



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2038**

**Admission authority: Milton Keynes Council for Cold Harbour Church of England School in Bletchley**

**Date of decision: 7 January 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 Milton Keynes Council for Cold Harbour Church of England School for September 2021.**

**I determine that the published admission number will be 30.**

**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. Milton Keynes Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2021 for Cold Harbour Church of England School (the school) to the adjudicator. The school is a voluntary controlled school for children aged four to eleven in Bletchley.

2. The proposed variation is that the published admission number (PAN) be reduced from 45 to 30.

## Jurisdiction

3. 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."

4. I am satisfied that the proposed variation is within my jurisdiction.

5. I am also satisfied that it is 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 determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

## Consideration of the arrangements

6. With the exception of the PAN, the admission arrangements for the school are identical to the arrangements for Russell Street School which I considered in VAR2037. In paragraphs 29 to 34 of that determination, which was published on 8 December 2020, I dealt with the ways in which the admission arrangements for 2021 did not conform with the requirements relating to admissions. The link to VAR2037 is provided [here](#). The findings in VAR2037 also apply to the admission arrangements for this school and there is no need for me to repeat those matters here.

## Procedure

7. In considering this proposed variation I have had regard to all relevant legislation, and the School Admissions Code (the Code).

8. The documents I have considered in reaching my decision include:

- a. the referral from the local authority dated 9 November 2020, supporting documents and further information provided at my request;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. evidence that the governing board for the school had been consulted and further information provided at my request;
- d. maps showing the location of the school and other relevant schools;
- e. confirmation that the appropriate bodies have been notified of the proposed variation; and
- f. information available on the websites of the local authority and the Department for Education.

## The proposed variation

9. The school was judged by Ofsted to require improvement in December 2017 and the governing board approached the local authority in May 2020 to request potential changes to its PAN as the numbers at the school had reduced considerably, possibly for matters relating to the Ofsted judgement. The letter on behalf of the governing board said that there was risk of financial deficit and that intervention was needed to avoid this. The possibility of reducing the PAN as part of the solution was raised.

10. 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. I will consider below whether the variation requested is justified by the change in circumstances.

11. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The local authority confirmed that the appropriate bodies have been notified. I have seen confirmation from the school's governing board that it supports the request for the variation. I am satisfied that all relevant bodies have been notified. I find that the appropriate procedures were followed.

## Consideration of proposed variation

12. There is no formal consultation required for a variation and so parents do not have the opportunity to express their views. Once the PAN has been set then no body, except the governing board of a community or voluntary controlled school, can object to the PAN remaining the same. In this instance the local authority is consulting on reducing the PAN to 30 for 2022 and I have seen the relevant consultation on its website.

13. 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 45 to 30 for September 2021; 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 the circumstances.

14. 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 future number of places likely 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 planning area in which the school is situated consists of six schools admitting children to reception year (YR) and is known as the "Lord Grey liaison group of schools" (the planning area).

15. The information provided to me shows that the school is on the edge of its planning area and that children living close to the school could easily travel to other schools, some of which are in other planning areas. I note that there are five other schools admitting children to YR within one mile of the school and two of them are not in the same planning area. This means that I need to consider data relating to neighbouring planning areas as well as to the

planning area in which the school is located. I will therefore first consider the number of places across the local authority area. The data provided to me on the number of places across the local authority area and the number of children forecast to be seeking a place in YR in future years are provided in table 1.

Table 1: number of places in local authority area with forecast of demand

	<b>2021</b>	<b>2022<sup>1</sup></b>	<b>2023<sup>1</sup></b>
<b>Sum of PANs of schools</b>	4315	4335	4335
<b>Forecast number of places required</b>	3524	3570	3378
<b>Expected number of vacant places</b>	791	765	957
<b>Number of vacant places as a percentage</b>	18%	18%	22%

16. Table 1 provides evidence that across the local authority area there will be a generous proportion of vacant places in 2021, 2022 and 2023. Table 2 provides information on the number of places and the admissions of children in the planning area.

Table 2: the number of places, the number of children admitted and the number of children forecast to be admitted in the planning area with no change to the school's PAN

	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021<sup>2</sup></b>	<b>2022<sup>2</sup></b>
<b>Sum of the PANs</b>	285	285	270	270	270 <sup>1</sup>
<b>Number of children admitted/expected to be admitted</b>	228	248	226	242	287
<b>Number of vacant places or shortfall</b>	+57	+37	+44	+28	-17

17. Table 2 shows a reducing number of surplus places across the planning area leading to a potential shortfall of 17 places in 2022. Table 2 does not take account of the proposed reduction in the school's PAN. Clearly, if the number of places were reduced by 15, as in the proposed variation, then there would only be 13 vacant places in 2021 and an increased shortfall in 2022 (a forecast shortfall of 32 places in total). The local authority commented on this in its proposal saying, "Although there is a shortfall in 2022 this is not of a significant concern as parents within the liaison group are accessing other schools with vacancies given the surplus across the primary sector. For example, projections for 2020 indicated a surplus of 39 places for YR in this liaison group but the actual allocations to date show a surplus of 49 places in YR as parents are accessing other schools with vacancies

<sup>1</sup> The local authority's expectation of total PANs

<sup>2</sup> Forecast

as a parental preference.” I note that the difference between 39 and 49 is ten which would not address the potential shortfall of 32 places in 2022 if the PAN for the school were to be reduced by 15. However, the information provided to me by the local authority shows that there are other schools with capacity within neighbouring planning areas and the information on the admissions to the school, below, shows that parents are accessing these other schools.

18. The governing board requested this reduction in PAN and expressed its concerns over the number of actual admissions to the school and the challenges it faced. The number of admissions to the school is provided in table 3 and shows that the number of children admitted to the school has been below the proposed PAN of 30 in 2018, 2019 and 2020 and is forecast to be so in 2021 and 2022. Table 3 therefore shows that the admissions at the school do not reflect the demand for places in the wider planning area shown in table 2.

Table 3: Actual and expected admissions to the school

	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>PAN</b>	45	45	45	45	45 <sup>3</sup>
<b>Number of children allocated/expected to be allocated places</b>	20	27	10	22	13
<b>Number of surplus places</b>	25	18	35	23	32

19. The local authority said in its request, “As the catchment area is an established area there is no demand expected from new housing. Projections indicate that there are surplus places within the catchment area of Cold Harbour of approximately 1 form of entry [or 30 children].” I am aware, however, that the majority of parents will have already stated their preferences for 2021 on the understanding that the school’s PAN is 45.

20. Information provided to me shows that the number of admissions to the school has reduced since admissions in 2017 and previous years. The older age groups, years 3 to 6, mainly have over 40 children in each year. I asked the governing board for information on its current class structure so that I could better understand the potential implications for the school if the PAN were to remain at 45 for 2021. The response explained that classes are currently organised as follows:

- “1 x Reception class of 10 children
- 1 x Year 1 class of 24 children
- 1 x Year 2 class of 26 children
- 1 x Year 3 class of 26 children

<sup>3</sup> The local authority is consulting on reducing the PAN to 30 for 2022

1 x Year 3/4 class of 27 children of which 17 are Year 3 and 10 are Year 4  
1 x Year 4 class of 26 children  
1 x Year 5 class of 29 children  
1 x Year 5/6 class of 28 children of which 13 are Year 5 and 15 are Year 6  
1 x Year 6 class of 26 children”

21. The school therefore has nine classes; some of which contain more than one year group. I note that this would be expected in a school with a PAN of 45. Primary schools will usually try to organise on the basis of 30 or just under 30 children to a class. Infant class size regulations limit key stage 1 classes to 30 in most circumstances. Across a primary school long term, overall levels of primary school funding would not be likely to support classes of 22 or 23 pupils, which would be the outcome of single year classes with 45 to a year combined with limiting key state 1 classes to 30 pupils.

22. In this case, the mixed aged classes are in key stage 2 and not in key stage 1. From the correspondence provided to me it appears that the local authority has agreed with the governing board to limit the numbers of additional children who might be admitted to years 1 to 6 so that the school would not be required to form an extra class or classes in these year groups. While this is not a matter on which I am asked to or indeed can make a determination, I observe that any parent could apply for a place at the school at any time. There is no such thing as an admission number outside a normal year of admission (YR in the case of this school). The admittance of a child whose parent has sought a place is admitted to the school outside a normal age group will depend (unless the child has been permanently excluded at least twice) on whether or not such an admission would cause prejudice to the efficient use of resources or the efficient provision of education. Moreover, a parent whose child is refused a place in such circumstances must be offered an appeal.

23. Returning to the PAN, this applies for the year of entry which means that, as the PAN is 45, the school would have to admit up to 45 children to YR if it received that many applications. That situation looks to be a remote possibility at the moment as does the likelihood that more than 30 children will seek to be admitted to YR.

24. The governing board will be conscious of the provisions of the infant class size regulations so that if more than 30 children are admitted to YR, then the choice will be between mixed age classes or setting up an additional YR class. This school already operates with mixed aged classes in key stage 2, as shown in the information it has provided. As I say, the chances of more than 30 children seeking a place at the school for September 2021 seems remote, but if this were to happen the school could operate a mixed YR and Year 1 class given that there are only ten children in the current YR class which will be Year 1 from September 2021.

25. The information provided by the governing board to the local authority when it requested discussing reducing the PAN described a variety of concerns including that, “As we look at our three year budget plan, without intervention, the school will quite quickly have a sizable deficit.” In addition the governing board said, “Cold Harbour is in a falling roll situation and there are many reasons for this including being a RI (judged by Ofsted to

require improvement) school with identified issues with teaching and leadership, poor results and not having the most modern premises, which look tired and run down. Whilst there is already a Targeted Intervention Board in place, with limited funds available and the instability of leadership in the school, it is unlikely that these issues will be resolved in the near future.”

26. My role is to consider whether the variation is justified by the circumstances. The particular factors are:

26.1. The school is facing challenging circumstances which include long term financial difficulties.

26.2. Most parents will have already made their applications for 2021 on the understanding that the PAN is 45.

26.3. Fewer than 30 children have joined YR at the school in 2018, 2019 and 2020 with just ten children admitted in 2020.

27. The school has enough surplus places to arrange its classes so that even if more than 30 children joined the school in 2021 that it would not be necessary to form an additional class as there is significant capacity in the current YR class which will be Year 1 from September 2021. I therefore see little risk financially for the school with a PAN of 45. However, nor do I see any risk of parental preference being frustrated if the PAN were reduced to 30 and certainty on its PAN may help the governing board to plan ahead and address its challenges. I have accordingly decided that on balance that the variation is justified by the circumstances and approve the variation.

## Determination

28. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Milton Keynes Council for Cold Harbour Church of England School for September 2021.

29. I determine that the published admission number will be 30.

30. 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: 7 January 2021

Signed:

Schools Adjudicator: Deborah Pritchard