

DETERMINATION

Case reference: VAR/000520

Admission Authorities: Portsmouth City Council and the Governing Bodies of The City of Portsmouth Boys' School and King Richard School, Portsmouth

Date of decision: 17 August 2011

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variations to the admission arrangements for September 2012 for the City of Portsmouth Boys' School, King Richard School, The City of Portsmouth Girls' School, Mayfield School, Miltoncross School and Priory School, all in Portsmouth.

The referral

1. Portsmouth City Council ("the Council") has, in its capacity as the admission authority for The City of Portsmouth Girls' School, Mayfield School, Miltoncross School and Priory School, which are community schools, and on behalf of the governing bodies of the City of Portsmouth Boys' School and King Richard School, which are foundation schools, referred variations to the Adjudicator about the admission arrangements ("the Arrangements") determined for those schools for admissions in September 2012. The requests were for the Arrangements to be varied so as to reduce the respective published admission numbers ("PANs") for those schools.

Jurisdiction

2. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that:

where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority's proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations.

3. I am satisfied that the proposed variations are within my jurisdiction.

Procedure

4. In considering this matter I have had regard to all relevant legislation and guidance and the School Admissions Code (“the Code”).
5. The documents I have considered in reaching my decision include:

the Council’s variation request form of 28th July 2011, together with supporting documents, and further information in response to my enquiries;

copies of the letters notifying the appropriate bodies about the proposed variations and of the notice that the Council placed in the local press indicating its intention;

a letter of objection from Miltoncross School of 13th July 2011; and,

in response to my enquiry, information from the Council about the schools’ governing bodies’ decisions.
6. I held a meeting with representatives of the Council on 2nd August 2011 in order to clarify some of the facts and data relating to the schools, and better to understand the purpose of the proposed variations.

Consideration of Factors

7. It is important in the case of variations proposed by a local authority for schools of which it is the admissions authority that evidence is considered of the views of the governing bodies. In the case of schools whose governing bodies are their admissions authorities, such as the City of Portsmouth Boys’ School and King Richard School (which are both foundation schools), any referrals to the Adjudicator for a variation must be referred by them, or at the very least on behalf of them, otherwise the variation may not be considered. The Council initially provided copies of some exchanges of emails to demonstrate support from the schools, but it was hard to decipher the origin of all of the emails, and it was impossible to know with what authority they had been sent. I therefore requested copies of governors’ minutes. In response, the Council has not provided copies of minutes, but has provided the information as follows, together with a copy of the letter from the City of Portsmouth Girls’ School.

- King Richard School – minute number 80/11 from their Full Governing Body Meeting of 24th March 2011 – unanimously agreed
- Mayfield School – minute number 5 – Curriculum and Pupil Progress meeting 29th March 2011 - unanimously agreed
- Miltoncross – unanimously agreed by governors, unable to provide minute number at this time
- City of Portsmouth Boys School – minute number 6/11 of the Full Governing Body meeting on 18th March 2011 – unanimously agreed by governors
- City of Portsmouth Girls School – letter from Chair of Governors attached – unanimously agreed

- Priory – minute number 7, Full Governing Body 24th March 2011, unanimously agreed by governors

8. The Council believes that the Government’s withdrawal of the Building Schools for the Future programme (“BSF”) constituted a major change of circumstances, as the implications later became clear. Without the changes that BSF would have brought, and without the proposed variations, the Council and all, or all but one, of the schools to whose Arrangements the variations would apply believe there would be collective difficulty in maintaining full secondary school provision across Portsmouth until the demand for secondary school places recovers from its present forecast low level. The admission authorities, with the support of all, or all but one, of the schools involved, therefore wish to reduce the PANs for six of the City’s maintained secondary schools in order to protect the position of less popular schools where the standard of provision might be at risk until the forecast recovery in demand for places begins in 2019.

9. The proposed PANs would be less than the respective indicated admission numbers (“IANs”) resulting from the net capacity assessments (“NCAs”). Regulation 4 of The School Admissions (Admission Arrangements) (England) Regulations 2008 (“the Regulations”) requires an admission authority to have regard to the current indicated admission number when determining an admission number. Paragraph 1.17 of the Code requires an admission authority proposing to set an admission number lower than the indicated admission number to publish its intention and notify the required bodies of its intention, so that objections can be made by any who wish. Although these references in the Regulations and the Code are to admission numbers below indicated admission numbers being set as part of the original determination of arrangements, I believe, particularly since one objection has been made, that the regulations and Code imply that I should give particular consideration to these factors.

10. Data relating to the six schools include the following.

	IAN	PAN	Number admitted Sept 2010	Number expected Sept 2011	PAN proposed for variation
City Boys’	197	197	75	120	150
King Richard	217	216	147	168	180
City Girls’	200	200	171	169	180
Mayfield	243	240	180	182	220
Miltoncross	200	200	194	200	180
Priory	250	250	247	250	220

11. In the case of each the first four schools listed in the above table, the number of pupils admitted in 2010, the number expected to be admitted in 2011 and the projected demand for places up to 2013 are less than the proposed new PAN. So reducing the PANs would be most unlikely to have any effect, positive or negative, on any schools. Since the NCAs for the schools indicate capacity sufficient for intakes of the present PAN size, there is no good reason for the variations for these four schools.

12. Reducing the PAN at Miltoncross might well have a positive effect on the other secondary schools to which parents might turn for places, there being several in the vicinity likely to have vacant places. The Council believes that Miltoncross's governing body unanimously agreed to the proposed reduction in PAN; so, if the Council's belief is right, the status of the objection that has been received from the headteacher is questionable. Nevertheless, I have considered the content of the headteacher's objection, which is based on a concern to retain Miltoncross's present level of intake against the possible impact of new schools that are at different stages of planning and to protect the school's financial income if it becomes an academy and takes over responsibility for fulfilling the obligations of a Private Finance Initiative contract. I do not accept this basis of concern, as none of the new additional provision has yet been approved. However the tenor of the Code is clearly to encourage opportunities for parental choice (for example, in paragraphs 1.3, 1.9, 1.11 and 1.12), and reducing the Miltoncross PAN in the face of demand at least equal to the present PAN, and to a number below the IAN, would be perverse.

13. Despite demand for places at least equal to its present PAN, Priory School has indicated support for the proposed reduction. In the Council's view, this is probably because of the inadequacy of some facilities and circulation spaces in the buildings, which were expected to be remodelled or replaced under BSF. I am therefore not unsympathetic to the school's predicament. However, the school has been managing its annual intake of around the PAN, however difficult that might be, and, again in the face of parental demand and the present PAN being identical to the IAN, it would be difficult to justify reducing the PAN at this stage. The Council has indicated that the NCA – like the NCAs for all its secondary schools – is probably in need of recalculation on the basis of current measuring. If a new NCA produces an IAN lower than the present one, then that would provide the basis of a lower PAN being determined in future years, or even, provided there is time, another proposal for a variation for 2012.

14. I am mindful of the possibility of new academies being founded within the City, although the Council has assured me that planning for them is only at an embryonic stage. I have noted too the availability of places at the Charter Academy. However, I have also noted that no proposals have been made to reduce the PANs of the other three maintained secondary schools in the City, all of which admit at a level around their PANs (although this is more understandable in the case of Springfield School, for whose local families there may be no realistic alternative school, particularly with places likely to become more scarce at neighbouring Hampshire schools).

Conclusion

15. I sympathise with the Council's desire to 'protect' less popular schools in order to retain as high a quality of educational provision as is possible until most places in all the secondary schools are required again, which it estimates to be by 2019. I commend the Council, and – even more – the willingness of some of the secondary schools to make sacrifices for the wider good.

16. However, a higher weight must be given to the matter of parental choice. I believe it would be as wrong artificially to limit the number of places available at these six schools, as it would be at the other three maintained secondary schools where variation proposals have not been made. In any case, at four of the schools, reducing the PANs would have no discernible effect.

17. Although the evidence I have been sent is not necessarily indicative of support from full governing bodies in all cases, I note a strong measure of support for the proposed variations from at least all but one of the schools. If I were minded to approve the proposed variations, I would need copies of minutes of full governing bodies from all schools, not least the two foundation schools. However, for the wider reasons given above, I shall not be approving the variations.

Determination

18. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variations to the admission arrangements for September 2012 for the City of Portsmouth Boys' School, King Richard School, The City of Portsmouth Girls' School, Mayfield School, Miltoncross School and Priory School, all in Portsmouth.

Dated: 17 August 2011

Signed:

Schools Adjudicator: Canon Richard Lindley