



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2170**

**Admission authority: Somerset County Council for Wadham School, Crewkerne**

**Date of decision: 3 December 2021**

## Determination

**In accordance with section 88E of the School Standards and Framework Act 1998 (the Act), we approve the proposed variation to the admission arrangements determined by Somerset County Council for Wadham School, Crewkerne for September 2022.**

**We determine that the school's Published Admission Number (PAN) for 2022 will be 160 in Year 7.**

## The referral

1. Somerset County Council, (the local authority (LA)) for Wadham School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) for the school to the Office of the Schools Adjudicator (OSA). The school is currently a co-educational voluntary controlled upper school for children aged 13 to 18 in Crewkerne, Somerset. From 1 September 2022 it will be a secondary school for pupils aged 11 to 18 (Year 7 to Year 13). It is a Church of England school within the Diocese of Bath and Wells (the diocese).
2. The proposed variation is for the PAN to be reduced from 230 to 160 for Year 7 for entry in September 2022.
3. The context of the variation is that it is one of a group of variations requested for seven schools in the area of Crewkerne and Ilminster (this is the only upper school out of that group, the others are currently in the primary or middle school sectors) and which result from a wider school reorganisation undertaken by the LA for September 2022. The case reference numbers for the other variations requested for 2022 are VAR2164 to VAR2169. These will be dealt with in two further determinations (one covering case reference numbers

VAR2164 and VAR2166 to VAR2169 and another covering case reference number VAR2165).

4. The LA has undertaken to restructure educational provision in the Crewkerne and Ilminster areas of Somerset in the light of falling pupil numbers. After a consultation period, Somerset County Council's Cabinet (the Cabinet) held a meeting on 17 March 2021 and made the decision to move schools in the area from three-tier to two-tier. The school will therefore change from being an upper school for 13 to 18 year olds to become a secondary school for 11 to 18 year olds from September 2022. In September 2022, therefore, the school will admit pupils into Years 7 and 8 and, from September 2023, it will admit pupils into Year 7. We have noted that this is currently the only upper school serving this area and will be the only secondary school in the area from September 2022.

5. The group of variation proposals also included one for the school for September 2021. This request was for a PAN reduction for Year 9 in September 2021 (the final year when the school will admit pupils from Year 9) from 230 to 160. The variation was approved (see case reference number VAR2171).

## Jurisdiction and procedure

6. The referral was made 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 say (insofar 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”.

7. Mr Thomas Brooke and I, Dr Robert Cawley, have been appointed as joint adjudicators for all the variation proposals submitted by the LA, as is permitted by the Education (References to Adjudicator) Regulations 1999. Mr Brooke is the lead adjudicator for the entire application made by the LA. We have worked on this variation request together. I have taken the lead for writing this determination.

8. The LA has provided us with confirmation that the appropriate bodies have been notified. We have seen confirmation that the school's governing board has been consulted

on the proposed variation. We find that the appropriate procedures were followed, and we are also satisfied that the proposed variation is within our jurisdiction.

9. In considering this matter we have had regard to all relevant legislation, and the School Admissions Code (the Code).

10. The information we have considered in reaching our decision includes:

- a. the referral from the local authority dated 30 June 2021, along with supporting documents;
- b. the LA's determined arrangements for 2022 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the school;
- d. a map showing the location of the school and other relevant schools;
- e. information available on the websites of the local authority, the school, and the Department for Education; and
- f. consultation and the Cabinet documents relating to the implementation of changes in the school estate in the Crewkerne and Ilminster areas from September 2022.

11. We have also taken account information received during a meeting conducted with representatives of the LA, the diocese, and schools involved in the wider group of variation proposals, which took place on 24 November 2021. At that meeting, the Headteacher of Wadham School confirmed that the school were fully in support of the proposed reduction in PAN at the school.

12. In its written response, the diocese confirmed that it has no objection to the variation requested by the LA in respect of the school. The response also recorded that the diocese recognised that the change will support the wider reorganisation of the schools in the area as well as it supporting future growth for the schools involved. At the meeting on 24 November 2021, support for the proposal was reiterated by the diocesan representative present.

13. In September 2022, the school will change from being an upper to a secondary school and will admit pupils into Year 7 for the first time. It will also, for that year only, admit pupils directly into Year 8. Therefore, there is not currently a Year 7 PAN upon which to base a variation request. We have also noted that the reduction in PAN requested for Year 7 in September 2022 was made at a time when the PAN in Year 9 was 230. Since that time, we determined that from September 2021, the PAN for Year 9 was to be reduced to 160 (see case reference VAR2171). We note that the Code does not specifically deal with the situation for determining a PAN for a new year group in a school. However, it does clearly specify the circumstances in which an admission authority can vary its arrangements

without reference to the OSA. The situation being dealt with by this determination is not listed in the Code as one that an admission authority can deal with without reference to the OSA, and so we have taken the view that we do need to make a determination on the variation requested to the school's PAN for Year 7 for September 2022.

14. A revised Code came into effect on 1 September 2021. Since the variation request and the responses to it were framed in terms of the 2014 Code, I shall use the references to it which have been made by the parties to the case and will indicate only if the new Code differs in any respect. It is of course the revised version of the Code which is now in force.

15. When the arrangements for the school were determined, the 2014 Code then in force provided that children previously looked after in England and then adopted or made subject to a child arrangements or special guardianship order should have equal highest priority with looked after children in school admission arrangements (subject to certain exemptions in schools with a religious character). The new Code has extended the level of priority for looked after and previously looked after children to children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted. All admission authorities were required to vary their admission arrangements accordingly by 1 September 2021. There was no requirement for this variation to be approved by the Secretary of State and no reason for the school to send us its varied arrangements. We have made our determination in this case on the basis that the admission authority will have varied its arrangements in order to comply with the new requirements as set out above.

## **The proposed variation**

16. The school is currently an upper school, with students in the 13 to 18 age range. The Cabinet have approved after a consultation that, from September 2022, the school is to provide education for the full secondary age range of 11 to 18. The variation request is related to the PAN for Year 7 from September 2022. A previous request for September 2021, dealt with under case reference number VAR2171, was approved for the PAN for entry to the school (Year 9 at that point) to be reduced from 230 to 160. Along with the requested PAN for Year 7 for September 2022, the PAN reduction in September 2021 was part of the plan to ensure that the increased number of year groups are able to fit within the school's existing net capacity when it becomes a secondary school.

17. 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. We will consider below whether the variation requested is justified by the change in circumstances.

## **Consideration of proposed variation**

18. The school is situated in Crewkerne, Somerset. It is judged to be 'Good' by Ofsted. The school's net capacity is recorded on the Department for Education's 'Get Information

About Schools' website to be 788 pupils. The school currently has fewer than 500 pupils on roll. As a consequence of the school running under capacity, there is instability in the school's budget. This has resulted in the LA having to, at points in the past, write-off accrued debts because of an ongoing budgetary overspend.

19. The LA set out the context for the wider group of variations as follows:

"In March this year [2021] our Cabinet determined statutory proposals to change the structure of education in the Crewkerne and Ilminster area of Somerset from a three tier system to a two tier system. This decision was a culmination of many years debating the school structure in the area which involved judicial review proceedings along the way. Pre-publication consultation was carried out in the autumn term 2020 and the variations that have been submitted today were the subject of much discussion during the course of this consultation.

One of the overarching factors in this complex piece of work is that our consultation activity over many years has demonstrated that the single greatest point of consensus in a community that has long been divided on this issue, is that small, rural schools should be preserved and protected. We consider this to be the overriding collective parental preference in this community. With regards to Crewkerne in particular, the evidence tells us that we can only secure the future of these small rural schools by setting PANs across the town and surrounding villages at a level below the number of pupils in the forecast. This deliberate approach is intended to secure sufficient pupils to sustain the smallest schools."

20. In the report presented to the Cabinet in respect of the proposed changes to the structure of education in the area, it was stated that:

"There have been concerns about falling pupil numbers in the Crewkerne and Ilminster area, the consequential effect in being able to deliver high quality education, the detrimental effect on the curriculum, increasing costs and the resulting financial unsustainability in the three-tier school arrangements in the area for over a decade."

21. The LA set out its full proposals as follows:

"In accordance with the Department of Education's statutory guidance as set out in 'Making Prescribed Alterations to Maintained Schools' and 'Opening and Closing Maintained Schools', I am writing to confirm that the Local Authority, as the decision maker, has determined the following prescribed alterations and closures to take effect from September 2022. These prescribed alterations and closures will change the current school system in the Crewkerne and Ilminster area of Somerset from a three-tier to two-tier system.

	<b>School/Category/ DfE Number</b>	<b>Proposed prescribed alterations (including proposed changes to the published admission number)</b>	<b>Implementation Date</b>
1	Wadham (Voluntary Controlled) DfE number 933/4508	<ul style="list-style-type: none"> <li>• Change of age range from 13-19 to 11-19</li> <li>• The published admission number to reduce from 230 to 160 for year 7</li> </ul>	September 2022
2	Greenfylde First School (Voluntary Controlled) DfE number 933/3066	<ul style="list-style-type: none"> <li>• The amalgamation of Greenfylde with Swanmead to form a single primary school.</li> <li>• This would be achieved by the closure of Swanmead and a significant enlargement of Greenfylde.</li> <li>• Change of age range from 4-9 (First) to 4-11 (Primary). This would be a split site primary school over the existing Greenfylde and Swanmead sites.</li> <li>• Significant enlargement from the current 380 places to 525 places.</li> <li>• The published admission number to reduce to 75, a reduction of 1 from the existing Greenfylde limit of 76.</li> </ul>	September 2022
3	Swanmead Middle School (Community) DfE number 933/4288	<ul style="list-style-type: none"> <li>• The amalgamation of Swanmead with Greenfylde to form a single split site primary school.</li> <li>• This would be achieved by the closure of Swanmead and a significant enlargement of Greenfylde.</li> </ul>	August 2022
4	Merriott First School (Community) DfE number 933/2046	<ul style="list-style-type: none"> <li>• Change of age range from 4-9 (First) to 4-11 (Primary).</li> <li>• The published admission number to decrease initially from 24 to 10 for the first 4 years of operating as a primary school, with a subsequent increase to 20 from 2026.</li> </ul>	September 2022
5	Haselbury Plucknett First School (Voluntary	<ul style="list-style-type: none"> <li>• Change of age range from 4-9 (First) to 4-11 (Primary).</li> </ul>	September 2022

	Controlled) DfE Number 933/3278	<ul style="list-style-type: none"> <li>The published admission number to decrease initially from 12 to 8 for the first 4 years of operating as a primary school, with a subsequent increase to 12 from 2026.</li> </ul>	
6	Ashlands First School (Voluntary Controlled) DfE Number 933/3035	<ul style="list-style-type: none"> <li>Change of age range from 4-9 (First) to 4-11 (Primary).</li> <li>The published admission number to decrease from 30 to 10 for the first 4 years of operating as a primary school, with a subsequent increase to 20 from 2026.</li> </ul>	September 2022
7	Misterton First School (Voluntary Controlled) DfE Number 933/3080	<ul style="list-style-type: none"> <li>To close the school.</li> <li>Those pupils who are displaced to transition to a preferred nearby primary school.</li> </ul>	August 2022
8	St Bartholomew's First School (Voluntary Controlled) DfE Number 933/3037	<ul style="list-style-type: none"> <li>Change of age range from 4-9 (First) to 4-11 (Primary).</li> <li>The published admission number to decrease initially from 36 to 10 for the first 4 years of operating as a primary school, with a subsequent increase to 20 from 2026.</li> </ul>	September 2022
7	Hinton St George Primary School (Voluntary Controlled) DfE Number 933/3064	<ul style="list-style-type: none"> <li>To note this school became a designated primary school in September 2020.</li> <li>The published admission number to decrease initially from 12 to 8 from 2022, with a subsequent increase to 12 in 2026.</li> </ul>	September 2022

There are also three academy schools within the area. Two of these, St Mary and St Peter's Church School (933/2044) and Shepton Beauchamp Church School (933/2049) Schools have been designated primary schools for some time.

Maiden Beech Academy (933/4287) is a middle school in Crewkerne and part of the Bridgwater and Taunton College Trust. To provide an overview of all the proposals, I can advise that the Bridgwater and Taunton College Trust consulted on a proposal in parallel with the local authority statutory consultation. The linked proposal is that Maiden Beech would change its age range from 9-13 to 4-11 with a proposed published admission limit of 30. The proposed significant change to Maiden Beech Academy would be determined by the Regional Schools Commissioner in May this year."

22. The process that the LA has followed to restructure the schools in the Crewkerne and Ilminster area is not the concern of this determination. However, we have looked at consultation documentation and the report for the Cabinet meeting in March 2021. We have also noted that the outcome of the recent judicial review of the LA's decision (see *WC & Anor, R (On the Application Of) v Somerset County Council [2021] EWHC 2936 (Admin)* (04 November 2021)) made clear that, in the areas covered by the judgment, the LA followed the required process.

23. The LA's variation request for the school for 2021 set out important context for that request and for the variation request made for September 2022:

"Whilst the implementation date for these proposals is September 2022, in discussion with the Headteacher and Governing body, it has been agreed that the LA will seek a variation for the 2021 year of entry to Wadham School. This is to ensure a smooth transition and to manage growth. The head teacher has advised the LA that Wadham will be resourcing to accommodate 160 pupils based on their allocation for September 2021. This matches resourcing levels for previous intake years. An admission limit of 160 would generate a pupil capacity of 800 in years 7-11, any higher and this will exceed accommodation capacity... Pupil numbers have been declining at Wadham School over a long period and the reality is that the current admission limit of 230 is far greater than demand. ...The Local Authority, head teacher and governing body are concerned that if the 230 limit is retained for the academic year 2021 then there is the potential for numbers to increase beyond 160 in year 9 putting additional pressure on accommodation in September 2022. ... In order to accommodate the additional two year groups in 2022, the Local Authority is applying to vary the admission limit in September 2022 to 160 (please see separate variation request). The Local Authority also want to seek the same variation for September 2021. It is forecast that an additional 334 pupils will join the school in years 7 and 8 in September 2022. This will see the number on roll rise from 443 (13-16) currently to 772 (11-16) In addition, there is a very small sixth form of 34 students. The viability of the sixth form is to be reviewed by the Governing Body. It is the Local Authority view that the sixth form is not viable. The physical capacity set by the school is 775 but this is within a range of 720-801 using the DfE capacity tool. This accommodation assessment includes the sixth form accommodation An admission limit of 160 would generate a pupil capacity of 800 in years 7-11 and be in line with the available accommodation."

24. The Code permits a variation to be requested if there is a major change in circumstances. The Cabinet decision [to implement the prescribed closures and alterations] was not made until 17 March 2021, which was two months after the date that the arrangements for the school for 2022 were determined by the LA. Under those circumstances, we are satisfied that the variation requested is justified under paragraph 3.6 of the Code.



25. Numbers for Year 7 at the school in September 2022 are forecast to be 154, which is under the PAN of 160 requested by the variation.

26. There is no formal consultation required for a variation. Ordinarily, this means that parents and others do not have the opportunity to express their views. We also note that once the PAN has been set for a particular year then nobody, 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. This process also allows for objections to be made to the adjudicator. None of this is normally afforded by the variation process. However, we note that parents, the governing board, and others, have had the opportunity to comment on the wider proposals in relation to the restructuring of secondary education in the Crewkerne and Ilminster area.

27. The school will be the main secondary school serving the Crewkerne and Ilminster area. The adjudicators have therefore looked at the implications for future years of agreeing to the variation. The LA provided forecast pupil number data for the school for the 10 years from 2021 to 2031, as shown in the table below:

Table 1 – Forecast Pupil Data 2021 to 2031

Pupils by NCY	Year	7	8	9	10	11	12	13+	Total Pupils (Yrs 7-13)	Total Pupils (Yrs 7-11)
Baseline	2020	0	0	153	137	153	14	19	476	443
Forecast	2021	0	0	150	153	135	19	12	469	438
Forecast	2022	154	158	159	150	151	17	17	806	772
Forecast	2023	146	155	159	159	148	19	15	801	767
Forecast	2024	153	147	156	159	157	19	17	807	772
Forecast	2025	144	154	148	156	157	20	16	795	759
Forecast	2026	118	145	155	148	154	20	17	756	719
Forecast	2027	131	119	146	155	146	19	17	732	696
Forecast	2028	138	132	120	146	153	18	17	723	688
Forecast	2029	144	139	133	120	144	19	16	714	679
Forecast	2030	124	145	140	133	118	18	17	694	659
Forecast	2031	132	125	146	140	131	15	16	704	673
							16+	12.5%		
							17+	88.0%		

The table shows that for the next decade, the total number of students in Year 7 is not forecast to be above the PAN of 160 requested for this year group. Additionally, the total number of students is not forecast to exceed the total capacity of the school in any years other than between 2022 and 2024, but then only by small numbers and these numbers could change prior to those dates. There is also forecast to be a small amount of spare capacity in all other years. Reducing the PAN for Year 7 to 160 does not appear to have any implications for places for secondary-aged pupils in the area for the next 10 years.

28. We are of the view that the proposed restructuring of educational provision in the Crewkerne and Ilminster areas does constitute a major change in circumstances. The arguments submitted by the LA for the change in PAN for this school are convincing and are clearly underpinned by pupil number forecasts for the next 10 years in line with the need to take into account the net capacity of the school, which will be taking on board Year 7 and 8 pupils from September 2022.

29. We have decided that the variation is justified by the circumstances and therefore approve the variation requested.

## **Determination**

30. In accordance with section 88E of the School Standards and Framework Act 1998 (the Act), we approve the proposed variation to the admission arrangements determined by Somerset County Council for Wadham School, Crewkerne for September 2021.

31. We determine that the school's Published Admission Number (PAN) for 2022 will be 160 in Year 7.

Dated: 3 December 2021

Signed:

Schools adjudicator: Dr Robert Cawley

Schools adjudicator: Tom Brooke