



Office of  
the Schools  
Adjudicator

## Determination

**Case references:** ADA3967 and REF4084

**Objectors:** A parent and the governing board for Ashlands Church of England First School, Crewkerne

**Admission authority:** Somerset County Council for Ashlands Church of England First School, Crewkerne

**Date of decision:** 26 July 2022

### Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2023 determined by Somerset County Council for Ashlands Church of England First School. I uphold the objection to the local authority's decision to determine the published admission number at ten.

In accordance with section 88I(5) of the School Standards and Framework Act 1998 I have considered the admission arrangements for September 2023 determined by Somerset County Council for Ashlands Church of England First School and find that the arrangements do not conform with the requirements relating to admissions.

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 and a referral have been received by the adjudicator about the admission arrangements for September 2023 (the arrangements) for Ashlands Church of England First School (the school). The objection is by a parent and the referral is by the governing

board for the school. The school is a voluntary controlled school with a Church of England religious character. The parties to the objection are:

- a. Somerset County Council which is the local authority for the area in which the school is located and the admission authority for the school (the local authority);
- b. the parent who made the objection (the parent objector);
- c. the governing board for the school which also made a referral to the adjudicator (the governing board); and
- d. the Diocese of Bath and Wells as the faith body for the school (the faith body).

2. The school currently provides for children aged five to nine years. The age range for the school will be extended from September 2022 to cover the whole primary age group by providing for year 5 (Y5) in September 2022 and then year 6 (Y6) from September 2023 (when these arrangements will take effect) so from September 2023 the school will provide for children aged five to eleven years (reception year to Y6).

3. The objection is to the consultation held regarding changes to the admission arrangements for the school for 2023. The objection and the referral are to the setting of the published admission number (PAN) at ten which was a reduction from the PAN of 20 for admissions in 2022.

## **Jurisdiction**

4. These arrangements were determined under section 88C of the Act by the local authority on 14 February 2022. The parent objector submitted her objection to the arrangements on 15 May 2022. I am satisfied the objection was properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

5. The governing board sent an email with an objection to the arrangements for the school dated 13 May 2022 to the Office of the Schools Adjudicator (the OSA). This email was not received. The governing board sent a copy of the email dated 13 May 2022 to the OSA on 14 June 2022. As the objection was received after 15 May 2022, the deadline for objections, I am using my power under 88I of the Act to consider the governing board's objection as a referral and it is within my jurisdiction to do so.

## **Procedure**

6. In considering these matters I have had regard to all relevant legislation and the School Admissions Code (the Code).

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

- a. a copy of the minutes of the meeting of the local authority at which the arrangements were determined and a copy of the determined arrangements;

- b. the objector's form of objection, the governing board's referral and further information provided by the governing board at my request;
- c. the local authority's response to the objection and the referral; and further information provided at my request including that concerning previous admissions to the school and other local schools;
- d. the objections made by the governing boards for Merriott First School (Merriott School), St Bartholomew's Church of England First School (St Bartholomew's) and Hinton St George Church of England Primary School (Hinton St George School);
- e. a map of the area identifying relevant schools, the catchment area for the school and the locations of pupils at the school in reception year (YR) and year one (Y1) or offered places at the school for YR for September 2022;
- f. similar maps for the other schools in the area where the governing boards had made objections to the admission arrangements of their own schools (Merriott School, St Bartholomew's School and Hinton St George School);
- g. information on the consultation on the admission arrangements for 2023;
- h. a previous determination for the admission arrangements for the school (case reference VAR2164) which I will refer to as the previous determination; and
- i. information available on the websites for the school, the local authority and the Department for Education (DfE).

## The Objection and the Referral

8. The local authority consulted on the admission arrangements for 2023 for the community and voluntary controlled schools in its area. The consultation included a proposed reduction to the PAN for the school. The parent objector said that the consultation was not adequate as the community was unaware of the implications of reducing the PAN.

9. The parent objector and the governing board said setting the PAN at ten will mean that parental preference will be frustrated. In addition, the governing board said that the school had the capacity to admit more children than ten and expressed the view that it was not fair that the local authority set the PAN at this level in order to increase admissions at another school. Furthermore the governing board said that a PAN of ten would create difficulties for teaching and learning.

10. The governing board referred to the previous determination in considerable detail and to paragraph 14 of the Code which says, "In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated." The governing board said that the requirements of this paragraph were not met.

## Background

11. The school is part of a first, middle and secondary school system in the town of Crewkerne and its surrounding area. In this area are first schools, which provide education from reception year (YR) to the end of year 4 (Y4), middle schools which provide education for children in year 5 (Y5) to the end of year 8 (Y8) and a secondary school for year 9 onwards. The local authority undertook a statutory consultation on the reorganisation of its schools, and on 17 March 2021 the relevant committee of the local authority agreed to implement a reorganisation of the maintained schools in its area from September 2022 so that there will be primary and secondary schools in place of first, middle and secondary schools. This is sometimes referred to as moving from a three-tier system to a two-tier system. In co-ordination with this, the South West Regional Schools Commissioner approved a change to Maiden Beech Academy from a middle school to a primary school, also for September 2022.

12. In summary the reorganisation means that primary schools will provide for children from YR to the end of Y6 and the secondary school provide for children from year 7 (Y7) onwards. The school, as a first school, and other first schools in the area will be extended in two stages so the school will provide for Y5 from September 2022 and for Y6 from September 2023. There are some very significant changes and the evidence shows that agreeing the reorganisation has been a long and challenging process affecting several schools and the local authority said that there were two judicial reviews. One first school, Misterton Church of England First School (Misterton School), will close from August 2022 and the pupils currently attending it will join other schools. Misterton School and the school are in a federation with the same headteacher and governing board and it is believed that most of the pupils at Misterton School will join the school from September 2022.

13. The school is situated in Crewkerne and the DfE website, 'Get information about schools', describes the school as "rural town and fringe." There will be three primary schools in the town of Crewkerne from September 2022, the school, St Bartholomew's and Maiden Beech Academy (Maiden Beech).

14. Maiden Beech, currently a middle school, will admit children to YR from 2022 (and retain a Y6 group for one year) and build up its primary school intake year on year from YR so that from September 2028 Maiden Beech will provide for pupils from YR to Y6.

15. On 21 January 2021 the local authority determined the arrangements for the community and voluntary controlled schools for which it is the admission authority for 2022. This included setting the PAN for the school at 30. On 17 March 2021 the local authority determined to implement the reorganisation described above. In June 2021 the local authority requested a variation to the PAN for the school so that it would be ten for 2022. Fellow adjudicators considered this request in the previous determination and determined that the PAN for 2022 would be 20 as they were of the view that to set it lower would have an impact on parental preference and that such an impact was not justified by the circumstances. The local authority also requested variations to the PANs of other schools

affected by the reorganisation and my fellow adjudicators determined the PANs for those schools for 2022.

16. The governing boards of three other schools affected by the reorganisation have objected to the PANs set for 2023 by the local authority as follows:

- Case reference: ADA3955 Merriott School
- Case reference: ADA3956 Hinton St George School
- Case reference: ADA3966 St Bartholomew's.

I am also the adjudicator for these objections. Each case is considered on its merits and no case sets a precedent for another case.

17. The oversubscription criteria in the admission arrangements for the school are (in summary):

- 1) Looked after and previously looked after children
- 2) Children with a medical need for which the school is the nearest suitable school
- 3) Siblings of existing pupils at the school who also live in the catchment area
- 4) Children living
  - a. in the rural catchment area (definition provided based on walking distances to alternative schools)
  - b. in the catchment area
- 5) Siblings of existing pupils at the school
- 6) Children registered in an infant, first or middle school within the school catchment area
- 7) Children who, or who have a parent who
  - a. is a practising member of the faith of the school
  - b. is a practising member of another Christian faith
- 8) Children of staff of the school who
  - a. have been employed by the school for at least two years
  - b. are employed to meet a demonstrable skill shortage
- 9) other children.

## Consideration of Case

18. There are two related aspects to the objection. The parent objector said that the consultation was not sufficient. The second aspect made by the parent objector and also in the governing board's referral, is to the PAN being set at ten. I will consider these matters in turn.

## Consultation

19. The parent objector said, "I do not believe that the information about the PAN numbers have been shared with the local community and I have only just been made aware of the possible impact of the reduced PAN. I believe if this had been more widely known other parents may have also written and shared a concern."

20. Paragraph 1.45 of the Code says, "When changes are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements... that will apply for admission applications the following school year." In this case the arrangements for 2022 were set at 30 and then, following the previous determination, the PAN was changed to 20, so, to set the PAN at ten for 2023, the local authority needed to consult.

21. Paragraphs 1.46 to 1.48 of the Code provide the requirements for a consultation. Paragraph 1.47 says:

"Admission authorities **must** consult with:

- a) parents of children between the ages of two and eighteen;
- b) other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;
- c) all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);
- d) whichever of the governing body and the local authority is not the admission authority;
- e) any adjoining neighbouring local authorities where the admission authority is the local authority; and
- f) in the case of schools designated with a religious character, the body or person representing the religion or religious denomination."

22. The local authority told me that it met these requirements in its consultation on the arrangements for 2023. The local authority said that a newsletter was sent to all schools in Somerset on 2 December 2021 informing them of a consultation on the arrangements for 2023 including the PANs for all community and voluntary controlled schools. The newsletter

asked the schools to which the newsletter was sent to promote the consultation with parents by “posting it on your Facebook/social media page or by adding it to your school newsletter.” In addition, the local authority said that the consultation documents were displayed on the local authority’s consultation website and was promoted using a social media campaign and “A notification email was sent to statutory consultees and potential interested parties.” The consultation ended on 21 January 2022 and three responses were received and none were relevant to this case.

23. It seemed odd to me that the governing board had not responded to the consultation given its objection to the PAN set, so I specifically asked the local authority about its consultation with the governing board. The local authority told me that “These proposals to changes to admission limits have been widely consulted on since October 2020. First proposed as part of the pre-publication consultation in the autumn term 2020 they were consulted on again as part of the statutory proposal during January/February 2021.” The local authority also said that it had worked with all head teachers and governing boards in the area using forecasts and modelling to assist planning the reorganisation. Broadly there were two consultation exercises. One related to the reorganisation of schools and one to the arrangements for 2023. For the purposes of clarity I will refer to one as the reorganisation consultation and the other as the consultation on 2023.

24. It is a parent who has objected to the consultation and I wished to understand what steps the local authority had taken to make sure that parents of children aged two to eighteen were consulted as required by paragraph 1.47a) of the Code. I asked the governing board if parents were informed of the consultation by the school as requested by the local authority.

25. The governing board explained that it did not read the newsletter which had information about the consultation and said the email containing the information, “*was received as part of a bulletin in the schools newsletter. It was circulated on December 2nd 2021 as a general document at a time when we were under pressure with the ongoing impact of Covid. We were coping with the impact of reduced staffing and reading general newsletters was not prioritised.*” Furthermore the governing board said that its focus was also on the work of the adjudicators for the previous determination which was published on 14 December 2021 (so after this newsletter was distributed). The governing board said that its representatives had been part of meetings with the local authority in the autumn term of 2021 where the PAN was discussed but there was no mention at those meetings of the need to alert parents to a consultation. In summary, the governing board did not alert parents of children at the school to the consultation.

26. The governing board also said that if it had circulated information, it would only reach those parents whose children were at the school. As the PAN is for YR, it will only directly affect those parents whose children are not yet in school, these are a crucial group. Beyond providing the information on the local authority’s website and through its social media campaign, it is not clear to me how parents of children not yet attending a school were meant to know of the consultation on 2023. The local authority could have, for example,

provided information on the consultation to early years providers and asked that it was provided to the parents using the provision. The consultation could have targeted those areas which were most affected by the proposed changes and the local authority could have asked the school to facilitate awareness through its local networks.

27. The school's community was the one to be most directly affected by the change in the PAN. A local authority's most direct means of communications with parents is through schools and early years providers. I would therefore have expected the local authority to have taken more direct steps to make sure that the school was aware of the consultation on the reduction in the PAN and the school's role in making parents aware of it.

28. If parents and others had been aware of the consultation on reducing the PAN for 2023, the newsletter provided a link to a copy of the proposed arrangements for 2023 for community and voluntary controlled schools and the proposed PANs for all state funded schools in Somerset (academies as well as maintained schools). The PANs set for 2022 and the proposed PAN for 2023 were provided in a separate paper. As the consultation commenced before the previous determination was published, the information shows that the PAN set for 2022 (30) was "subject to a variation request made to the Office of the School's Adjudicator". The proposed PAN for 2023 was ten for the school.

29. I found it slightly tricky to find the name of the school on the PAN information sheet as the around 240 primary schools were not in alphabetical order but by the school's treasury number. I raised this with the local authority and was told that schools would know their treasury number or could easily find it. This may be true, but it would not be particularly easy for someone else, say a parent, to find the relevant information readily through the information provided by the local authority if they had been made aware that a consultation was in hand.

30. I asked if the governing board had been directly consulted on the PAN for 2023. The governing board said that at meetings held prior to the consultation on 2023 held by the local authority as described above, "the Governing Body were very clear that they did not agree" with the PAN being set at ten. I have seen no evidence, however, of this view being provided to or considered by the decision making committee of the local authority.

31. The governing board was not aware of the consultation on 2023 and so local parents attending the school were not informed about the consultation by the school as requested by the local authority in the newsletter. The governing board had expressed its strong opposition to the PAN being set at ten in discussions with the local authority but these views were not recorded in the papers provided to the relevant decision making committee. It is possible that this was because the views were not made through the consultation on 2023 website.

32. I am aware that the local authority had undertaken extensive consultation exercises regarding the reorganisation. I have seen a 69 page document that contains comments made about the reorganisation, a response made in 2020 by the governing board and am aware of more. I am also aware that the consultation for the 2023 arrangements



commenced before the previous determination setting the PAN at 20 for 2022 was published. The governing board said that it had assumed that there would be further discussion regarding the setting of the PAN for 2023 following the adjudicators' decision to set the PAN at 20 for 2022 and it was not until 7 May 2022 that it realised that the PAN had been set at ten.

33. The local authority consulted with the governing board through discussions over a long period of time. My view is that it was the school's responsibility to read and act on the newsletter but it would have been helpful if the importance of this item had been brought to its attention specifically, as opposed to through a generic email. There was the opportunity for the local authority to do so as it was meeting with the governing board during this period on these matters. The governing board did not make the parents of the children at the school aware of the consultation. Parents of children under school age may have seen information on the consultation on social media but there does not appear to have been a targeted effort so that they could be aware of its potential significance for their children.

34. Overall, the local authority took steps in its consultation on 2023 to meet the minimal requirements of the Code. The local authority did not use the information it had received through other means, such as discussions with the governing board, to inform its decision making. The school's lack of awareness of the consultation, which could have been easily addressed, also meant that opportunities were missed to bring this to the attention of parents for whom this is likely to have been of interest. The setting of the PAN for the school for 2023 (and other schools as can be seen by the other objections) was important and controversial. The fact that only three responses were made to the consultation and none of them relevant to the setting of the PANs for any of these schools is an indication of the lack of effectiveness of the consultation. I therefore partially uphold the parent objector's objection because some aspects of the consultation process were inadequate. The local authority took steps to consult as required by the Code, but those steps were not sufficient to make sure that the consultation was effective in meeting its purpose.

## The published admission number

35. I will now consider the objection to setting of the PAN for September 2023 admissions at ten and whether this met the requirements of the Code. I will set out the legal context; the main arguments of the parent objector, the governing board and the local authority; and then look at these in more detail.

### The PAN and its legal context

36. Paragraph 1.2 of the Code says, "As part of determining their admission arrangements, all admission authorities **must** set an admission number for each 'relevant age group'." The relevant age group is the year of entry, which is YR in this instance. Once set, the main effect of the PAN is that children must be admitted up to PAN if enough apply. Often it is assumed that once the PAN is reached then the school is full in that year group but even if the PAN is reached, children must be admitted unless to do so would prejudice the provision of efficient education or the efficient use of resources. The parent of a child

refused admission can appeal and the admission appeals panel will consider if the admission of the child would prejudice the provision of efficient education or the efficient use of resources.

37. Paragraph 1.3 of the Code says,

“Community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.”

### **The cases made by the objector, the governing board and the local authority**

38. I have described the background above. In summary, the local authority set the PAN at 30 for 2022, sought a variation to set it at ten and the adjudicators determined it at 20. The local authority then set the PAN at ten for 2023. The parent objector said in her objection that she wanted her child to attend the school, that she believed that the school had capacity to admit more than ten children and a PAN of ten would prevent the admission of her child and other children so that parental preference would be frustrated.

39. The governing board said that the school had the capacity to admit more children and to limit the number of children admitted to ten would not give “due consideration” to parental preference. The governing board said that the local authority had “committed to admitting in-catchment siblings” and so possibly admitting more children than the PAN but did not think that this was an acceptable approach. The governing board told me that its research showed that the PAN of ten would be more than met as there are 11 siblings of existing pupils living in the catchment area likely to seek admission in 2023. The local authority has indicated that it would admit these 11 children if their parents were to apply.

40. The governing board said there are two other siblings of existing pupils who live outside of the catchment area who are also likely to want to seek admission at the school. The governing board expressed its concern that the local authority could refuse admission to those with siblings at the school who live outside the catchment area and that no child who did not have a sibling at the school would be admitted whether the child lived in the catchment area or not. Of course, every parent would have the right of appeal.

41. The governing board also expressed concerns on the effect on its curriculum offer of a PAN of ten and that it did not believe “the PAN was set fairly across the Crewkerne schools to encourage continued flourishing in established schools and encourage growth in new.” The governing board suggested two alternative PANs as follows:

“Option a) 15 – allowing a more even allocation of children across Crewkerne whilst more importantly enabling a greater degree of true parental preference, or

Option b) 20 – this is our ‘target capacity’ by the end of the Area Review transition period. We have the capacity to welcome this number of children but are mindful of

our responsibility to the Crewkerne community to work together to enable all of our Crewkerne schools to flourish.”

42. The governing board referred in detail to the previous determination which had set the PAN at 20 which it believed “should set a precedent.” No determination by an adjudicator or adjudicators (as in this instance) sets a precedent as each case is considered afresh. Adjudicators only have jurisdiction for determined arrangements and so my fellow adjudicators only had jurisdiction for the 2022 arrangements as the 2023 arrangements had not been determined. My jurisdiction is for the arrangements for 2023. I also note that the local authority had consulted on a change to the arrangements from 2022 for 2023.

43. I asked the local authority why the PAN had been set at ten. The local authority referred me to the reorganisation proposals and the consultation on those proposals. The local authority said that during the last two years it had worked with all headteachers and governing boards in the area and discussed forecasts and the potential ways of managing the changes. The local authority said,

“In Crewkerne, to achieve a transition from a three-tier system to a two-tier system, reception admissions numbers need to be adjusted. In becoming primary schools, the new primary schools would need to take a smaller number of pupils during the transition period. All the schools have been allocated a 'target' intake in the proposal, which is the number they would reach by the end of transition. If they took the targeted intake numbers at the outset it would mean they would grow too large for their accommodation.”

“What came through strongly during those discussions with head teachers was the need for equity across the area in the management of any reductions in PANS. This has been a very complex process and required all schools to see and manage significant change. Financial protection has been agreed with all schools in the area during the transition phase and take account of these lower PANS.”

44. Furthermore the local authority said,

“The greatest reduction in limits are at the two existing first schools in Crewkerne (Ashlands First School and St Bartholomew’s First School). It is likely that parental preference will be impacted by these reductions but the local authority is confident that all pupils will be offered a school place within statutory walking distance. In any year, for schools where the local authority is the admissions authority it will consider whether admissions over the limit can be accommodated. This will be looked at on case by case basis and in a dialogue with the school. There is a risk that with a lower published admission number that more siblings may not get a place than would ordinarily be the case. In the context of this reorganisation, the local authority would commit to securing a place for catchment siblings during the transition years where the admission number was lower (to 2026), even if this took the school intake over the admission number. Out-of-catchment siblings are never guaranteed a place, and this would be the same in this context.”

## **Consideration of the context and the cases made**

45. I will now consider the various aspects in more detail including the capacity of the school, demand for the school, distances to other schools, financial implications and the potential effect on the schools in the area.

46. In terms of capacity the school currently provides for 117 pupils in YR, Y1, Y2, Y3 and Y4. There are five classes that range in size from 18 to 34 pupils per class. The local authority said that by September 2022 the school will have six classrooms. Six classrooms provide the capacity for 180 pupils (six classes of up to 30 pupils). The local authority said that the sixth classroom is being provided in order to help accommodate the children who will be displaced when Misterton School closes in August 2022 and whose parents wish them to join the school. The governing board said that there are currently 24 children at Misterton First School across YR, Y1, Y2, Y3 and Y4 and it is anticipated that 21 of these children will join the school from September 2022.

47. In addition to the sixth classroom referred to above, the governing board is re-installing a classroom at the school that has been used for other purposes. This means that the school will have the ability to accommodate seven classes and the governing board said it intends to provide seven classes from September 2022. The local authority told me that it did “not support...[the seventh classroom] as these additional spaces are not required for sufficiency.” I understand this to mean that the local authority deems that there are sufficient places available in the area for YR without a seventh classroom at the school.

48. The local authority explained to me that it is funding a seventh teacher for the academic year 2022/23. The local authority said this is to “avoid a redundancy at Misterton First School and ease transition for those displaced pupils.” The additional funding of a seventh teacher provided by the local authority is for one year.

49. The governing board anticipates that all seven classes in 2022 will have relatively small numbers of pupils varying between 20 and 24 pupils to a class on the currently available figures. Three classes are planned for Y4 and Y5 pupils which combine these two year groups in each class. I note therefore that the school is willing to mix year groups in classes which is a system used by many successful schools.

50. The local authority has said that the school has to have smaller year groups joining the school in order to make sure that there is sufficient accommodation as the school extends to admit Y5 and Y6. I tested this assumption by looking at the number of pupils and capacity. As the school will have seven classrooms it will have classroom capacity for 210 children (seven times 30). In September 2022 it is likely, with Y5 children continuing at the school for the first time, 20 children joining YR and around 21 children joining the school who previously attended Misterton School, that the school will have around 154 pupils. The difference between 210 and 154 is 56 so in September 2022 it is anticipated that there will be 56 vacant places at the school.

51. In September 2023 the current Y5 pupils will become Y6 and a new YR would join the school and with the seven classes there would be space for another 56 children in YR. There would therefore be ample capacity for a PAN of 20 for YR. If the school only used six classrooms (so a possible 180 places) there would be 26 vacant places for YR. Therefore, with six classrooms, the school could have a PAN of 20 for 2023 and still have space to accommodate six more children. I have seen no evidence that the school must have a PAN set at ten in order to accommodate the transition to a primary school for children in YR to Y6.

52. I will now consider demand for the school. I am aware that the future pattern will be different to that of the past as the schools have been reorganised. Maiden Beech, for example, will admit its first children to YR in 2022 and the previous determination recorded that the local authority had said, “Maiden Beech is having significant improvement works to provide KS1 teaching accommodation and plans to open a nursery at the same time. Therefore Maiden Beech could provide a very attractive option to many parents.” This remains the case.

53. As the previous determination said, “parental preference is impossible to predict accurately.” Parents prefer schools for all sorts of reasons and as the schools change, so might the pattern of parental preferences. For example, some parents might have preferred to take their children to a school some distance from their home to avoid the child experiencing a change at the end of Y4 as would have occurred with a first school – that will no longer apply to the school. Similarly some parents might have sought a place in a first school because there were no older children there – that will no longer apply to the school.

54. I asked the local authority to provide me with information on relevant schools in the area of the school including their PANs, the preferences made, the numbers admitted and the distances to other schools. The local authority provided information on six schools and I have provided the names of these schools and the changes that are taking place in order to further clarify the context as shown in table 1 below.

Table 1: schools local to the school and their PANs

<b>Schools</b>	<b>PAN set for 2022 in 2021</b>	<b>Proposed variation to the PAN for 2022</b>	<b>PAN set by the adjudicator or the Secretary of State as appropriate for 2022</b>	<b>PAN set for 2023</b>
<b>Ashlands</b>	<b>30</b>	<b>10</b>	<b>20</b>	<b>10</b>
<b>Haselbury Plucknett</b>	<b>12</b>	<b>8</b>	<b>8</b>	<b>8</b>

<b>Hinton St George</b>	<b>12</b>	<b>8</b>	<b>12</b>	<b>8</b>
<b>Maiden Beech</b>	<b>123 for Y5</b>	<b>30 for YR</b>	<b>30</b>	<b>30</b>
<b>Merriott School</b>	<b>24</b>	<b>10</b>	<b>20</b>	<b>10</b>
<b>St Bartholomew's</b>	<b>36</b>	<b>10</b>	<b>20</b>	<b>10</b>

55. In addition to the above, Misterton School had a PAN of 12 for 2021 but will close in August 2022. This means that, for these schools (including Misterton), the sum of the PANs for YR in 2021 was 130 and in 2022 the sum of the PANs for YR for the schools is 110. My interest is in demand for YR and so I have summarised previous patterns for local schools, as named to me by the local authority, in table 2 below. I do note, as discussed below, that some of these schools are some distance from each other as might be expected with some schools in a rural area.

Table 2: the supply of places and demand for local schools in recent years

	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Sum of PANs for YR</b>	130	130	130	110
<b>Number of children admitted as per October census</b>	91	98	101	104 <sup>1</sup>
<b>Number of surplus places</b>	39	32	29	6

56. Table 2 illustrates that demand for the schools has increased slightly since 2019 and that with 20 fewer places for admissions in 2022, at this point, there are now only six surplus places. The local authority also provided me with the number of offers made on the relevant national offer day. This meant I was able to compare the number of offers made with the number of children actually on the rolls of the schools on the day of the October census. In nearly all cases the number of children had increased (unless the school's PAN had been reached at the time of the offers). This leads me to believe that some of the six vacant places for September 2022 may be taken by October 2022. In other words, on the sum of the current PANs there is little capacity left after offers have been made for 2022.

57. The sum of the PANs for the schools above is 76 for admissions to YR in 2023. This is 34 places fewer than for 2022 which is around one third less. The local authority said that its forecasts showed a significant reduction in demand for places in YR for 2023 and its forecast is that 85 children will require a place in YR in 2023. The local authority is therefore

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<sup>1</sup> Offers as made on national offer day (19 April 2022)

forecasting that nine more places will be needed than is provided by the sum of the PANs of the schools. As explained above, it is possible to admit over the PAN for a school.

58. For the town of Crewkerne, the local authority forecasts a demand for 52 places in YR in 2023. The PANs set for the three Crewkerne schools are ten for the school, ten for St Bartholomew's and 30 for Maiden Beech. These, of course, total 50 places. The local authority said in response to my question asking why it had set the PAN for the school at ten that,

"There is a real danger that if higher PANs are agreed that a school could potentially have an intake of fewer than 10 and also that a school has an intake that sees them in excess of their accommodation in September 2023 when they will have seven year groups for the first time."

59. I have already considered the latter point regarding capacity in the longer term. It is my understanding that the concern expressed about a school having an intake that is less than ten may relate to Maiden Beech. Elsewhere in its response the local authority said,

"Maiden Beech would have a higher intake at first, which would allow the school to establish pupil numbers quickly, otherwise it would be very small in numbers for too long. In September 2022 the new primary school will be operating only two year groups, a new year R and a residual year 6. From September 2023 this will year R and Year 1 and the school will grow, just as a new free school, year on year."

60. I ask the reader to note that the PAN set for St Bartholomew's for 2023 by the local authority is ten and that the governing board for St Bartholomew's has objected to that PAN. The previous determination set the PANs for the school and St Bartholomew's at 20 in each case for admissions for 2022. If the PANs for these two schools had been set at 20 for 2023 then the two schools could have admitted at least 40 children. If only 52 children were to require a place in YR in 2023 and 20 were admitted to the school and 20 to St Bartholomew's (total 40), then this could lead to around only 12 children being admitted to Maiden Beech. The local authority, as described above, seeks that Maiden Beech has a higher number of children than this.

61. The local authority has told me that financial protection has been agreed with all schools during the transition phase (which is until 2026) and so, whatever the PANs are, the schools (all of which normally get the majority of their funding based on the number of children on roll) will not be affected financially. I do not know the detail of this but have not asked further questions as the governing board has not raised financial concerns in its referral.

62. I can see, in terms of its responsibility to promote high standards in schools, that the local authority might be concerned that Maiden Beech, which is in effect a new school, gets off to a good start by having sufficient children to support an educational structure. Or to put it another way, it appears the local authority has set the PANs as it has so that around 30 children will be admitted to Maiden Beech. This would mean that Maiden Beech would have

a class of 30 children in YR in 2023 and this is an efficient model. If, for example, only 12 children were to join YR at Maiden Beech in 2023 then that year group could remain around the same size as it moves up through the school. In the longer term, this could cause class organisational challenges. The PAN of ten for the school could mean that parents who might prefer their children to join the school would be channelled to Maiden Beech instead.

63. I can see the challenges for the local authority trying to support all schools to thrive throughout its area. My consideration is only for admissions in 2023 but the local authority's forecasts on the number of children likely to require a place in Crewkerne in future years does not show a significant increase at 64 for 2024, 56 for 2025 and 54 for 2026.

64. However, the local authority also explained that it was not allowed, when making its forecasts, to take into account the number of children likely to move to the town through new house building until certain planning and other conditions have been met. I understand that the local authority expects more children in the area in future years as a result of house building and the local authority's expectation of this increase has led to its support for the three primary schools to be established in the town from September 2022. The local authority expects all available places to be needed and anticipates setting the PAN at the school, for example, at 20 for admissions in 2026.

65. I note that the local authority has said, as above, that it would admit children who live in the catchment area for the school and have a sibling at the school even if that meant admitting over the PAN of ten. The local authority also said,

“In any year, for schools where the local authority is the admissions authority it will consider whether admissions over the limit can be accommodated. This will be looked at on case by case basis and in a dialogue with the school.”

66. The previous determination said,

“The local authority has said that having low PANs would allow flexibility and allow them to exercise “judgement” rather than to follow “rules”. We consider that this approach is wrong. Parental preference is at the heart of the school admissions system as is clear from section 86 of the Act. It follows that a school should have a PAN which reflects its capacity and thus will support parental preference so far as is possible. A school will then admit at least up to PAN (there being sufficient applicants) according to its determined and published oversubscription criteria, as the Act also does not allow for places to be refused below PAN in a normal year of admission. Otherwise, the principles set out in paragraph 14 of the Code cannot be met:

“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.””



67. I am not bound in any way by the previous determination but I agree with the views expressed regarding admitting “on a case by case basis”. The approach taken by the local authority breaches the Code as parents will not be able to look at the arrangements for the school and understand easily how places for the school will be allocated. That is not to say that an admission authority should stick unwaveringly to its PAN and take no notice of local circumstances but in this instance, the local authority is giving itself more discretion than is in line with the Code’s purpose that all school places are allocated in an open way. Setting a PAN of ten knowing it will be exceeded is misleading to parents. It could be viewed as an acknowledgment by the local authority that the PAN which it has set for this school is too low to accommodate all of the children which the authority considers should be admitted.

68. I will now consider the fairness of setting the PAN at ten in terms of demand for the school and parental preference in the knowledge that 20 children could be accommodated at the school. The local authority’s forecast for the number of places required in YR in Crewkerne in 2022 was 68. The sum of the PANs for 2022 was 70 and 70 children have been offered places. Table 3 shows the number of admissions in recent years and expected admissions to the school in 2022.

Table 3: number of children in YR at the time of the October census and offers made for 2022

	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>PAN</b>	30	30	30	20
<b>Number of children</b>	25	16	19	20

69. In each year, therefore, there have been between 16 and 25 children in YR at the school. The local authority told me that for 2022 there were 23 first preferences, four second preferences and six third preferences. A first preference is the school a parent most wants their child to attend. Therefore for 2022, three parents were refused a place for the school that they most wanted their child to attend because the PAN for the school had been reached with 20 children offered places.

70. The local authority had said that it was confident that all children seeking a school place in Crewkerne in YR in 2023 would be offered a place within statutory walking distance. I understand that the local authority is referring to the requirement for a local authority to provide free transport for children under eight if the distance to a suitable school is more than two miles. I asked the local authority for information on the distances to alternative schools from the school and a map showing the catchment area for the school and an indication of the home locations of children admitted in recent years. The three schools (the school, St Bartholomew’s and Maiden Beech) are located within one mile of each other. The school and St Bartholomew’s each have a catchment area which is used in the oversubscription criteria in their arrangements so that those living in the catchment area have a higher priority than those living outside the catchment area.

71. I have not been able to see the admission arrangements for 2023 for Maiden Beech as they are not available on its website (nor were the arrangements for 2022) and the local authority said that it had not been provided with a copy. The arrangements are likely to be different to previous years because Maiden Beech is admitting children to YR in 2022 for the first time and its PAN is changing from 123 for Y5 in 2021 to 30 for YR in 2022. I am not in a position to consider the alignment of catchment areas or similar of the three schools in Crewkerne.

72. All the other 'local' schools are over two miles whether driving or walking by a safe walking route from any of the three primary schools in Crewkerne. Clearly children do not live at the schools but it would appear that any child living in Crewkerne could only attend a school within two miles if they were admitted to one of the three town schools.

73. The map provided to me by the local authority shows the home locations of pupils who were admitted in 2020 and 2021 and those children offered a place in 2022. The map shows that 18 of the 20 children offered a place in 2022 live in the school's catchment area and two live outside it. There is a similar pattern for 2020 and 2021. If the pattern were to be repeated in terms of demand for 2023 with a PAN of ten for the school, then not all the children in the school's catchment area could be admitted. There would be another school in less than two miles for children not admitted to the school or St Bartholomew's – Maiden Beech.

74. The school's catchment area includes a rural hinterland some of which may be further than two miles from the school. The map shows one child from this area being admitted to the school in 2021 but for no other year. It would therefore appear that demand for the school from its rural hinterland is very low. If there were to be children living in the rural hinterland without a sibling at the school then, for 2023 with a PAN of ten, they are unlikely to be admitted. The map shows the rural hinterland of the catchment area to extend to the west of the school. It is possible that the actual nearest schools to those living in this area, in a straight line, could be Hinton St George School, Merriott School, Maiden Beech or St Bartholomew's School. As the governing boards for three of these schools have objected to the reduction in their PANs for 2023 then the likely nearest school with capacity for admission (as the PANs have been set) would be Maiden Beech. The distances to any of these schools may not be further for a child living in the rural hinterland of the catchment area than for the school.

75. No child is guaranteed a place at a school but normally catchment areas are designed with the intention that it should be possible for all the children living in the catchment area to be admitted. By setting the PAN at ten, the local authority appears to wish to constrain admissions so that this does not occur.

76. I do not underestimate the difficulties for all those concerned in the reorganisation but particularly for Maiden Beech, the children who attend it, their parents and the staff who work there. The commitment to change from a middle school admitting children to Y5 to a primary school building up from YR will not have been easy to achieve and I understand the local authority's wish to provide a stable start to the school. I am given the strong

impression that the local authority has reduced the PAN at the school to ten in order to support Maiden Beech. While this may be for worthy reasons, I will consider the effects on the school.

77. The governing board said in its referral that it currently had no classes containing more than one year group, which are often called mixed age classes. The governing board said that a PAN of ten would mean that the school would have mixed age classes throughout and that these would have to restructure every year and could possibly mean classes containing more than one key stage. The governing board said that this would make the curriculum more complicated to deliver and could affect Ofsted outcomes and parental preferences. I note that a PAN of 15 or 20 is also likely to lead to classes with more than one year group in them and that schools can have different numbers joining in different year groups and schools must manage this.

78. I know that there are many schools which have mixed aged classes throughout and are successful and popular so in one sense I do not share the governing board's concerns. However, the school had a PAN of 30, then 20 and now it is set at ten with the intention of increasing it to 20 in 2026. Schools can have higher numbers and lower numbers of pupils from year to year as can be seen in table 3 above but to set the PAN at ten for 2023 until, presumably, 2026 (as the local authority has said that this will be the end of the transition) means the school would have three or four years with a PAN of ten and intakes of around that number and so the numbers in the year groups would complicate class structures which would change from year to year. This appears to create similar circumstances to those which the local authority is trying to avoid for Maiden Beech, albeit that Maiden Beech will only have YR and Y1 pupils in 2023.

79. I have considered the evidence provided to me. In summary I find:

- 79.1. that the school would have capacity to have a PAN of 20 (the PAN for 2022) in 2023 and in 2024 as it extends to cover the whole primary school age range;
- 79.2. the local authority forecast is that fewer children will be seeking school places in the area in 2023 but current research by the governing board shows that more than 13 families with siblings already at the school are likely to want their child to be admitted in 2023 and 11 of these live in the catchment area;
- 79.3. there were 23 first preferences for the school for 2022 and 20 children were admitted;
- 79.4. parental preference is likely to be frustrated if the PAN remains at ten for 2023;
- 79.5. the local authority's objective in setting the PAN at ten appears to be the channelling of children to Maiden Beech as it establishes itself as a primary school;

79.6. the local authority has expressed its intention of being willing to admit over the PAN for siblings of existing pupils who live in catchment but this would be not apparent to a parent looking at the arrangements.

80. Taking this evidence into account I have decided that the PAN of ten for 2023 is unfair as it is designed to frustrate parental preference without sufficient justification. I also find for the reasons explained earlier in this determination that it is unclear what the PAN is as the local authority intends to admit above the PAN and making those decisions as to who will be admitted on a “case by case basis.” The arrangements do not meet the requirements of paragraph 14 of the Code to be fair and clear. Therefore I uphold this part of the objection and the referral.

81. Paragraph 1.3 of the Code says, “Community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.” The governing board has exercised its right to object and I must have a strong presumption in favour of an increase to the PAN. I do not find the local authority’s arguments to be sufficient justification for the unfairness which will be caused to some parents by removing ten places and reducing the PAN from 20 to ten. I uphold the objection to the PAN for 2023 being set at ten. The PAN will revert to 20.

## Summary of Findings

82. The consultation on the change to the PAN for 2023 broadly met the requirements of the Code but was largely ineffective as the evidence shows that those most concerned were unaware of the consultation. In my view, the local authority did not take adequate steps to make sure that those most likely to be directly interested were made aware of the proposed PAN reduction. In addition, there is no evidence that the views expressed by the governing board to the local authority were considered. I therefore partially uphold this part of the objection.

83. The PAN has been set lower than the governing board would wish. Setting the PAN at ten will frustrate parental preference when the school has the capacity to admit 20 children to YR. The reasons for so doing are not sufficient to justify the decision and so it is unreasonable and unfair to local parents who may want their child to go to the school. I uphold the objection to the local authority’s decision to determine the PAN at ten and find that the arrangements do not conform with the requirements of the Code.

## Determination

84. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2023 determined by Somerset County Council for Ashlands Church of England First School. I

uphold the objection to the local authority's decision to determine the published admission number at ten.

85. In accordance with section 88I(5) of the School Standards and Framework Act 1998 I have considered the admission arrangements for September 2023 determined by Somerset County Council for Ashlands Church of England First School and find that the arrangements do not conform with the requirements relating to admissions.

86. 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: 26 July 2022

Signed:

Schools Adjudicator: Deborah Pritchard