 314 vacant places in 2025 would mean a proportion of 12 per cent, which is a generous proportion, and 11 per cent for 2026. I am therefore assured that if the PAN for the school reduced by six places that there would be sufficient capacity in the area for 2025. However, the school's religious character makes it likely that, as recognised by Ofsted in its report, the students are exclusively from the Charedi community in Stamford Hill and so demand for the school is more complicated than simply the number of places in the area.

19. I will now consider demand for the school. The local authority said,

“Discussions with school leaders and governors have consistently highlighted that the Jewish community in Stamford Hill is predicted to continue growing. Its population has increased by nearly 125% since 2001 with Jewish children making up roughly 54% of the 0-15 age group. We believe that demand for places in the school, consequently, will rise...The local authority is aware that Charedi Jewish children who are not admitted to the school, historically, are unlikely to access alternative places at other secondary schools in the borough. Some travel to the Jewish Free School in Barnet. Charedi Jewish girls refused admission due to the school filling to its PAN could travel less than 1 km to another Orthodox Jewish school, albeit from another sub-group. Outside of this, our observation is that children opt to travel across London to Orthodox Jewish settings in other boroughs.”

¹ Based on PANs set for 2025

20. For admissions in 2023 and 2024 the PAN was and is 80. Table 2 shows the admissions to the school for 2023, anticipated for 2024 and forecast for 2025 and 2026 as provided by the local authority.

Table 2: admissions to the school and forecast admissions

	2023	2024	2025	2026
PAN	80	80	80	80
Number of first preferences	84	79	N/A	N/A
Number of admissions, offers or anticipated demand	80	80	71	69

21. Table 2 shows that demand has been above the requested PAN in 2023 and 2024 and that demand for 2025 and 2026 is forecast to be below the requested PAN.

22. I will now consider the reasons given for the governing body’s request to reduce the PAN to 74. The request said that the governing body wished,

“to reduce PAN from 80 to 74 for the school admission year 2025/2026 to alleviate the serious operational challenges that are being faced by staff with the current PAN of 80. This proposal is supported by an expert report on the school’s capacity who have advised that a lower PAN will reduce the health and safety risk to pupils that will (at present) continue to increase if the PAN for year 7 were to remain at 80.”

23. I have considered the capacity report to which the governing body makes reference. The report provides an analysis of the rooms and outside spaces and a consideration of the various factors regarding the capacity of the school. The school does not meet the requirements of the most recent building guidelines for schools (Building Bulletin 103: Area Guidelines for Mainstream Schools) known as BB103 and which “sets out simple, non-statutory area guidelines for school buildings”. It is my experience that many school buildings will not meet BB103 because it is guidelines for new builds and significant renovations written after most schools were built.

24. The capacity report noted,

“A class taught in a room too small for the number of participants could have a negative impact on a teacher's ability to effectively deliver their lesson. An overcrowded environment can also add unnecessary stress to pupils and can affect their ability to concentrate on learning.”

25. It is this statement that I assume that the governing body is referring to in its request when it says,

“The admission authority requires the PAN to be reduced in order to maintain a safe environment for its pupils. The admission authority cannot allow the PAN reduction to be delayed further, having regard to efficient provision, staff and student wellbeing, and their responsibilities under Health and Safety legislation.”

26. The net capacity assessment methodology has been revised and all schools will be assessed again. The school is planned to be assessed under this methodology in the last tranche in 2025. The local authority provided me with a detailed analysis of the capacity of the school for which I am grateful. The conclusion of that analysis was, "On the basis of material received the local authority's view is that the school has capacity for a PAN of 80."

27. The governing body took issue with statements made by the local authority, particularly around how space was used and could be used and brought to my attention that the local authority did not object when consulted on reducing the PAN to 74. The governing body said,

"In previous correspondence in past adjudications, we avoided addressing minute incorrect details as we did not consider this would assist the adjudicator in the overall determination process. However, we now recognise that this resulted in demonstrable factual inaccuracies appearing in the determination, such as details of the building layout and a comment by the LA officer regarding observing underutilized classrooms, which were in fact a specially designed small group in a streamed subject. In this spirit, we would like to note the comment in the current submission about fluid movement in the dining area. Firstly, this shows one of the steps that the school has implemented to find solutions. Secondly, we must clarify that it is not accurate to present that this is working without detriment to the students. Due to the increase in PAN, the dining area can now only be used by seating students on stools in the gangways at the edges of tables. This is both an uncomfortable place, causes obstruction which is a health and safety concern, and students do not like this - as indeed mentioned in one of the parents' letters to the consultation."

28. The responses received to the consultation were all from those with children at the school or working at the school. All expressed concerns about the number of girls to a class and the difficulties of teaching and learning. The concerns expressed are not substantiated by the most recent Ofsted report which judges the quality of education, and behaviour and attitudes to be outstanding.

29. I have weighed these matters carefully. The governing body has consulted on setting the PAN at 74 and received no objections. The governing body has also referred to the "serious operational challenges" created by the PAN being 80, which supported by staff and parents in their responses to the consultation.

30. However, I am not of the view that the building capacity justifies reducing the PAN to 74. The local authority anticipates in the longer term that there will be increased demand and once the PAN has been set, if it remains the same, then nobody can object to it; parental preference could be frustrated. I also note that following consultation, the school determined a PAN of 74 in February 2024 and then, having been advised that the consultation was flawed, varied it back to 80. To allow the requested variation would

re-introduce that change of PAN without any further consultation and would not allow any body or person to object to that varied PAN for 2025 or for future years.

31. The net capacity will be formally reassessed in 2025, under the DfE programme. The forecasts for 2025 and 2026 are that fewer than 74 places will be requested, and so the reduction, if justified by that reassessment, is not an urgent matter. Therefore, on balance, I have concluded that the variation is not justified by the circumstances and do not approve the variation.

Determination

32. 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 governing body for Yesodey Hatorah Senior Girls School.

Dated: 13 August 2024

Signed:

Schools adjudicator: Deborah Pritchard