



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2273

Admission authority: The Isle of Wight Council for Barton Primary School and The Isle of Wight Council for all community and voluntary controlled schools for which the local authority is the admission authority.

Date of decision: 27 September 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 Isle of Wight Council for Barton Primary School for September 2022.

I determine that the published admission number for admissions under the 2022 admission arrangements shall be 30.

I have also considered the arrangements for September 2022 and September 2023 for all community and voluntary controlled primary schools for which the local authority is the admission authority under section 88I(5) of the Act and find that they do not comply with the 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 Isle of Wight Council (the local authority) which is the admission authority for Barton Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2022 (the arrangements) for Barton Primary School (the school) to the adjudicator. The school is a community school for children aged 3 to 11 on the Isle of Wight.

2. The proposed variation is that the published admission number (PAN) be reduced from 45 to 30 for admissions to the school under the 2022 admission arrangements.

Jurisdiction and procedure

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which deals with variations to determined arrangements. Paragraphs 3.6 and 3.7 of the School Admissions Code (the Code) say (in so far as relevant here):

“3.6 Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it must consult the governing body of the school before making any reference.

3.7 Admission authorities **must** notify the appropriate bodies of all variations”.

4. The local authority has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school’s governing board has been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am satisfied that the proposed variation is within my jurisdiction. I am also satisfied that it is within my jurisdiction to consider the local authority’s determined arrangements for September 2022 for community and voluntary controlled schools in accordance with my power under section 88I of the Act as they have come to my attention, and to determine whether or not they conform with the requirements relating to admissions and, if not, in what ways they do not so conform. In addition, because the matter I am concerned about in the 2022 admission arrangements also appears in the 2023 admission arrangements, I have raised the same concern in relation to the 2023 arrangements.

5. In considering the proposed variation and other matters I have had regard to all relevant legislation and the Code.

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

- a. the referral from the local authority dated 22 June 2022 and sent to the Office of the Schools Adjudicator by email on 31 August 2022, supporting documents and further information provided at my request;

- b. the local authority's determined arrangements for community and voluntary controlled schools for September 2022 and the proposed variation to those arrangements;
- c. the local authority's determined arrangements for community and voluntary controlled schools for September 2023;
- d. comments on the proposed variation from the school;
- e. a map showing the location of the school and other relevant schools; and
- f. information available on the websites of the local authority, the school and the Department for Education.

The proposed variation

7. The proposed variation is that the school's PAN for 2022 admissions be reduced from 45 to 30.

8. 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. It is for the admission authority to determine whether there has been a major change of circumstance. I will consider whether the variation requested is justified by the change in circumstances.

Consideration of the proposed variation and the arrangements as a whole

The proposed variation

9. The local authority has proposed a variation to the school's PAN for 2022 admissions from 45 to 30. The form of variation request was received on 31 August 2022, immediately before the start of the new school year. It stated that 23 offers of places at the school were made on National Offer Day, although there was also a table in the form which stated that 29 offers had been made. I asked the local authority to tell me how many children have actually now been admitted to the school. The local authority has confirmed that, as at 14th September, 29 pupils have taken up their places at the school, however the information provided by the school indicates that the number is 20.

10. The form stated that, although the school's PAN is 45, only 35 children were admitted in September 2021, which is said to mean that the school is currently operating a four-class structure which includes two teachers in a single year Reception class to comply with the infant class size regulations and three mixed year 1/2 classes. The local authority says that:

“Numbers are such, that it is likely that the school will need to continue running a four-class structure to comply with the infant class size regulations, but by varying the PAN to 30, the school will only need to employ one FTE teacher in year R, which will allow the school to reduce staffing numbers.

If the school are unable to reduce their PAN for September 2022, they may be forced to continue employing a fifth FTE teacher, which is not financially viable when the school does not have the pupil numbers to support this. Based on the actual pupil numbers at the school and future growth projections for the planning area, it is unlikely that the PAN of 45 will be filled. If the school are able to reduce their PAN for September 2022 admissions, they will be able operate a four-class structure with four FTE teachers”.

11. I asked the school to explain to me the structure of the classes in each year group; how many children are in each class; and what the staffing arrangements are. I also asked the school to explain the cost savings that would be made if the proposed variation is approved and what the financial consequences would be of not approving the variation. I could see that, in view of the requirements of the School Admissions (Infant Class Sizes) (England) Regulations 2012, having an intake marginally over 30 may well be costly for the school. This is because the Regulations provide that no infant class may contain more than 30 pupils while an ordinary teaching session is conducted by a single school teacher.

12. The school provided the information on staffing arrangements and class sizes in tabular form as set out below. The school does not have a budget deficit at the moment, but if it has to add another teacher to accommodate numbers going over 30 pupils in Year R this would be financially challenging going forward and a potential deficit would emerge in the next financial year.

Table One: Class sizes and staffing arrangements

Classes	Pupil Nos		Teacher	LSA
Yr R	20		1	2
Yr 1&2 mix	24		1	3
Yr 1&2 mix	24		1	1
Yr 1&2 mix	23		1	1
Yr 3	22		1	2
Yr 3	17		1	2
Yr 4	21		1	1
Yr 4	22		1	1

Yr 5	22		1	1
Yr 5	22		1	1
Yr 6	20		1	1
Yr 6	21		1	1

The proposed PAN reduction budget saving would be:

1 x teacher (M6)	£49.8K
1 x LSA	£18.8K

Total	£68.6K
--------------	---------------

13. This variation approval request has been made at a very late stage in the admissions process for 2022. This has the advantage that, if the PAN reduction is approved, no parents who have made applications to the school in the normal admissions round will be disappointed. On the other hand, there may be a disadvantage to in-year applicants who will be unable to secure a place. I therefore considered the alternative primary school options available within the local planning area. The local authority has told me that the total number of available places in the planning area is 403, and that 323 offers have been made. There are, therefore, 80 surplus places. I wondered how accessible these might be to parents and children living locally to the school.

14. Table 2 below shows the schools in the local planning area with their published admission numbers and the number of children admitted to each school. No school was completely full for each of these three years.

Table 2

SCHOOL	2019 - 20	2020- 21	2021 - 22
Arreton St George's CE Primary PAN 30	23	21	20
Barton Primary School PAN 45	31	39	34
Carisbrooke CE Primary PAN 60	60	59	59

Chillerton and Rookley Primary School PAN 13	6	1	1
Hunnyhill Primary PAN 60	49	47	60
Newport CE Primary School PAN 45	44	43	45
Nine Acres Primary PAN 60	59	47	57
St Thomas of Canterbury RC Primary PAN 30	28	28	30
Summerfields Primary PAN 30	26	22	26
Wootton Primary School PAN 30	31	24	28
Total Yr R PAN	357	331	360

The position has changed slightly for 2022 admissions. Table 3 below shows the September 2022 intake for each of the schools in the planning area. Indeed, the other schools which are reasonably local to the area in which the school is located appear to be full, or almost full.

Table 3

SCHOOL	PAN	2022 Offers
Arreton St George's CE Primary	30	21
Barton Primary School	45	29
Carisbrooke CE Primary	60	37
Chillerton and Rookley Primary School	13	0
Hunnyhill Primary	60	60
Newport CE Primary School	45	45
Nine Acres Primary	60	55
St Thomas of Canterbury RC Primary	30	30
Summerfields Primary	30	28
Wootton Primary School	30	30
Total Yr R PAN	403	335

15. Arreton St George's Primary School, Carisbrooke CE Primary School and Chillerton and Rookley Primary School are the schools with most vacant places, and it appeared to me from the latter's website that it may be about to close. I therefore asked the local authority for further information about the accessibility of alternative provision in terms of where it is, ease of access, and whether there might be any issues with splitting families. I was also concerned about whether additional travel for families might have any adverse impact on congestion or public transport, although I appreciate that there are unlikely to be many children and families affected.

16. The local authority's response was: "The nearest primary schools to Barton Primary School are listed below in order and the places available at each, as of today's date (14th Sept) are:

Summerfields Primary (0.85 walking) - 2 places

Nine Acres Primary (0.96 walking) - 5 places

Carisbrooke CE Primary (1.40 walking) - 37 places

Newport CE Primary (1.42 walking) – 0 places

St Thomas of Canterbury (1.64 walking) – 0 places

Hunnyhill Primary (1.55 walking)- 0 places

There are 44 places available within (1.4 miles) of Barton Primary School. We therefore do not feel there would be any impact on the environment as a consequence of this request to lower their PAN." The authority has confirmed that it is not intending to close Chillerton and Rookley Primary School as the closure decision was not approved by the Council following the public consultation.

17. I asked what was the change of circumstances which had occurred since the arrangements had been determined and which had prompted the proposed PAN reduction. The local authority confirmed that the earlier forecast information indicated that, whilst there would be surplus capacity within the planning area, the school would attract a higher number of pupils than the number who actually made applications. The decision was therefore taken to wait to review the position until after all applicants had been allocated places. The local authority is confident that for this admission year there is sufficient capacity to accommodate any additional children who may move into the area.

18. In light of the information I have received from the local authority and the school, I have concluded that the proposed PAN reduction will address the issues arising from the change of circumstances identified by the local authority; that there are available places at local primary schools which are reasonably accessible to any in-year applicants local to the school who are unable to secure a place at the school; that there will be no adverse impact in terms of traffic congestion or additional burdens on public transport; and that there will be

no adverse impact upon other local schools. Indeed, I have been told that none of the local schools notified have expressed any concerns. I find that the variation is justified by the change of circumstances, and I approve the proposed variation. The PAN for 2022 admissions to the school will be 30. The variation requested is for 2022 only. The PAN for 2023 admissions has already been determined, therefore this determination will not affect it. The local authority has said that it intends to review the position with respect to the 2023 arrangements.

Consideration of the arrangements

19. Having considered the admission arrangements for the school as a whole, it appeared to me that there was one matter which did not, or might not, conform with the requirements relating to admissions. Accordingly I decided to exercise my powers under section 88I of the School Standards and Framework Act 1998 to consider the arrangements and whether they conform with the requirements relating to admissions.

The arrangements for children to be admitted outside their normal age group did not appear to conform to the requirements of paragraph 2.19 of the Code. The arrangements say: “If you are applying for a place outside of your normal age group, it is recommended that you speak to the Headteacher of the school you are seeking admission to. Your child will be allocated a place by School Admissions in their chronological year group and it will be the Headteacher of the school in which your child has been allocated a place that will make the decision as to whether your child can be taught outside of their normal age group. The decision will be based following conversations between the parents/guardians and the Headteacher of the school, along with the evidence you provide to support your request”.

20. Paragraph 2.19 of the Code provides that admission authorities must make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This will include taking account of the parent’s views; information about the child’s academic, social, and emotional development; where relevant, their medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely. Admission authorities must also take into account the views of the headteacher of the school concerned. When informing a parent of their decision on the year group the child should be admitted to, the admission authority must set out clearly the reasons for their decision.

21. The arrangements say that the decision about whether a child can be taught outside their normal year group is made by the school’s headteacher, whereas the Code provides that the decision must be made by the admission authority, and that the headteacher’s view is only one of the factors which must be taken into account in making a decision (paragraphs 2.18 – 2.20 of the Code).

22. The local authority has acknowledged that further work is required on this, however it considers that guidance from the DfE is “not explicitly clear around this in secondary”. The

arrangements for admission of children outside their normal age group do not conform to paragraph 2.19 of the Code. It is clear from this paragraph that decisions are not to be made by the headteacher of the school in question; the arrangements provide no indication of the basis upon which decisions are made; it appears that there is no Code compliant process in place for the decision-making process; and no help for parents in terms of advice as to the information they need to provide. This will need to be revised. The local authority is permitted to make revisions under paragraph 3.6 of the Code, and appears to have accepted that changes are required. The Code requires that the arrangements be revised to address the points set out here. This will also apply to the 2023 admission arrangements.

Determination

23. 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 Isle of Wight Council for Barton Primary School for September 2022.

24. I determine that the published admission number for admissions under the 2022 admission arrangements shall be 30.

25. I have also considered the arrangements for September 2022 and September 2023 for all community and voluntary controlled primary schools for which the local authority is the admission authority under section 88I(5) of the Act and find that they do not comply with the requirements relating to admission arrangements as set out in this determination.

26. 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: 27 September 2022

Signed:

Schools adjudicator: Marisa Vallely