



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2270 and VAR2267

**Admission authority:** Central Bedfordshire Council for Clipstone Brook Lower School, Leighton Buzzard

**Date of decision:** 14 September 2022

### Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed reductions in the published admission numbers for September 2022 and September 2023 determined by Central Bedfordshire Council for Clipstone Brook Lower School, Leighton Buzzard.

I determine that the published admission numbers for both years will be reduced from 75 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. The Central Bedfordshire Council (the local authority) has referred proposals for variations to the admission arrangements for September 2022 and September 2023 (the arrangements) for Clipstone Brook Lower School (the school) to the adjudicator. The school is a community school for children aged three to nine in Leighton Buzzard and the local authority is its admission authority.
2. The proposed variations are to reduce the published admission number (PAN) from 75 to 60 in both years.

## 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 variations. I find that the appropriate procedures were followed, and I am satisfied that the proposed variations are 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 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. The information I have considered in reaching my decision includes:

- a. the referral from the local authority dated 9 June 2022, supporting documents and further information provided at my request;
- b. the determined arrangements for 2022 and 2023 and the proposed variations to those arrangements;
- c. confirmation that the governing board has been consulted and supports the proposed variations;
- d. comments from the chair of governors and headteacher of the school on the proposed variations;
- e. a map showing the location of the school and other relevant schools; and

- f. information available on the websites of the local authority and the Department for Education.

## The proposed variation

6. The proposed variation is to reduce the PAN of the school from 75 to 60 for both September 2022 and September 2023. The arrangements for the school for 2022 and 2023 were determined by the local authority on 10 February 2021 and 17 February 2022 respectively. The local authority's email, dated 28 June 2022, providing notification of the proposed PAN reductions commented:

“As a reaction to pupil numbers across Leighton Buzzard there isn't a long term need for Clipstone Brook to have a PAN of 75. The school have expressed their desire to have their year groups panned at a PAN of 60 across all year groups for a number of years. This request is to rectify the decisions made in the published admissions arrangements.”

7. 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.

## Consideration of proposed variation

8. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. 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 which makes it particularly important that proposed variations are properly scrutinised, and I have accordingly given careful consideration to the data to try to ascertain if there will be sufficient school places in the local area if the PAN is reduced from 75 to 60 for both September 2022 and September 2023. I have also considered the demand for places at the school, the reasons given for the change, the potential effect on parental preference and whether the change is justified in these circumstances.

### The proposal for 2022 and 2023

9. The local authority told me, in the application to reduce the PANs:

“The problems we foresee are that the school will experience difficulties will(sic) [with] additional recruitment of staff. Most crucially retaining a PAN of 75 risks the school going into a deficit position as we do not expect the pupil numbers to materialise. The other problem we foresee is if the school staffing structure is based

on expected number of pupils and there is a risk that the school could breach infant class size legislation due to in year applications.”

10. If I determine that the PAN reduces to 60 for admission to the Reception Year (YR) in 2022 and 2023, I need to consider if there are sufficient places [in each of these year groups] to meet demand across the planning area. The local authority has a duty to make sure that there are sufficient school places for the children in its area. In order to carry out this duty the local authority considers the availability of places and the need for places in planning areas which are geographical groups of schools. The local authority provided me with information about the number of places at the school, the number of children admitted in the last few years, the numbers of places accepted in 2022 and the forecast for 2023 and 2024.

**Table 1: Admissions to YR and potential admissions to the school**

	2019	2020	2021	2022	2023	2024
PAN	75	75	75	60 (proposed)	60 (proposed)	60 (after consultation)
Admissions	44	55	59	59 (at present)	49 (forecast)	48 (forecast)

11. I have also looked at admissions to YR at schools in the planning area and the places forecast by the local authority for 2023/24 and 2024/25.

**Table 2: Admissions to YR for the schools in the planning area in recent years**

School	PAN	Actual Admissions 2020	Actual Admissions 2021	Forecast 2022	Forecast 2023	Forecast 2024
Beaudesert Lower	56	53	60	46	50	50
<b>Clipstone Brook Lower</b>	<b>75</b>	<b>55</b>	<b>59</b>	<b>46 (59 accepted)</b>	<b>49</b>	<b>48</b>
Doverly Down Lower	30	30	30	25	27	27
Greenleas School	120	120	118	114	119	118
Heathwood Lower	30	32	30	25	27	27

School	PAN	Actual Admissions 2020	Actual Admissions 2021	Forecast 2022	Forecast 2023	Forecast 2024
Hockliffe Lower	15	15	9	20	25	27
Leedon Lower	90	54	77	62	64	63
Linslade Lower	30	30	30	25	26	27
Pulford CoE VA Lower	45	46	45	43	46	45
Southcott Lower	60	60	46	51	54	56
St Leonard's VA Lower	22	25	24	26	32	34
Stanbridge Lower	24	16	19	21	26	27
The Mary Bassett Lower	60	60	59	52	56	56
The Rushmere Park Academy & Nursery	30	13	29	21	26	27
<b>TOTALS</b>	<b>687</b>	<b>609</b>	<b>635</b>	<b>571</b>	<b>617</b>	<b>623</b>

12. The pupil numbers in YR at the school have varied over the last few years from a low of 55 in 2020 to 59 in the last three years. However, the school has not admitted to a PAN of 75 in any of the last three years and the number of admissions forecast for 2023 and 2024 of 49 and 48 pupils are well below the proposed PANs of 60. The school has notified me that there are 59 children currently on roll.

13. Schools are largely funded by the number of children and one of the highest costs is staffing. If the number of children in the Reception year is over 60, even by one child, then the school may decide for educational reasons to establish a third class with the costs that this would entail. By the PAN being changed so that it is 60 the governing board can plan

on that basis which is why it supports the proposal. The drop in pupil numbers over the last few years has meant financial difficulties for the school but a reduction in the PAN to 60 will enable them to plan their staffing with more certainty. I am also assured that there are sufficient vacant places in schools in nearby planning areas, and that these schools can accommodate pupils who have not been offered a place at the school if it transpires that there are more applications than there are places available.

14. I asked the school to comment on the impact if the proposal to reduce the PAN was agreed or not agreed. The chair of governors and the headteacher provided a helpful response:

**Effects on the school to be if the variation is agreed:**

- Stabilised mobility in terms of both staff and pupil retention.
- Ability to organise and plan across specific year groups enabling a better approach to curriculum delivery.
- Predictable funding streams based on PAN, enabling better control of the school budget and staffing structure.

**Effects on the school if the variation is not agreed:**

- Increased staffing costs which are not covered by APU funding, eg, the school is then in a vulnerable position and subject to a deficit budget/ staff re-structure, affecting morale and well-being. The school is in a position where it can no longer meet its core function.
- Mixed year group classes across different key stages additional workload implications for staff and making recruitment difficult.”

15. In the light of all the information provided to me, I find that the variations are justified by the circumstances and approve the proposed variations. I am also assured that there are sufficient vacant places in the planning area for any children who are not offered a place at the school.

## Consideration of the arrangements

16. Paragraph 14 of the Code sets out that:

“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.”

17. 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, which apply to both the 2022/23 and 2023/24 arrangements, were (with the relevant paragraph of the Code in brackets):

- a. in the section on definitions, and under previously looked after children, the reference to “residence order” should be replaced by “child arrangements order.” Footnote 18 of the Code, which is a footnote to paragraph 1.7 explains residence orders were replaced by child arrangements orders (Paragraph 1.7).
- b. there are a number of errors about the arrangements on the school’s website. There is no requirement for schools that are not admission authorities to publish admission arrangements but when they do, the content should accurately reflect the arrangements determined by the local authority as the admission authority; and
- c. the arrangements refer to catchment areas under the general definitions section although the oversubscription criteria do not include catchment area requirements. This makes the arrangements unclear (Paragraph 14).

18. I also noticed that in the local authority’s request for a variation form and under section 2c, it says:

“A PAN of 60 to apply for all year groups for 2022/23 and 2023/24. We intend to propose a PAN of 60 in the 2024 admission arrangements to resolve this going forward. This will apply to all year groups.”

The PAN applies only to the relevant year or years of entry to a school. In this case the only normal year of entry is YR. If applications are made for other year groups, the local authority, as the admission authority, must consider them. As paragraph 1.4 of the Code states, in so far as is relevant here: “The PAN only applies to the relevant age group. This means that admission authorities may not refuse admission to other age groups on the grounds that they have already reached their PAN. They may, however, refuse admission where the admission of another child would prejudice the provision of efficient education or efficient use of resources.” (Paragraphs 1.2 and 1.4).

19. I welcome the local authority’s helpful response to these matters. It explained that the reference to catchment areas was listed under a general definitions section that relates to all definitions used across the local authority for its schools. For the sake of clarity, it is important that arrangements such as these for many schools are clear as to which provisions apply to which school. The local authority also told me that it has asked the school to take down the policy advertised on the school website “as it is not the policy which was determined previously.”

## Determination

20. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed reductions in the published admission numbers for September 2022 and September 2023 determined by Central Bedfordshire Council for Clipstone Brook Lower School, Leighton Buzzard.

21. I determine that the published admission numbers for both years will be reduced from 75 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: 14 September 2022

Signed:

Schools adjudicator: Lorraine Chapman