



Office of  
the Schools  
Adjudicator

## Determination

<b>Case reference:</b>	<b>ADA3571</b>
<b>Objector:</b>	<b>Devon County Council</b>
<b>Admission authority:</b>	<b>The First Federation Trust for Sidmouth Church of England Primary School</b>
<b>Date of decision:</b>	<b>11 October 2019</b>

## Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2020 determined by the First Federation Trust for Sidmouth Church of England Primary School, Devon.**

**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. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by Devon County Council (the objector), about the admission arrangements for Sidmouth Church of England Primary School (the school), a primary academy for pupils aged 2 to 11 for September 2020.
2. The local authority (LA) for the area in which the school is located is Devon County Council. The LA is the objector. Other parties to the objection are the First Federation Trust, a multi-academy trust (the Trust), the governing board of the school and the Church of England Diocese of Exeter (the diocese).

## Jurisdiction

3. The terms of the academy agreement between the Trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school

are in accordance with admissions law as it applies to academy schools. These arrangements were determined by the Trust, which is the admission authority for the school, on that basis. The objector submitted its objection to these determined arrangements on 15 May 2019. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

## Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
  - a. a copy of the minutes of the meeting of the Trust at which the arrangements were determined;
  - b. a copy of the determined arrangements;
  - c. the objector's form of objection dated 15 May 2019 and supporting documents;
  - d. the Trust's response to the objection and supporting documents;
  - e. the diocese's response to the objection;
  - f. the local authority's composite prospectus for admissions to primary schools;
  - g. maps of the area identifying relevant schools;
  - h. confirmation of when consultation on the arrangements last took place; and
  - i. a copy of the guidance on admissions provided to the school by the faith body.

I have also taken account of information received during a meeting I convened on 23 September 2019 at the school, and additional information provided after the meeting at my request.

## The Objection

6. The LA's objection is to the reduction in the published admission number (PAN) from 75 to 60 for admission to the school in September 2020.

## Background

7. The school is an academy primary school, and is a member of the First Federation Multi-Academy Trust. It is a mixed school for pupils aged 2 – 11 incorporating early years and nursery provision. The school is situated in the seaside town of Sidmouth. Originally, the provision now made by the school was made by three separate schools, namely a junior school and two linked infant schools. The combined PAN of the infant schools was 90 and the PAN of the junior school was also 90 so that, as now, there were 90 places in each year group. It is now one primary school located on three different sites within the town of

Sidmouth. The school’s PAN was reduced to 75 for admission in September 2019. For September 2020 a PAN of 60 has been set. While the LA supported the PAN reduction from 90 to 75, but has objected to the further reduction to 60. The school is a linked school to Sidmouth College which is a secondary school admitting pupils at Year 7, and I am informed that most pupils transfer from the school to the College at the age of 11. Running a school on three sites has caused logistical and financial difficulties, and the school has thus far been unable to secure additional funding either from the Education and Skills Funding Agency (ESFA) or the local authority to address these difficulties. It was rated by Ofsted as Good in May 2019.

## Consideration of Case

8. The LA has objected to the PAN reduction from 75 to 60. It is the opinion of the LA that a reduction in the availability of Reception places in the Sidmouth area is not in the best interests of the residents of the town, and will lead to a serious risk that the LA will be unable to fulfil its statutory duty to ensure that there are sufficient primary school places for local children, both in the normal round of admissions into Reception and for in-year admissions. Furthermore, the LA says that Sidmouth town has been identified for moderate housing development, circa 300 dwellings plus windfalls. I have noted this information; however, when questioned further about this, the parties were unable to provide a date for completion of this development. My impression was that there is no expectation that it will be completed by September 2020.

9. The LA says that it voiced concerns about the proposal to reduce the PAN from 75 to 60 *“ahead of, during and after a consultation with the Exeter Diocese, and in response to the public consultation”*. Apparently there were no other comments in response to the public consultation relating to the proposed PAN reduction. It is the LA’s view that *“a PAN of 60 for the 2020 Reception intake would be insufficient to meet the needs of a known cohort of 80 children. The town consistently has more children living within the catchment area in excess of the proposed PAN 60”*. The LA asserts that, if the school were to have demand in 2020 which equates to the average demand over the last three Reception intakes, there would be a minimum of 60 allocations. (See the table below). However, the LA considers that, with the increased popularity seen in 2019, the applications figure is likely to exceed the proposed PAN with demand for 69 places during the normal round based upon a figure of 87 per cent of the cohort of local children being allocated a place at the school. The following table has been produced by the LA.

	2017	2018	2019	2020
PAN	90	90	75	60
Cohort	84	95	63	80
Allocations	59	63	55	
	70.2%	66.3%	87.3%	
	Average take from the cohort			74.6%

10. The LA says that there are no alternative schools within a two mile walking distance of Sidmouth Primary School. The nearest school is Sidbury Church of England Primary School, which is 2.6 miles away. Based upon data for the last 3 years, Sidbury admits an average of 144 percent of its own cohort. The majority of the out of catchment children admitted there are from Sidmouth's catchment. Sidbury currently has a PAN of 30, but the LA says the school does not have sufficient accommodation to support this year-on-year. If fewer pupils are offered places at Sidbury, Sidmouth would not have sufficient provision as it will only have 60 places to meet demand from 80 children in its 2020 cohort. Newton Poppleford at 3.0 miles from the main Sidmouth school site has a similar position with 126 percent of its cohort being admitted. The LA says that it should be noted that this is a rural area without the infrastructure or public transport links of an urban area, which is indeed the case. The two next nearest schools are not contributory schools for Sidmouth College. Tipton Church of England School is 3.5 miles from the main Sidmouth site, and Otterton Church of England School is 5.2 miles away. The LA says that Sidmouth children attending either of these two schools may be unable to progress to the secondary schools which are linked to these primary schools along with their peers as these secondary schools are oversubscribed. The Kings School (which is one of the linked secondary schools) has been oversubscribed consistently for a number of years. It is the LA's view that a permanent reduction to a PAN of 60 for Sidmouth Church of England Primary School could result in a loss of school capacity requiring future capital investment.

11. Where local children apply on time for the Reception intake but are refused admission to Sidmouth, the LA says it must provide free transport to the nearest alternative school, usually by taxi due to the rurality and lack of public transport. The LA considers this to be an inefficient use of public funds, a direct cost to Devon County Council tax payers and that it is not in the interests of children for them to be unable to attend the school in their local community for up to 7 years.

12. The LA says that the school has a high number of in-year applications. Taking the average change in the number on roll in Reception cohorts as they have moved through the school, it is anticipated that there would be a further 22 percent requiring admission in-year. For the 2020 intake, this is another 13 children. The LA considers that the school would be unable to admit these children if its provision is only for 60 children. This argument may, or may not, prove to be correct. The PAN only applies for entry to Reception. For entry to all other year groups, in order to refuse an application, an admission authority would need to show that the admission of a further child would prejudice the efficient provision of education or the efficient use of resources. If applications are made to Key Stage 2 classes, it may not be prejudicial to admit further children. As will be explained below, the school has year groups of between 70 – 90 in Key Stage 2, and is able to accommodate this.

13. The LA says that it continues to work positively with the Trust in this matter. The LA recognises that the Trust has taken the decision to reduce the PAN due to the revenue implications of running three sites, the numbers of children applying to the school over the recent past and the lack of capital support to rationalise the accommodation which is

situated over three sites. The LA considers that the Trust has not disputed the LA's view that the decision to further reduce the PAN could prejudice admissions and educational provision for the children in its catchment. However, the LA appreciates that the Trust has not taken the decision to reduce its PAN lightly, and has maintained a constant dialogue with the LA on this matter.

14. The Trust says it has reduced the PAN for the following reasons:

*"The school is a split site school with children taught on three sites across the town. Whilst there is physical capacity for a PAN of 75, the school has to teach children over the three sites. This often results in the school needing to run three classes in a year group. For example the current reception cohort of 64 are taught in three classes across two sites. This is not financially viable as the school cannot afford to operate with classes under 30. There is some space in Year 1, meaning the school could run mixed age classes. Unfortunately, however, the space is not on the site where the children are based.*

*Having a PAN of 75, but taking approximately 60 pupils per year means that there is always the possibility that the school will have to admit up to 75 pupils in its infant classes. In practice this means that the school often ends up with the year groups growing to become 63-67 in size. Because the PAN is not 60, the school has to admit further pupils, and therefore create an additional class. Any pupils above a multiple of 30 must result in an extra Key Stage 1 class. These low numbers of pupils only generate a small amount of budgetary resource. The class however, needs a full-time teacher, which in turn necessitates paying a full-time teacher's salary. This is resulting in the school setting annual deficit budgets to pay for the additional class. Whilst the Trust's reserves have supported this over the last couple of years, there will be no reserves at the end of next year, making the creation of an additional class seemingly impossible with the Trust's current resource.*

*The school has discussed with the LA and the ESFA various different possibilities for rationalising the sites, re-building and expansion of one of the sites with a view to the school operating from two sites instead of three. Currently no money can be found to facilitate any of these options, meaning that the school must keep to the site structure it currently has. The Trust says it cannot afford to rebuild any part of the school. A PAN of 60 will mean two classes of thirty children, which is affordable. If the school maintained a PAN of 60 going forward this would enable it in time to operate from two sites. The previous PAN of 75, which has not been reached for several years, is not affordable going forward. Therefore the school is faced with two options. It can either reduce the PAN or find a way to fund the school for the extra class needed to maintain the PAN of 75. To date no additional funding has been secured through the ESFA route leaving a reduction in the PAN to 60 as the only option".*

15. At the meeting on 23 September 2019, the representative from the diocese indicated that she could neither support the LA's objection nor disagree with the school's reasons for reducing its PAN because she had sympathy for the positions of both parties. This is

understandable. Whilst the Trust understands the LA's need for a higher PAN than 60, the Trust is highly concerned that it cannot afford to maintain a higher PAN. The representatives from the Trust informed me that, when reserves run out next year, the Trust will not be able to continue to subsidise the budget deficit. When determining the PAN for 2020, the Trust considered that it could not legitimately consult on a PAN of 75 as this would inevitably leave spare capacity in the school and result in higher expenditure within the current formula.

16. The meeting held at the school on 23 September 2019 was helpful to me in gaining a better understanding of the difficulties here, although this has not made it any easier to reach a decision in this case. I wish to pay tribute to the professionalism of the representatives from the Trust, the LA and the diocese in attendance at the meeting. The LA was sympathetic to the difficulties of the school, and vice-versa. There is a seemingly intractable problem here which cannot be resolved without additional funding. Despite the best efforts of the Trust, no additional funding appears to be forthcoming as at the date of writing this determination.

17. In essence the Trust argues, and the LA accepts, that the difficulty for the school is that, because it is situated on three sites, it costs virtually three times as much money to run as a single school. Yet it is funded with the budget for a single school. For example, the school has three lots of broadband costs, three lots of water rates and so on. There are two infant school sites: Vicarage Road (Nursery – Year 2) and Manstone Avenue (Reception – Year 2), and one junior school site: Woolbrook Road (Year 3 – Year 6). The sites have been built at different times and are in various states of repair. One of the infant school sites (Victoria Road) is situated just over a mile (a 30 minute walk) from the junior school site and the other infant school site. This is the cause of many of the logistical difficulties. The Trust says that the distance between the sites has resulted in a need to employ two deputy heads in order to ensure that a senior member of staff can be present on site as needed during the school day; the infant sites are unable to easily share teaching assistants; there are no catering facilities on two of the sites, and so school meals have to be transported from the junior school site to the two infant school sites. The Trust says that the ESFA has looked at how the school might reduce its operational costs, but could not identify any workable solution. The most recent Ofsted report indicates that this is a well-run school, however the Trust says that the school operates in the way it does at the cost being forced to run a deficit budget and calling upon the Trust's financial reserves year-on-year. The Trust's representatives informed me at the meeting that the school could be run on a deficit budget with a PAN of 75 for admissions in September 2020 even if it did not admit as many as 75 pupils, but thereafter there would be no money left to fund any similar deficit in future years. Whilst it is always possible to make cost savings, there appeared to be no dispute between the parties that the school will continue to run at a loss whilst it operates on a PAN of 75 across the three different sites. All parties agree that additional funding is needed in order for the school to continue to operate with a PAN of 75 on three sites.

18. I was informed by the Trust that thus far the ESFA has not identified an appropriate funding stream. The LA has informed me that the ESFA recommended that the Schools Forum be approached. The Forum is due to make a decision on this point in November, however the School Finance Group (SFG) met on 11 September 2019, and made a

recommendation that the forum not approve the Trust's request for additional funds. The reasons for the recommendation were as follows:

- the school is part of a large multi-academy trust (MAT), and support should therefore be available from across the wider trust and not specifically found within the single school's resources. The SFG enquired whether the wider MAT had been approached for support.
- The SFG accepted that operating over three sites has "*created pressures through the necessity to duplicate key facilities/equipment at each site and costs relating to cleaning and caretaking, reception and mealtime staffing, KS1 teaching and leadership at each site*". The members of the SFG noted that the growth funding equivalent for a similar school is £49,450.
- There were concerns from head teachers on the SFG that, if the request was to address an ongoing structural issue, this would indicate a need for a proposed change in local formula criteria, and that the MAT should be approached for a short-term arrangement. It was explained that the overall MAT surplus balance had not been considered, however it was felt that additional funding was required to facilitate the appropriate staffing and safeguarding of the children on roll.
- Comparison was drawn between the circumstances at Sidmouth Primary school and another school in respect of which an exceptional circumstance had previously been agreed which increased the split site funding significantly for that school.
- The SFG proposed that the request be rejected taking into consideration: the existence of a clear split-site funding criteria, the absence of short-term financial support from within the wider MAT, and the precedent that this would set for other Devon schools who struggle to make complex management decisions around class structures and restrictions of their school buildings.

19. The school has been able to offer Reception places at the site preferred by parents in all but one case. Some families may have children on all three sites, and so there are staggered start times. Each site has some advantages, and some disadvantages, in terms of its accommodation. Some of the classrooms are in portacabins, and there is asbestos on one of the sites necessitating that the asbestos containing materials must be maintained in good condition in order to avoid any disturbance. The Woolbrook Road site is in a reasonably good state of repair, whereas the Manstone Avenue site showed considerable signs of wear and tear. There appeared to be no realistic possibilities of expanding one of the infant school sites to enable all Key Stage 1 provision to be delivered on one site. This was either because there was no scope for expansion or because the costs would be prohibitive and there is no available funding. In order for the school to be financially viable on three sites, it would really need to be full to its physical capacity of 630 with a PAN of 90, and yet it would struggle to operate with this number of children because of the way in which the different sites are configured. I was informed that it is not as high on the priority list for capital funding as some of the other local schools because it is assessed as a whole school and, whilst Manstone Avenue needs work, this is less true of the other two sites, particularly Woolbrook Road.

20. The pattern of admissions adds to the complexity of the problem. Looking at the figures in the table above, it is clear that not all parents of children living in Sidmouth choose to send their children to the school albeit that it is the only primary school in the town. In 2017, only 59 places were allocated at the school, whereas there were 84 children of Reception age; in 2018, the figure was 63 allocations out of a cohort of 95; and in 2019, the figure was 55 allocations out of a cohort of 63. Accordingly, it appears unlikely that there will be a need for 75 places in Reception for admission in September 2020, but it is difficult to predict what the appropriate PAN for the school needs to be in order to accommodate likely local demand. I asked the parties where these Sidmouth children whose parents are not applying to the school are going. The answer was that some parents may be choosing to send their children to private schools and that the school in nearby Sidbury has had a surge in popularity. From the LA's perspective, its obligation is not to secure sufficient places for children living in Sidmouth at a school which is situated in Sidmouth. It is sufficient for the LA to be able to provide places elsewhere within its area, but if there are insufficient places in Sidmouth for applicants living in Sidmouth, it is likely that the LA would need to provide transport because there is no other primary school within two miles of the home address of a child living in central Sidmouth.

21. The school has not admitted anywhere close to 75 children in Reception for many years, therefore it is difficult to argue that there is any basis for suggesting that a PAN of 75 is appropriate. The figures for the last three years support the argument that a PAN of 60 is closer to being a realistic admissions number, but this is where the problem lies. If the school admits 63 applicants (as it did in 2018), a PAN of 60 would mean that the school could refuse to admit three applicants and would not have to run an additional class, whereas the LA would have to fund three children to travel to a different school. The cost to the school of running an additional class is likely to exceed the costs of providing transport for three children to one of the other schools which are reasonably local. The Trust says that, if it could admit 75 children into Reception in September 2020, it would do so gladly. However based upon the application figures for previous years, it does not see this as a realistic possibility and it cannot afford to run additional classes in order to accommodate small numbers of two or three children over 60.

22. Another complicating factor, however, is that the school receives a considerable number of in-year applications to the Key Stage 2 classes. For example, there are 86 children in the current Year 6. The Trust says that a PAN of 75 would be appropriate for the junior school if it were a separate school, but a PAN of 75 is unworkable for Reception. The school has not received any revenue allocation for pupils admitted into Year 6 after census day, and pupils admitted into Year 5 after census day are not funded until the next school year. This has exacerbated the school's financial difficulties. The Trust says it would have retained a PAN of 75 if it had considered that there was any reasonable possibility of admitting 75 pupils to Reception in September 2020. The last thing the Trust would want is for Sidmouth parents to be driving their children past their local school because they are unable to obtain a place at the school, but the Trust cannot plan on the basis of a PAN of 75 which is highly unlikely to materialise. If the school were to maintain a PAN of 60 going forward, this would enable it to downsize to two sites in the longer term.



23. The LA is concerned about the strategic implications of the loss of places. The LA has informed me that the ESFA recommended that the Trust approach the Schools Forum for additional funding. The LA has also informed me that, before making its recommendation that the Schools Forum refuse the Trust's request for additional funding, the SFG had interrogated the Trust's financial position by looking at its accounts. The LA is recognised as a low funded local authority, and therefore the decisions made by the SFG recognise the general funding pressures and the impact decisions have on other school's budgets. If the Schools Forum upholds the SFG's recommendation to refuse additional funding, which is likely, the LA would not seek to challenge this decision by approaching the Department for Education.

24. I requested details of the school's financial position. Originally I was provided with figures showing the extent of the savings which could be made if the school operated from two sites instead of three. In summary, the Trust claims that the annual savings would be a total of £157,790 in total (comprising £130,000 in staffing costs; £18,790 in resources and £9000 in maintenance costs). This was not the information I had requested, and so I have not interrogated these figures. The information is useful in terms of understanding why the school wishes to downsize in the long term in order to operate from two sites, and there is no doubt that operating over two sites will reduce the school's budget costs.

25. On 4 October 2019, the Trust provided the following additional information in relation to the school's budget deficit and the Trust's reserves.

*“School Balances*

*2016-17      £82000 deficit*

*2017-18      £94000 deficit*

*2018-19      £135000 deficit*

*Trust Reserves – end of financial year position*

*2016-17      £1097000*

*2017-18      £1023000*

*2018-19      £800000 (currently being finalised)*

*Planned budgets*

*Sidmouth*

*2020-21      £90000 deficit (this included a possible class reduction)*

*2021-22      £169000 deficit*

*Trust reserves – supporting 13 other school as well as Sidmouth*

2019-20      £500000

2020-21      £318000

2021-22      £2000.”

26. There is a significant amount of information missing which would I consider be needed in order to understand these figures fully. Principally, it is unclear what the position is in relation to the other 13 schools in the MAT; it is unclear why the Trust's reserves are planned to reduce from £800,000 to £500,000 from 2018-2019 to 2019-2020; and there is no information explaining why the Trust's reserves in 2020-2021 (the year in question) are £318,000 and reduce to £2000 in 2021-2022. The school's budget deficit for 2020-2021 is £90,000 ( $318,000 - 90,000 = 228,000$ ). One possibility is that the Trust is supporting other schools in the MAT with budget deficits. Again, I have not interrogated these figures (this would involve my scrutinising the MAT's financial accounts in detail). All this said, I have no reason to question the integrity of the Trust, and so I am prepared to take this information at face-value however I did ask the LA whether it had any comments on these figures particularly since the SFG had concluded that the Trust had sufficient reserves to support the school's deficit. The LA has responded simply to acknowledge the information and has not commented on the figures.

27. I appreciate the arguments of the Trust and the LA in this case. Nevertheless, I have to make a decision as to whether or not to uphold the LA's objection. I have found this a difficult decision to make. It is not possible to predict exactly the number of allocations which will be made to the school in September 2020. Based upon the LA's prediction of an average 74.6 percent take-up of a cohort of 80 children, the number of allocations would be 59, and therefore a PAN of 60 would be appropriate. On the other hand, if the percentage take-up is the same as last year, the figure would be 87.3 percent of 80, which is 70 allocations. The school has had a good Ofsted report recently, and received 10 applications for Key Stage 2 places in September. If the two are linked, it may be that there will be a higher number of applications to Reception in September 2020. If the number of allocations is higher than 60 and less than 75, which seems likely, this will have adverse financial implications for the school.

28. The Trust has informed me that it can only continue running the losses it has for one more year. If I uphold the objection and require the school to adopt a PAN of 75, this could strengthen the Trust's arguments for additional funding from the ESFA. I understand that this remains a possibility. I am extremely reluctant to impose a decision upon the Trust which will lead to the likelihood of depleting most of its reserves. The Trust operates 14 primary schools across Devon. If the school is unable to reduce its PAN and does not receive additional funding, the Trust has said that its losses will become unsustainable. If I uphold the LA's objection and the PAN becomes 75 and no additional funding is forthcoming, it is likely that the school will reduce its PAN again for admission in September 2021 by which time the Trust will have sustained substantial further losses. I am also mindful that, if the number of allocations is only slightly over 60, the cost to the LA of

arranging transport to Sidbury for two or three children will be less than the cost to the school of providing an additional class.

29. On the other hand, if 15 primary school places are “*removed*” from the system, the LA says that this could result in a loss of school capacity requiring future capital investment. The evidence suggests that this is likely to become more of a problem for the LA in Sidmouth at Key Stage 2 than at Key Stage 1. I am informed that the reason for in-year applications at Key Stage 2 is that families move in to the area. It does not appear to be the case that children are moving to Sidmouth Primary School from other relatively nearby primary schools in Devon. If I do not uphold the objection, the PAN is set at 60 and there is an increase in demand for Reception places at the school in September 2021, there is nothing the LA can do to influence the setting of the PAN at that stage. It cannot object to a PAN which has not been reduced in the year in question. Local authorities have a challenging task in complying with their obligations under section 14 of the Education Act 1996 to ensure there are sufficient schools providing appropriate education for pupils in their area in a situation where large numbers of schools are their own admission authorities. As the parties have explained to me, “*the LA cannot lose capacity and the Trust cannot go bust. Neither can be allowed to happen*”, but I have to make a decision which may result in one of these outcomes.

30. In September 2020, there will be 80 children in Sidmouth who will need a primary school place, according to the LA’s figures. The Trust has said that, if I do not uphold this objection and the PAN remains at 60, it would consider offering over PAN if the school does receive applications for 75 places in September 2020. I have no doubt that the parties will work cooperatively if they can. But this would be a one-off fix, and there is a long-term problem here which needs resolving. It is a two-fold problem:

- the school cannot operate within its current budget allocation because it is effectively three schools with funding for only one school; and
- the school cannot run effectively and efficiently from three sites and it cannot consolidate to two sites without either a reduction in PAN or a considerable injection of capital funding.

31. It is with considerable reservations that I have decided on balance to uphold this objection. I do so in the hope that the school having to operate at a PAN of 75 with the prospect of sustaining further continued financial losses will act as a persuasive factor for the ESFA in determining whether to allocate additional funding to the school. The optimum outcome for Sidmouth and for the effective use of public funding would be to enable the school to continue to educate children living in Sidmouth whose parents wish to send them to this school. As I understand the position, asking the ESFA to reconsider providing additional funding is a possibility. The prospects of success in pursuing this avenue will be reduced if I do not uphold this objection. I am aware that both the school and the LA would wish to accommodate as many Sidmouth children at the school whose parents express a preference for the school as possible. If additional funding is forthcoming, there may be a way to facilitate this. If additional funding is not forthcoming, I fully expect that the school will

reduce its PAN to 60 again for admission in September 2021. The LA may then make a further objection to the Adjudicator, however the Trust will then have further depleted its reserves and will not be able to continue to subsidise the shortfall in funding. If this causes a lack of capacity within the local authority's area, the LA will need to plan for this and pay to rectify it. The Trust cannot continue to bear the financial burden of this if it has no reserves. The LA is the body responsible for ensuring sufficient places. The Trust is responsible for ensuring the effective running of the school. Both the Trust and the LA have said that they need me to make a decision in order that they can move forward because there is an impasse currently.

32. Having considered all relevant factors, I have decided to uphold this objection. In making this decision, I have considered that the number of offers likely to be made in September 2020 will be somewhere between 59 and 70. If the school admits more than 60 applicants, it will need to set up an additional class at considerable financial cost. The Trust has maintained PANs of 90 and 75 which have resulted in it sustaining a loss for several years. If the school's PAN is reduced to 60, this will cause the LA difficulties in terms of a loss of strategic capacity and the funding of additional transport costs. In 2019, the school admitted 87.3 per cent of the cohort of children living in Sidmouth. The LA predict that a similar percentage of parents will apply in September 2020, which will result in approximately 70 applications. On this basis, a PAN of 60 is too low. For this reason, and in the profound hope that the Trust will secure the additional funding it needs to obviate the financial losses it has sustained, I uphold the LA's objection.

## Summary of Findings

33. I find that the school reduced its PAN for admission in September 2020 from 75 to 60 because it has not admitted as many as 75 applicants in Reception for many years, and has no reason to expect to do so in September 2020. I nevertheless find that it is more likely than not that the school will have more than 60 applicants for admission to Reception in September 2020. I also find that the loss of strategic capacity which would result from the reduction in the school's PAN from 75 – 60 would lead to, at best additional transport costs, and at worst to a risk that the LA, being a low-funded authority, would be unable to comply with its obligation to provide sufficient places or would need to incur additional capital costs.

## Determination

34. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements determined by the First Federation Trust for Sidmouth Church of England Primary School, Devon.

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: 11 October 2019

Signed:

Schools Adjudicator: Marisa Vallely