



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2177

Admission authority: Suffolk County Council for Heath Primary School, Kesgrave

Date of decision: 13 August 2021

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 Suffolk County Council for Heath Primary School, Kesgrave, for September 2022.

I determine that the published admission number for 2022 will be 60.

The referral

1. Suffolk County Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) for Heath Primary School, Kesgrave (the school) to the adjudicator. The school is a community school for children aged three to eleven in Kesgrave.
2. The proposed variation is that the published admission number (PAN) should be reduced from 90 to 60 for admissions in 2022.

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 Code provide as follows (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. I have seen confirmation that the school’s governing board been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.
5. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).
6. The information I have considered in reaching my decision includes:
 - a. the referral from the local authority dated 22 July 2021, supporting documents and further information provided at my request;
 - b. the determined arrangements for 2022 and the proposed variation to those arrangements;
 - c. comments by the governing board on the proposed variation;
 - d. a map showing the location of the school and other relevant schools; and
 - e. information available on the websites of the local authority and the Department for Education.

The proposed variation

7. The local authority has explained that the number of children in the area of the school requiring a school place has reduced and in proposing reducing the PAN to 60 the local authority said, “The proposed reduction to 60 will help the school manage their budget while complying with infant class size legislation.”
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. 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.

10. In this case the local authority has said that it is considering consulting on setting the PAN at 60 for 2023 but that the decision whether to consult or not depends on data which will become available nearer the time. The governing board said that the PAN will be 90 for 2023 but the PAN has not been set for 2023. If I were to agree this variation so that the PAN for 2022 is reduced to 60 and the local authority wished to set the PAN at 90 for 2023, it could do so as no consultation is required to increase a PAN. Alternatively, the local authority could set the PAN at 60 (as it would remain the same as the varied PAN for 2022) without the consultation described in paragraphs 1.42 to 1.45 of the Code. In either case, however, the local authority **must** consult the governing board and the governing board could object to the adjudicator if the PAN set were to be lower than it would wish. These matters are explained in paragraph 1.3 of the Code. To put this another way, if I were to agree to the proposed variation so that the PAN is 60 for 2022 then the local authority would not have to consult (except with the governing board) to keep the PAN at 60 or to increase it to 90 for 2023 and if the local authority set it for 60, then the school could object.

11. Setting aside at this point the desirability of affording interested parties the ability to comment on the proposed reduction in PAN I will now consider the case made by the local authority in its proposal. I have scrutinised the data to try to ascertain if there will be sufficient school places in the local area if the PAN is reduced from 90 to 60 for September 2022. I have also considered the demand for places at the school, the reasons given for the change, the potential effect on parental preference and whether the change is justified in these circumstances.

12. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical groups of schools, for this purpose. The school is one of nine schools admitting children to reception year (YR) year in its planning area, which is known as the Kesgrave planning area (the planning area). Table 1 below summarises the number of children admitted to these schools in recent years and the forecast of future demand.

Table 1: number of children admitted to YR in schools in the planning area in recent years and forecasts for future years

	2019	2020	2021	2022	2023
Sum of PANs of schools in the planning area	319	319	319	319	319 ¹
Number of children allocated a place on national offer day	322	263	277		
Number of children forecast to require a place				262	247
Number of places over sum of PAN (-) or vacant places (+)	-3	+56	+42	+57	+72
Number of vacant places as a percentage	n/a	18%	13%	18%	23%

13. Table 1 shows that across the planning area there is forecast to be sufficient places for children seeking a place in YR in 2022 if the PAN were reduced to 60 as there would still be 27 places available which would be over nine per cent of all YR places in the planning area. The local authority provided me with a map showing the schools in the planning area. This illustrates that some of the schools in the planning area, like the school, are situated in the town of Kesgrave whereas others are in surrounding rural areas. This means that the overall number of children living in the planning area may not reflect the number of children whose parents may consider the school as an option for their child's education. Two of the primary schools in the planning area, for example, are over three miles from the school. I therefore asked the local authority to provide any data which it felt was more relevant to the school and the other schools in the town of Kesgrave. There are four primary schools in the town of Kesgrave and the local authority has provided information on admissions and forecast admissions to these schools as shown in table 2 below.

Table 2: number of children admitted to the four town primary schools and forecast to be admitted.

Primary school	Birchwood	Cedarwood	Gorseland	Heath	total	Number of vacant places
PAN: 2019 to 2022 and is assumed the same for 2023	30	60	60	90	240	n/a
2019: allocations on national offer day	30	60	60	90	240	0
2020: allocations on national offer day	25	45	60	63	193	47

¹ Assumes no change made to any PAN from 2022

2021: forecast peak admissions	30	58	60	68	216	24
2022: forecast peak admissions	24	46	60	60	190	50
2023: forecast peak admissions	19	42	54	60	175	65

14. The local authority has updated the allocations made on national offer day in table 2 by including late applicants for 2021. The local authority has referred to ‘peak admissions’ when it takes account of late applications and these are shown in table 2 above. All four town schools were full to their PANs for admissions in 2019 and more children than the sum of the PANs for the planning area were admitted across the planning area. This changed for 2020 and 2021. A comparison of the figures shows that the majority of the reduction in demand across the planning area was seen in three of the four town schools with the greater part of that in the school. In 2020 there were 56 vacant places across the planning area and 47 of there were across the four town schools. Of the 47 vacant places in 2020, 27 were at the school.

15. It therefore appeared to me that it was more useful and appropriate to consider the availability of places and demand across the four town schools than across the whole planning area. As can be seen from table 2, demand is expected to decrease in the coming years across the four town schools. For 2022, the forecast need for 190 places would mean approaching 21 per cent of places were vacant. The concern of the local authority and the governing board is the effect of this on the school’s budget as the school has been most affected by the recent decreases in demand.

16. Schools are largely funded based on the number of children admitted. Children in YR are infants as infant classes are those where the majority of children will reach the age of 5, 6 or 7 during the school year. The School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations) require that infant classes must not contain more than 30 pupils with a single qualified school teacher except in specific circumstances. It is advantageous, where schools seek to teach in classes all from one year group, for the number of children in each year group to be either a multiple of 30 or close to that number. For example, in 2019 the school could have had three classes of 30 for YR which would be very financially efficient. This could not have occurred in 2020 and will not occur for 2021 as fewer than 70 children have been admitted or allocated places in both years.

17. As table 2 shows, the number of children allocated a place at the school in 2020 dropped from 90 in 2019 to 63 and 68 children have been allocated a place for 2021. The school said, “We are already struggling to manage with our last two Reception cohorts being under 70 children.” For September 2021 the school will provide three classes each for YR, year 1 (Y1) and year 2 (Y2). However, this is an expensive model for YR and Y1 as there are around 63 children in Y1 (so about 21 children per class) and around 68 children

in YR (so about 22 or 23 children per class). In order to address this the school has planned to arrange the classes which will be Y1 and Y2 in September 2022 into five mixed age classes with children from Y1 and Y2. This will allow the school to reduce the number of staff required and therefore assist in managing its budget.

18. The school has expressed serious concerns if just over 60 children were again to be admitted in 2022 and describes the potential effect as “completely untenable” because of the cumulative effect of providing small classes. If the PAN for the school were 60 then the school could plan for two classes of up to 30 children. This would be advantageous in terms of class organisation and financial efficiency which are beneficial for teaching and learning.

19. It is, however, currently August 2021 and applications do not have to be made for YR in 2022 until 15 January 2022 and I have reflected on whether this application for a variation is premature and whether there may be merit in waiting until it is known how many preferences have been made for the school. I note too that in 2020 there were 60 first preferences for the school and 64 for 2021. A first preference is how parents express their view on the school they most want their child to attend. As 68 children were allocated places for 2021, the school was the highest preference for which places were available for the parents of 68 children (although the figure includes late applications). There is therefore the risk that if the PAN were reduced to 60 for 2022 that parental preference would be frustrated and parental views would not have been heard through the consultation process and there would not have been the opportunity to object.

20. However, if I took this route then it is possible that just over 60 children would be allocated places at the school, say 61, and the situation the governing board wishes to address would be created. The local authority would have no choice but to admit up to 90 children and the governing board would need to address the requirements of the infant class size regulations. I also note that the local authority has forecast a further reduction in demand of 26 places across the four town schools as it anticipates 190 children requiring a place compared to the 216 for 2021. For admissions in 2020 there were 193 children seeking a place at one of the town schools and the parents of 60 of these made the school their first preference and 63 were allocated a place. These figures raise the risk of frustrating parental preference for some children if I agree the proposed variation and I take this seriously.

21. The school has already taken steps to address the lower numbers in the future Y1 and Y2. All other year groups, based on the information provided to me, appear to already have approaching 90 children and so efficiently operating on three classes of 30 or nearly 30 children. This means that if just over 60 children were admitted in 2022 then the school has little flexibility to mix further year groups and so is likely to need to provide three classes for YR which could be as small as two classes of 20 and one of 21 children. This would be a very expensive model. It therefore appears to me that to delay reducing the PAN to 60 to until later in the year after allocations have been made is not in the interests of the school and the children it educates because of the potential effect on the school's finances.

22. I recognise that it is possible that there may be some frustration of parental preference if the PAN is reduced to 60 for 2022 but equally, based on the data available, there may not. I have therefore decided, to avoid the known risks to the school, that on balance it is better to agree the variation at this early stage. The governing board would have certainty in its planning and parents, when making their applications, would know how many places are available at the school. In summary:

- a. There has been a recent reduction in the number of children seeking a place in YR at the school and this decrease is expected to continue in future years.
- b. The school has expressed grave concerns on the effects on its finances of providing small classes for the children admitted in 2020 and to be admitted in 2021 and plans steps to address the financial problems by mixing Y1 and Y2 into five classes rather than six in 2022. The school has further expressed the view that if a similar number of children to those admitted in 2020 and allocated for 2021 were admitted in 2022 it “would not be able to afford to have them in 3 small classes and would legally be unable to put them into 2 classes.”
- c. It is possible that around 60 parents will have the school as their highest preference that can be met in 2022. If the PAN were to remain at 90 then just over 60 children could be admitted leading to the difficult effects feared by the school. This could be the case if I do not uphold the proposed variation.

23. In these circumstances I find that the variation is justified by the circumstances and approve the proposed variation so that the PAN is 60 for admissions in 2022.

Determination

24. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Suffolk County Council for Heath Primary School, Kesgrave, for September 2022.

25. I determine that the published admission number for 2022 will be 60.

Dated: 13 August 2021

Signed:

Schools adjudicator: Deborah Pritchard