



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2209

**Admission authority:** Hampshire County Council, for Buryfields Infant School, Hampshire

**Date of decision:** 21 December 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 Hampshire County Council for Buryfields Infant School for September 2021.

I determine that for the year beginning September 2021 the published admission number will be reduced from 70 to 60.

I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.

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. Hampshire County Council (the local authority), the admission authority for Buryfields Infant School, Hampshire (the school) has referred a proposal for a variation to the admission arrangements for September 2021 (the arrangements) for the school to the adjudicator. The school is a co-educational community infant school for children aged 4 to 7 in Hampshire.
2. The proposed variation is to reduce the published admission number (PAN) for admissions in the year beginning September 2021 from 70 to 60.

## 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 School Admissions Code (the Code) say (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 has been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am satisfied that the proposed variation is within my jurisdiction. 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.

5. In considering these matters I have had regard to all relevant legislation, and the Code.

6. The information I have considered in reaching my decision includes:

- a. the referral from the local authority received on 17 November 2021, supporting documents and further information provided at my request;
- b. the determined arrangements for 2021 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the school; and
- d. information available on the websites of the local authority, the school and the Department for Education.

## The proposed variation

7. The proposed variation is to reduce the PAN for the school from 70 to 60 for the year beginning September 2021, that is, the current school year.

8. Paragraph 3.6 of the Code 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. The school's headteacher and governing body have explained that pupil numbers at the school have been gradually reducing in recent years and that the school has not admitted up to its PAN since September 2018. The admission numbers for the Reception Year intake for the school in the last four years were as follows:

<b>Year</b>	<b>Pupils admitted to Reception Year</b>
2018	70
2019	53
2020	66
2021	62

10. The school has explained that the current number of children on roll in its Reception Year is 61.

11. The major change in circumstances relied upon by the local authority is that it has, in discussion with the school, decided to take action to limit pupil numbers at the school so that the need to create a small third reception class or mixed year group classes can be avoided in the future.

12. The school is an infant school so the requirement in the School Admissions (Infant Class Sizes) (England) Regulations 2021 not to have more than 30 children in a class with a single qualified teacher applies.

13. If permitted to reduce its PAN to 60, the school plans to work down its pupil numbers in the Reception Year to 60 as soon as any pupil in the Reception cohort of 61 leaves. The school's current Year 1 and Year 2 cohorts each comprise 60 pupils. Once the Reception Year cohort reduces to 60 pupils, the school will be able to move from its current arrangement of seven classes to six classes. This will relieve operational and financial pressure currently experienced by the school by having to operate seven classes, each with

under 30 pupils. The local authority has explained that although a PAN of 70 assumes a full school of 210 children (70 children per year in each of Reception Year, Year 1 and Year 2), the actual number of pupils on roll has been significantly below this number in recent years:

<b>Year</b>	<b>Total number of pupils on roll at the school at the October census</b>
2018	188
2019	178
2020	188
2021	181

14. The case made by the local authority and the school to reduce the school’s PAN makes sense as pupil numbers (both admissions to the Reception Year and total pupil numbers on roll) have been gradually falling in recent years. I note that the current numbers in Reception Year are only one above the PAN requested and, because the normal admission round for entry in September 2021 has passed, it is unlikely that any parent has an outstanding application that would be frustrated if the requested PAN reduction were to be approved.

15. The local authority has explained that there are “no projected imminent increases in demand for school places in the planning area” and that there are schools within the planning area that currently have available places in the Reception Year. As such, the local authority does not envisage any difficulty in meeting its duty to ensure that there are sufficient school places in the local area in the current academic year. The local authority has provided the following figures in relation to all schools admitting children from Reception Year within the planning area:

<b>School</b>	<b>Current PAN</b>	<b>Number of pupils admitted in 2018</b>	<b>Number of pupils admitted in 2019</b>	<b>Number of pupils admitted in 2020</b>	<b>Number of pupils admitted in 2021</b>
<b>Buryfields Infant School</b>	70	70	53	66	62
<b>Hook Infant School</b>	120	105	120	111	120

<b>Long Sutton CofE Primary School</b>	20	10	21	11	16
<b>Oakwood Infant School</b>	90	79	82	77	81
<b>Whitewater CofE Primary School</b>	20	17	14	14	15
<b>Total</b>	320	281	290	279	294

16. These figures indicate that, even if the school's PAN were to reduce from 70 to 60, there would remain sufficient school places in the local area to meet expected demand for school places in the current year. The total of the PANs for the schools listed is 320 and the numbers of pupils admitted to all of the schools listed in total has not come close to that figure in the last four years, with the highest figure of 294 in 2021. This indicates that there is spare capacity in the planning area of in excess of 25 Reception Year places in the current year. If the school's PAN were to reduce by 10, this spare capacity would reduce from 25 to 15 Reception Year places.

17. For these reasons set out above, I approve the request for a reduction in PAN from 70 to 60 for September 2021. Acknowledging that the school's current Reception Year cohort is 61 pupils, the local authority and the school will be aware that my decision to approve the PAN reduction does not affect its responsibility to comply with the School Admissions (Infant Class Sizes) (England) Regulations 2021 requirement not to have more than 30 children in a class with a single qualified teacher.

18. For the avoidance of doubt, my decision to approve the request to reduce the PAN from 70 to 60 for September 2021, the current school year, has no effect on the school's admission arrangements for September 2022 or September 2023. I note that the local authority is considering making a request to an adjudicator to reduce the school's PAN for September 2022 from 70 to 60, and is currently consulting on a PAN reduction from 70 to 60 for the school's admission arrangements for 2023. I should also make clear that the PAN relates only to the normal year of admission, that is Reception in the case of this school. For Years 1 and 2 the PAN that applied in Reception is not relevant. The decision as to whether a child can be admitted depends only on whether such admission would cause prejudice to the efficient use of resources or efficient provision of education. In reaching a decision on

this, should it be necessary to do so, the admission authority will be aware that such prejudice may arise by reason of its having to take measures in order to comply with its duties in relation to infant class sizes.

## Consideration of the arrangements

19. Having considered the arrangements as a whole it appeared to me that the following matters may not conform with requirements of the Code and so I brought them to the attention of the local authority. These matters were:

- a. **The definition of a previously looked after child in footnote (i) of the arrangements does not appear to reflect fully the definition found in paragraph 1.7 of the Code and its footnotes.**

The local authority has agreed that the definition does not meet the relevant requirements of the Code. It has explained that this was an administrative oversight and has indicated that it will ensure that the arrangements are revised accordingly. I am grateful to the local authority for its cooperation on this matter.

- b. **Paragraph 1.8 of the Code requires that oversubscription criteria must be clear. Oversubscription criterion 6 and footnote (vi) of the arrangements use the term “the catchment school” without providing any definition. I am concerned that, without further explanation, the meaning of this term would be unclear to parents reading the arrangements.**

The local authority did not agree that the school’s arrangements may be unclear in this respect. The local authority explained that catchment areas are a long-established feature of admission arrangements in the locality and that the Code provides a definition of ‘catchment areas’ and does not require admission arrangements to include such a definition. It further explained that the arrangements includes a hyperlink to a page on the local authority’s website ‘School Catchment Area Finder’ which it contends means that “parents will be able to identify through these mechanisms, what their clearly defined catchment area is, and therefore, whether they fall under the catchment in the oversubscription criterion”.

I accessed the aforementioned hyperlink and undertook a search using the address and postcode of the local authority’s offices. The search results included two schools listed under a heading “Catchment Schools aged 4-6”, namely St. Bede CE Primary School and The Westgate School.

I am not concerned with the use of the term “catchment area” within the arrangements which, as the local authority sets out, is a well understood term

and is indeed defined in the Code. I am, however, concerned that the term “the catchment school” as it is currently used in the arrangements may be unclear to some parents. When I undertook the abovementioned search, two schools were indicated. In such a scenario, where an address appears to fall within more than one school’s catchment area, which is “the catchment school” for the purposes of oversubscription criterion 6 and footnote (vi) and how is a parent to understand this? I find this aspect of the arrangements to be unclear contrary to paragraph 1.8 of the Code and require the local authority to amend the arrangements to remedy this lack of clarity.

- c. **Paragraph 1.8 of the Code requires that oversubscription criteria must be clear and paragraph 1.35 of the Code requires any use of random allocation to be supervised by someone independent of the school. I am concerned that the ‘Tie-breaker’ section of the arrangements explains that random allocation will be used without making clear that the process will be supervised by someone independent of the school.**

The local authority did not agree that the school’s arrangements may be unclear in this respect. It explained that the arrangements made reference to further explanation of the random allocation procedure on the local authority’s website. I accessed the local authority’s website, typed “random allocation” into the main search engine and the top result was ‘Hampshire School’s Admission Arrangements’. I clicked on that option and was presented with a long list of documents, including ‘School admissions random allocation procedure (tie breaker)’. Having read that document, I am satisfied that the local authority has made it clear in that document that the random allocation procedure will be overseen by someone independent of the school. On that basis, I find that the arrangements are clear and in compliance with paragraph 1.8 of the Code in this respect.

- d. **Paragraph 2.15 of the Code requires that each admission authority must maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission. I am concerned that the arrangements may not comply with this requirement because they indicate that the waiting list will be maintained centrally by the local authority (the admission authority) until 31 August 2021 and by the school thereafter.**

The local authority did not agree that the school’s arrangements may be unclear in this respect. It explained that the relevant waiting list is maintained “well past 31 December of each school year of admission”. It explained that although it has responsibility, as admission authority, for maintaining the waiting list, it delegates the management of the waiting list to the school from 31 August. Nevertheless the waiting list is maintained beyond that date, indeed, right through to 31 August 2022, and that is expressly referenced in the arrangements. I am grateful to the local authority for this explanation and

am satisfied that although the local authority delegates management of the waiting list for some of the year, it maintains responsibility for that waiting list and has made arrangements to ensure that the waiting list is maintained until at least 31 December 2021. As such, I find that the arrangements are clear and in compliance with paragraph 1.8 of the Code in this respect.

## **Determination**

**20. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Hampshire County Council for Buryfields Infant School for September 2021.**

**21. I determine that for the year beginning September 2021 the published admission number will be reduced from 70 to 60.**

**22. I have also considered the arrangements under section 88I(5) of the Act and find that they do not comply with requirements relating to admission arrangements in the ways set out in this determination.**

**23. 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: 21 December 2021

Signed:

Schools adjudicator: Jane Kilgannon