



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2222

Admission authority: The governing board of SS Peter and Paul Catholic Primary School, Mitcham

Date of decision: 24 February 2022

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 the governing board of SS Peter and Paul Catholic Primary School, Mitcham for September 2022.

I determine that the published admission number for 2022 will be 30 in Reception.

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. The governing board for SS Peter and Paul Catholic Primary School (the school) has referred a proposal for a variation to the school's admission arrangements for September 2022 (the arrangements) to the adjudicator.
2. The school is a voluntary aided school for children aged 3 to 11 in Mitcham in the London Borough of Merton (the borough). The local authority (LA) for the area in which the school is located is Merton Council. The school is of a Catholic religious character, located in the area covered by the Catholic Diocese of Southwark (the diocese).

3. The proposed variation is for the published admission number (PAN) to be reduced from 60 to 30 for Reception (YR) for entry in September 2022.

Jurisdiction and procedure

4. 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”.

5. The governing board has provided me with confirmation that the appropriate bodies have been notified. The notification was undertaken by the LA on behalf of the governing board at the same time as it was notifying the appropriate bodies about other variations it was proposing. 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 also 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.

6. In considering the variation request, and those matters I have identified under 88I, I have had regard to all relevant legislation, and the Code.

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

- a. the referral from the governing board dated 7 January 2022, supporting documents and further information provided at my request;
- b. the determined arrangements for 2022 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the local authority and diocese;

- d. the diocesan 'Guidance on School Admissions';
- e. information provided by the LA in respect of the wider context for the variation request, including data and a map of all of the schools in the borough;
- f. information available on the websites of the LA, the school and the Department for Education (DfE); and
- g. I have also taken account of the information I received during two meetings on 18 January 2022:
 - one with the Headteacher of the school; and
 - one with two representatives of the LA (the Service Manager (Contacts and School Organisation) and the School Admissions Team Manager).

8. This variation request has been considered in the context of the LA's wider strategy to reduce the number of forms of entry in the borough due to falling demand. As part of that wider strategy, I also considered the variation request made by the LA in respect of Bond Primary School (case reference number VAR2216) for September 2022. Another adjudicator has determined the variation request made by the governing board of The Priory Church of England Primary School for September 2022 (case reference number VAR2217).

9. Although forecast data for admission in 2023, 2024 and 2025 will be included in this determination, my jurisdiction is only for the arrangements for September 2022.

10. This determination was made after the 15 January 2022 deadline for applications for school places in September 2022. It was therefore possible for me to take into account early application data provided by the LA, though I note this is subject to change up to and beyond National Offer Day on 19 April 2022.

Consideration of the proposed variation

11. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

12. The LA divides the borough into six planning areas. The school is located to the south of Planning Area 5 (PA5) which is itself located towards the eastern side of the borough, comprising Colliers Wood, Cricket Green, Figge's Marsh, Graveney and Lavender Fields wards. PA5 includes 12 of the borough's 43 primary schools along with one of its eight secondary schools and two of its three special schools. The school is considered by Ofsted to be 'Good'.

13. The arrangements, including the PAN of 60, were determined by the school on 11 February 2021. The request is for the PAN to be reduced to 30 for September 2022.

14. I will deal with the request by the school in due course. First, I turn to look at the situation in the borough and in PA5. The reason for this is that the school has made the variation request in the wider context of what is happening in the borough, working in conjunction with the LA. The change in circumstances which has occurred since the arrangements were determined by the school was detailed by the LA in the information it provided through documentation and the meeting I held with LA representatives on 18 January 2022, for my consideration of both VAR2216 and VAR2222. Both schools are in PA5.

15. The LA reported that, after February 2021, it became increasingly aware that the COVID -19 pandemic had led to a considerable reduction in school admission applications in the borough compared to that which had been previously forecast. The LA hoped for a recovery in terms of late applications during the summer period but realised into the autumn term 2021 that the reduction in applications was a more permanent shift on top of already falling rolls. The LA has sought to take urgent action to protect the budgets of schools in the borough. In September 2021, the LA published its revised strategy, recommending a reduction of up to sixteen forms of entry across Merton primary schools to match the falling demand.

16. The LA stated that the number of applications being made to schools within PA5 has reduced. First preference numbers within the area reduced from 621 to 497 in 2021. The LA said that the reduction in applications seen in 2021 is expected to continue in the next few years. Surplus places in PA5 are predicted to rise from 302 in 2021/22 to 411 by 2025/26. The LA is acting now to reduce the numbers of forms of entry across the borough by 2025/26 to ensure the financial viability of the schools in the borough.

17. At my request, the LA provided the School Capacity (SCAP) forecast data for the numbers of primary pupils in PA5 between 2021/22 and 2025/26. This is shown in Table 1.

Table 1: SCAP primary pupil forecast data for PA5

Academic Years	Forecast Numbers in Each Primary Year Group							Total
	YR	Y1	Y2	Y3	Y4	Y5	Y6	
2021/22	584	611	598	565	605	620	662	4245
2022/23	616	583	607	592	563	599	613	4173
2023/24	633	611	581	599	590	558	592	4164
2024/25	633	626	608	575	596	587	549	4174
2025/26	618	627	625	600	573	591	579	4213

The 'Total' column shows a drop in numbers over the period 2021/22 to 2023/24, though numbers are forecast to increase from 2023/24 to 2025/26. Overall though, the figures for

the total number of students in PA5 from 2022/23 to 2025/26 is lower than the figure forecast for 2021. Looking at the numbers for YR, I see that the numbers are actually forecast to increase until 2023 and plateau in 2024 before falling (though not to a level that was lower than 2021/22 or 2022/23), and this data appeared to contradict the LA's explanation of the situation it said it faces in PA5. In my meeting with the LA, I asked about this. The LA said that the SCAP figures were published in July 2021, prior to autumn term 2021 when the LA confirmed its understanding of the issue. The SCAP figures had not reflected the impact of the COVID-19 pandemic on migration in the area (the reduction of people moving into the area coupled with an increased outward movement of people from urban areas). The SCAP figures are based on previous admission figures from a time when pupil numbers were consistently higher. I note here one illustration of the difference between the SCAP forecast data and the reality. At the point of the school census in October 2021, there were 545 pupils in YR in PA5, though 584 were forecast in the SCAP – a difference of 39 pupils.

18. I asked the LA to provide for me its own forecast figures which provide the context upon which the variation request for the school is based. These figures are shown in Table 2.

Table 2: LA's actual (2021/22) / forecast (2022/23 to 2025/26) primary pupil numbers for PA5

Date	2021/22	2022/23	2023/24	2024/25	2025/26
Total number of pupils (YR to Y6)	4156	4040	3964	3913	3896

The reduction in pupils over the period shown in Table 2 is 260. The actual number of pupils in primary schools in PA5 in 2021/22 was 89 less than the SCAP forecast, the equivalent of nearly three infant classes worth of pupils.

19. Looking at the numbers of parental preferences for YR in PA5 received by the borough by 15 January 2022 for admission in September 2022, there has been a drop in the number of applications. The total number of first preferences is currently 486, a reduction of 11 from 2021 where the number of first preferences was 497. The total number of preferences for places in primary schools in PA5 for 2022 is currently 1233, a drop of 106 from 2021 when there were 1339. (The figure for 2022 does not yet include those who might have applied from out of borough as those had not been calculated at the time of this determination). There are currently 720 YR places across the 12 primary schools in PA5.

20. The data in Table 2 was calculated by the LA more recently than the SCAP data in Table 1. The data show that the number of pupils admitted in schools in PA5 in 2021 was lower than the SCAP forecast. A year-on-year decrease in applications for YR places in PA5 for the next four years is then forecast by the LA, in contrast to the SCAP data. The SCAP data remains useful insofar as it is a projection, derived from actual admission numbers from previous years in schools in PA5. The data therefore provide a baseline with

which to conduct a comparison in order to explore the LA's position, that there has been a major change in circumstance in the area. I have compared the SCAP and LA datasets in Table 3.

Table 3: Comparing the SCAP and LA actual (2021/22) / forecast (2022/23 to 2025/26) pupil numbers for PA5

Date	2021/22*	2022/23	2023/24	2024/25	2025/26
SCAP	4245	4173	4164	4174	4213
LA	4156	4040	3964	3913	3896
Difference	-89	-133	-200	-261	-317

Calculating the difference between the two forecasts over the four year period shows the deficit in the number of pupils increasing over time. This illustrates the scale of the problem that the LA says it will face if it is to balance meeting parental preference with maintaining financial viability in its primary schools in PA5 over this period. This demonstrates very clearly why the LA would wish to take action.

21. I must now consider the specific action proposed by the school, which is the focus of this determination. I will look at whether the pattern of application for places / admission into the school and what is forecast for future pupil numbers reflects what is happening / forecast in PA5.

22. The governing board provided the following explanation for its variation request:

“Over the last two years, the intake of the school has reduced (alongside a low intake in the current Year 3). These reductions are part of an overall reduction in Reception numbers experienced within the area. On the basis that numbers in the local area are forecast to continue to fall rather than rise, the school's Governing Body, with the support of the diocese and council, is requesting to decrease the admission numbers by 30 from September 2022. The revised PAN, if agreed, would be 30. [...] The school currently has 35 pupils on roll in the Reception cohort and 40 on roll in Year 1. All higher year groups currently have some vacancies. The reduced demand for Reception places is expected to continue in 22/23 – both in this school and across the local area. [...] It is projected that Reception for 22/23 will again be significantly undersubscribed.”

23. Table 4 shows the number of parental preferences for the last four years (including initial numbers up to the deadline of 15 January 2022 for admission in September 2022), broken down into each of the six preferences that parents making applications to schools in this area are allowed.

Preferences / Date	2019	2020	2021	2022*
First	50	40	27	28
Second	21	15	17	15
Third	11	11	15	6

Fourth	25	7	8	6
Fifth	5	8	5	4
Sixth	3	4	4	4
TOTAL	115	85	76	63

* As at 20 January 2022 and not counting any out-of-borough applications, which had not been processed by that date.

Although there has been an increase of one first preference for the school in 2022 from 2021, I note that the number of preferences overall has fallen since last year continuing the trend since 2019 and the number has been under 30 for two years. The number so far for 2022 is just under 55 per cent of the number in 2019. There were only 34 pupils on roll in YR on the day of the school census in October 2021. The LA also told me that they believe numbers of first preferences for the school for 2022 will fall further as National Offer Day approaches. The numbers in Table 4 show a significant fall in the number of preferences expressed for the school. The early 2022 figures have not provided an indication that the number of preferences for the school show any sign of recovery and clearly show a pattern of lower admission numbers for the school.

24. The DfE's 'Get Information About Schools' (GIAS) website records that the school has capacity for 420 pupils in the seven year groups (YR to Y6 – numbers of children in nursery are not counted in school net capacity assessments). In this academic year, the school had 316 pupils in YR to Y6 at the point of the school census in October 2021, resulting in a surplus of 104 places. I asked the LA to provide me with data showing how the LA forecast the school's number on roll (NoR - the total number of pupils in the school) would look over the next four years if the PAN remained at 60 and also if the PAN was reduced to 30. This data is shown in Table 5. (The number in YR from 2022/23 through to 2025/26 has been kept consistent with the figure for 2021/22 in the absence of any better forecasting method).

25. Table 5: Pupil actual (2021/22) / forecasts (2022/23 to 2025/26) where PAN is maintained at 60 (or reduced to 30 – in brackets)

	2021/22	2022/23	2023/24	2024/25	2025/26
YR	34	34 (30)	34 (30)	34 (30)	34 (30)
NoR	316	299 (295)	280 (268)	261 (245)	261 (241)

26. If the PAN were to remain at 60 then the number of pupils is forecast to reduce to 71 per cent of capacity in 2022/23 and to 62 per cent of capacity in 2025/26 (a reduction of 55 pupils from 2021/22). If the PAN is reduced to 30, the forecast would be for the number of pupils to reduce to 70 per cent of capacity in 2022/23 and to 57 per cent of capacity (as measured by PAN x number of age groups rather than physical capacity) in 2025/26 (a reduction of 75 pupils from 2021/22). In either scenario, there is a fall in the number of pupils over the period 2021/22 to 2025/26 as the smaller forecast year groups in YR

replace larger Y6 groups leaving for secondary school (except in 2025/26 when a year group of 34 has left and one is forecast to replace it). Although YR figures are consistent throughout the time period in Table 5, the LA's forecast is for further reductions in parental preference for schools in PA5. As a result, parents are more likely to be offered their first preference, and so the school may find that there are fewer offers made from other preferences. It is therefore likely that there will be fewer pupils admitted in YR in future years than Table 5 currently suggests.

27. Whether I determine to approve the reduction in PAN or not, the situation with reducing pupil numbers will result in a reduction in the school's finances over the next four years. The governing board has requested a reduction in PAN to begin to address the issue. However, it is not the only way to do so. Although not a final figure, the current first preference figure for 2022 is only 28 pupils. However, this could increase to take the number of first preference applicants over 30 (reflecting the 2021 figures used throughout the years covered by Table 5). I have therefore looked at how the school organises its classes, to see if (more) mixed-age classes might be a solution, to reduce costs as income declines as a result of falling pupil numbers.

28. The school provided data on the organisation of classes currently and how the school would organise classes in 2022/23 if the PAN remained at 60 and if it was reduced to 30. In addition, the school sent its projected class structure for 2023/24 (if PAN was reduced) in order to show how the PAN reduction would impact on reducing the need to have mixed-age classes. I have put that data in Table 6.

Table 6: Organisation of classes* in the school (as of February 2022)

* Where not specified, there is one class

Year Group	Current 2021/22	2022/23 (if PAN is 60)	2022/23 (if PAN is 30)	2023/24 (if PAN is 30)
YR	36 (in the Early Years Unit with 28 nursery children)	30+	30	30
1	41 (2 classes)	28	28	30
1/2	-	21 (approx. 8 x Y1 and 13 x Y2)	21 (8 x Y1 and 13 x Y2)	-
2	51 (2 classes)	28	28	28
2/3	-	-	-	21 (8 x Y2 and 13 x Y3)
3	34	51 (2 classes)	51 (2 classes)	28
4	53 (2 classes)	34	34	51 (2 classes)
5	52 (2 classes)	53 (2 classes)	53 (2 classes)	34
6	51 (2 classes)	52 (2 classes)	52 (2 classes)	53 (2 classes)

29. There are many reasons for making use of mixed-age class structures, but they are often employed when there are not enough pupils in some or all year groups to be able to

afford enough teaching staff only to have classes formed of single year groups. In this academic year, the school has mixed nursery children and YR pupils into an Early Years Unit. Regardless of the reduction in PAN, the school intends to organise Y1/2 pupils into one mixed class and one Y2 class from 2022/23. The data for the current academic year show that it would have been possible have mixed-age infant classes in YR/Y1 (three of the six pupils left after one class of 30 in YR could have been added to each of the Year 1 classes). In any event, having looked at the school's financial benchmarking data available through GIAS, I can see that it did not need to organise any more of its classes in such a way for financial reasons in the current financial year. The data on GIAS do not indicate that the school has a particularly high level of expenditure or low income when compared to similar schools and appeared to be in a healthy financial position in 2020/21 (the most recent financial data available). It is clear though, that the school is having to do so from 2022/23 and would need to do more of this in future years. The school confirmed that if the PAN is not reduced to 30 in 2022/23, it will need to utilise more mixed-age classes from 2023/24. The data for 2023/24 in Table 6 shows that this can be avoided if the PAN is lowered.

30. The school expressed to me that it has found mixed-age classes 'challenging'. There are indeed pedagogical / curriculum reasons why a school might not want to organise its pupils in such classes. In any event, I am of the view that the school and the LA have, to their credit, acted swiftly and decisively to find a way of dealing early with the impending financial ramifications of falling numbers, rather than waiting until the financial and staffing impact is critical.

31. I have also looked at what might happen in respect of the number of places for pupils in YR in PA5 if I agree to reduce the PAN at the school. In doing so, I took into account the following information from the LA:

"The situation has been discussed with all heads within the planning area. As well as Bond, we believe an in year variation is also being submitted by SS Peter & Paul [Primary School]. Removing two forms of entry across the planning area will better support all schools without causing an adverse impact on local families."

There are currently 720 places for pupils in YR in 12 primary schools in PA5. I have already approved the reduction in Bond Primary School's PAN to 30, which reduces the number of places in PA5 to 690. Reducing the school's PAN will further reduce the number of places in PA5 to 660. Reducing both schools' PANs still leaves 115 places more than the 545 places required. Therefore reducing the school's PAN will not have an impact on the availability of school places in YR in PA5 in 2022/23.

32. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Once the PAN has been set for a particular year then nobody, except the governing board of a community or voluntary controlled school, can object if that PAN remains the same in subsequent years. In this instance the governing board report that it has consulted on setting the PAN at 30 for the school for

admissions in 2023/24 and they have done so through the LA's consultation process, where it was consulting in respect of changing PANs for its community and voluntary controlled schools in the borough. I have seen the announcement of the consultation on the LA's website, which says the consultation commenced on 15 December 2021 and closed on 31 January 2021. Clearly, it is desirable that PAN reductions are made via the process of determination following consultation as the consultation process allows those with an interest to express their views. It also allows for objections to the adjudicator. None of this is afforded by the variation process. Therefore, the consultation process for admission into the school in 2023/24 is welcomed.

33. Both the LA and the diocese have expressed to me their support for the reduction in PAN. The diocese stated:

"Given the local context and forecasts around pupil numbers and in conjunction with our baptism data, we do not have any objections to the change the school are looking to make to their PAN. We do not feel it limits parental choice for Catholic families seeking a Catholic education for their children."

34. Taking into account the circumstances and evidence presented to me in relation to this case, I am of the view that the governing board, along with supporting evidence from the LA, has made a strong case for reducing the PAN at the school to 30. The data show a significant drop in the number of applications for places at the school which is forecast to be sustained for a period of years after 2022. This could impact significantly on the school's budget later on if action was not taken to address the issue now. Although the school's budget is healthy at this time, the governing board is already planning to incorporate mixed-age classes from 2022/23 and is proactively seeking to reduce the impact that the reduced budget will have on the school in the future. There is evidence that there will remain a sizeable surplus of pupil places in YR across PA5 after the reduction of the school's PAN, and so this will not affect parents getting a place at a school in the area.

35. It is my determination that there are benefits to the school from reducing the PAN. Currently, there are fewer than 30 first preferences for places at the school. Should that increase, past data show that this is unlikely to be much over 30. Given there are 11 other primary schools in PA5, it is likely that those parents would be able to find a place at their second preference school within a reasonable distance (GIAS shows that there are 12 primary schools less than one mile from the school, though at least one is in another planning area). The benefits of reducing the PAN would outweigh the detriment suffered by any parents who would not receive their first choice of school place for their children in September 2022.

36. For the reasons set out above I have decided to approve the proposed reduction in the PAN from 60 to 30 for September 2022.

Consideration of the arrangements

37. Having considered the arrangements as a whole I found that the following matters do not conform with requirements of the Code and so I brought them to the attention of the governing board. These matters were (with the relevant paragraphs of the Code indicated):

- 37.1. The arrangements contain both a list of ranked criteria (using which applicants are prioritised according to the religious categories listed) and a list of oversubscription criteria. Paragraphs 15 d) and 1.36 of the Code state that if a school is undersubscribed, then any parent that applies must be offered a place. The ranked list of religious criteria and the oversubscription criteria are, therefore, only of relevance when the school is oversubscribed. The arrangements do not make clear for parents how places are allocated using two different prioritisation lists if there are more applicants than places available. Paragraphs 1.37 and 14 apply here in that faith based criteria and arrangements in their entirety must be clear and easily understood. The oversubscription criteria are said to apply in the following circumstance: "... when applications within any of the above categories exceed the places available and it is necessary to decide between applications". The arrangements do not make clear what constitutes a criterion on the first ranked religious criteria list being exceeded and how this relates to the overall published admission number (PAN).
- 37.2. Children with education, health and care plans (EHCPs) naming a school must be admitted (paragraph 1.6). Children with EHCPs are not mentioned in the arrangements until the 'Notes' section. The notes say that these children are dealt with under a completely separate procedure. The arrangements do not make clear to parents that children with EHCPs are admitted before any of the ranked or oversubscription criteria, and that the overall number admitted under other criteria will be reduced depending on the number of children with EHCPs admitted. Again, the arrangements must be clear, in line with paragraph 14 of the Code.
- 37.3. The reference to, and definition of, previously looked after children in the arrangements does not meet the requirement set out in the revised Code which came into force on 1 September 2021. It is now a requirement to extend the same 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 (this could be done without requesting a variation from the adjudicator). There appears to be no reference to this requirement in the arrangements. (Paragraph 1.7 of the Code, and also see separate guidance entitled 'Admissions priority for children adopted from

state care outside of England: Guidance for admission authorities and local authorities – July 2021’).

38. The diocese provided its view on two of the areas I identified. In respect of paragraph 37.1, the diocesan Education Officer and Adviser for Religious Education said:

“I agree with the comments of the adjudicator. The arrangements set out by the school do not comply with [the] guidance. If the school has space they should accept any application, regardless of faith. We would only expect to see a school prioritise children of the Catholic faith as part of their oversubscribed criteria and therefore only used if there are more applicants than places.”

And in respect of paragraph 37.3:

“Specific guidance was sent to all of our schools regarding previously looked after children following publication of the new Admissions Code 2021. This referred to children who appear to have been in state care outside of England. The wording of this change was provided to all schools. This will also be available in our revised guidance. Therefore, we would agree with the point made on this issue.”

39. The governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the governing board has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.

Determination

40. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board of SS Peter and Paul Catholic Primary School, Mitcham for September 2022.

41. I determine that the published admission number for 2022 will be 30 in Reception.

42. 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.

43. 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: 24 February 2022

Signed:

Schools adjudicator: Dr Robert Cawley