



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2276

Admission authority: Hampshire County Council for Marchwood Church of England Infant School, Southampton

Date of decision: 10 November 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 Hampshire County Council for Marchwood Church of England Infant School for the 2022/2023 academic year.

I determine that the school's Published Admission Number for admissions in the 2022/2023 academic year shall be 60.

The referral

1. Hampshire County Council (the local authority) has referred a proposal for a variation to the admission arrangements for the 2022/2023 academic year (the arrangements) for Marchwood Church of England Infant School (the school) to the adjudicator. The school is a voluntary controlled school for children aged four to seven in Marchwood, which is to the west of Southampton, across the River Test. The school has a Church of England religious character.
2. The proposed variation is that the published admission number (PAN) be reduced from 90 to 60.

Jurisdiction and procedure

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

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

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

4. The local authority has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school’s governing board has been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction. In considering this matter I have had regard to all relevant legislation, and the Code.

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

- a. the referral from the local authority dated 3 October 2022, supporting documents and further information provided at my request;
- b. the determined arrangements for the 2022/2023 academic year and the proposed variation to those arrangements;
- c. minutes of the school’s governing board of the meeting at which the proposed variation was considered;
- d. comments on the proposed variation from the school;
- e. comments received from the headteacher of Marchwood Junior School in response to notification of the proposal;
- f. a map showing the location of the school and other relevant schools; and
- g. information available on the websites of the local authority and the Department for Education.

The proposed variation

6. The local authority has requested that the PAN be reduced from 90 to 60 for admission in the 2022/2023 academic year. Significantly fewer children than the PAN were admitted to the school in September 2021 and September 2022. A reduction in the PAN will, the local authority says, allow the school to operate with fewer classes. This “will

protect the school from financial difficulties and will enable them to plan their staffing with certainty for the next academic year.”

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 in 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. In recent years, the number of children admitted to the school has been significantly fewer than the PAN of 90. Table One shows the number of children in each year group at the school in October 2022.

Table One: Number of children in each year group (October 2022)

Year group	YR	Y1	Y2	Total
Number of children	63	64	77	204

The school is currently organised in nine classes, three in each year group.

9. The local authority says that its forecasts show “a significant fall in the catchment population and it is looking like only a 2fe [that is, a maximum of 60 children] demand for the near future.” Following a period of consultation, the PAN for admission in September 2023 was reduced from 90 to 60. Taking into account the regulations on infant class sizes, a PAN of 60 will, over time, allow the school to operate with a total of six classes, two in each year group, at or below the limit of 30 children in a class with a single teacher.

10. As schools’ funding is principally determined by the number of children on roll, I recognise the financial benefit to the school of moving to a six-class structure with 30 children (or very nearly so) in each class, compared to the current nine much smaller classes. The headteacher explained to me that the school is “currently in a deficit budget and have a budget recovery plan in place that is dependent on being able to reduce the number of...teachers and support staff employed.” She outlined the financial implications of maintaining three classes for the cohort of children currently in the reception year (YR), as they progress through the school, as follows:

“The cost of a mainscale teacher on the lowest scale is £28,000 plus on costs which would leave us at least another £40,000 in deficit per year for the two years we would need to sustain this for - a total of at least £80,000. This figure is only based on a teacher paid at the lowest point in the scale and doesn't calculate pay increases associated with performance or cost of living rises. This leaves us unable to recover these costs. There are also additional costs associated with staff training, heating,

lighting and running IT equipment in a third classroom, particularly at a time when energy costs are significantly increasing.”

11. The local authority, in its request for a variation, states that “The reduction of the PAN to 60 will allow the school to operate an 8-class structure across the school.” In fact, there is no guarantee that this will be the case for the 2022/23 academic year. The proposed reduction in the PAN for the current academic year is described in the minutes of the governing board of the school as “retrospective.” In response to a governor’s question as to why the reduction was necessary, the headteacher said that “A cap of 60 now would mean that no further children would be admitted into year R even if children leave, so it is possible that the number would reduce to 60 eventually.” In other words, if, and only if, the PAN for 2022/23 were reduced to 60 and at least three children were to leave the school during the academic year, it would be possible to reduce the number of qualified teachers required in YR from three to two and the number of classes across the school from nine to eight.

12. I asked the headteacher whether, in practice, it would be feasible to re-organise from three to two classes during the course of the academic year, bearing in mind the potential upheaval and possible concerns of parents. She replied that it would, because of the way in which teaching and learning in YR is organised:

“The children are organised into registration class groups within an open plan base that holds all the children together. After class registration, the open plan base operates with all staff working with the children in continuous provision which is in line with the EYFS [Early Years Foundation Stage] curriculum. The children are only in class groups for registration and for occasional inputs. However, many inputs are organised flexibly across the base, so children are used to working with different adults and different groupings. All staff and children know each other and the parents know the staff in the base. To reduce the PAN to 60 would potentially allow us to operate with the equivalent of two qualified teachers in the base without the children changing classes due to the fluidity in our Year R organisation.”

13. It is, of course, uncertain whether such a reduction in staffing could take place if the PAN were reduced, as three children might not leave YR or the number in the cohort might reduce to 60 at too late a point in the academic year for staffing changes and/or any significant financial saving to be made.

14. Another of the local authority’s reasons for requesting a reduction in the PAN for the current academic year is that it would enable the school “to plan their staffing with certainty for the next academic year.” The headteacher has stated that the school’s plan is to operate with seven classes for the 2023/24 academic year: two for YR (as the PAN is determined as 60) and five across years 1 and 2 (Y1 and Y2). The Y1 and Y2 classes would comprise either two for Y1 and three for Y2 or, if the Y1 cohort were to remain in excess of 60, the school would “run...a Y1/Y2 mixed age class.”

15. Currently, the total number of pupils who will be in Y1 and Y2 in September 2023 (that is, those now in YR and Y1) is 127. Provided that this total does not grow to more than 150, at which point a sixth class would be needed, it will be possible for the structure envisaged by the school to be put into place. I consider it to be almost certain that there will be fewer than 150 children in Y1 and Y2 in September 2023. I have been provided with no evidence that a large influx of families is expected to arrive in the school's catchment area over the next few months.

16. I put it to the headteacher that, assuming I am correct, a PAN reduction is not necessary to ensure that the school will be able to operate with five classes for Y1 and Y2 and seven classes in total for the 2023/24 academic year. She responded with two further arguments. The first was expressed as follows:

“Reducing the PAN to 60 would also potentially “future proof” class organisation as if the number of pupils reduced to 60, a PAN of this number means we only need to operate two classes in subsequent years as the children move through the school. Keeping the PAN at 90 for this year group leaves us vulnerable to having to have a third teacher if numbers increased again to over 60 at any time. This is particularly relevant if these children move into Year 2, as the subsequent Year R and Year 1 cohorts would have been admitted as a PAN of 60. If this cohort reduces to 60 by 2024-2025 but the PAN remains at 90, this means that in 2024-2025 we would have to run a third class if that cohort increased beyond 60 again, just for that cohort.”

17. I appreciate the importance of looking ahead beyond the 2023/24 academic year, but it appears to me that the headteacher's concerns are based on a misunderstanding. The Code makes clear, in paragraph 1.2 and footnote 11, that the PAN applies to the normal year of admission to the school, that is, YR. Admission authorities are required to admit up to their PAN throughout the course of YR. Once that cohort reaches Y1, decisions about admissions are not governed by the PAN but by whether the admission of a child would cause prejudice to “the efficient provision of education or use of resources” (paragraph 2.28 of the Code). In other words, if the PAN for the 2022/23 academic year were not to be reduced from 90 to 60, the admission authority would not be obliged in law to admit pupils into Y1 or Y2 in subsequent years, if it believed that such prejudice would be caused. Therefore, reducing the PAN would only benefit the school by allowing it to restrict numbers in the current YR cohort for the remainder of the current academic year, which would not be permitted if the PAN remained at 90. It would have no direct effect on admissions to what will be Y1 in the 2023/24 academic year. That said, I agree that a reduction could increase the likelihood that the cohort will have reduced to 60 by September 2023. I should add that if the cohort has not reduced to 60 by September 2023, a reduction in PAN could also be said to contribute towards its reducing to 60 by September 2024, as no additional children would have had to be admitted in the 2022/23 academic year, potentially meaning that fewer children would need to leave during the 2023/24 academic year for the school to be able to have two discrete Y2 classes the following year.

18. The headteacher's second argument related to the organisation of classes for the 2023/24 academic year:

“Reducing the PAN to 60 would also mean we can potentially organise the classes as discrete year groups if the number of pupils on roll in Year R reduced to 60 by the start of the next academic year. This means we would not need to operate a mixed age Y1/2 class which is a significant operational change for staff, parents and children when we have previously operated single year group classes. Although we appreciate there may still be a need for this if numbers do not reduce, it is less popular with parents and incurs additional training and resourcing costs for staff as we will be teaching two different curriculum objectives to one class.”

I recognise the force of this argument, but would emphasise again, as the headteacher accepts, that a reduction in PAN does not guarantee that the number in the cohort will reduce to 60 in time for the preferred class structure to be put in place for September 2023.

19. Having examined the arguments in support of the proposed reduction in PAN, I turn now to consider possible reasons why it would not be appropriate. When he was notified of the decision of the local authority to seek a variation, the headteacher of Marchwood Junior School expressed some concerns. He pointed out that the Junior School has a PAN of 90 and attracts pupils from further afield than Marchwood, although the majority of the school's intake transfers from Marchwood Infant School. He argued that it would become very difficult for the Junior School “to fill its PAN of 90” if the Infant School's PAN were reduced to 60. The Junior School is rated Outstanding by OFSTED and supports service children and a local Fijian community in particular. The headteacher said that a reduction in PAN “could quickly undo much of this hard work.”

20. The Junior School headteacher's arguments may well carry some weight with regard to the effects of the reduction in the Infant School's PAN in forthcoming years. A PAN of 60 has already been determined by the local authority for admission to the Infant School in 2023/24, following a period of consultation. No objection was made to the PAN for 2023/24 by the deadline for submitting objections (15 May 2022) and none has been made since. I have no jurisdiction to consider or review the determination of the PAN for 2023/24. My jurisdiction extends only to the proposed variation to the PAN for the 2022/23 academic year. The only effect of reducing the PAN for 2022/23 would be to enable the admission authority to refuse admission to YR for the remainder of the academic year. Of itself, I consider that such a reduction is only likely to have a marginal impact on the Junior School in the longer term, as the number of children who will be affected, that is those that may relocate into the area served by Marchwood Infant School during the rest of the current academic year, will almost certainly be small; there may be none at all.

21. Nonetheless, I must take into account the effect of the proposed reduction in PAN on such children and their families. Marchwood Infant School serves a discrete area. There is no other Primary or Infant School within two miles. The local authority informed me that the nearest schools with places available in YR are Eling Infant School and Hythe Primary

School, which are located 2.69 and 3.207 miles away from the school by walking distance, respectively. For pupils of compulsory school age below the age of eight, transport is provided if their nearest suitable or catchment school, measured from the child's home to the nearest available entrance to the school grounds, is beyond two miles. I consider that it would be a potentially significant inconvenience for families moving into the Marchwood area not to be able to obtain a place in YR at the school. Such families may have expected there to be places, as the admission number published by the local authority was 90.

Summary and decision

22. The local authority argues that the change in the school's circumstances, that is, the reduction in the number of children requiring a place, justifies a reduction in its PAN for the current academic year. In the context of seeking to reducing financial pressure by restructuring to a 2fe (six class) model, the benefits of reducing the PAN can be summarised as:

- (a) it allows for the possibility, but does not guarantee, of reducing to two classes in YR in the current academic year;
- (b) it increases the chances, but does not guarantee, of being able to implement the school's preferred pattern of two classes in Y1 and three in Y2, arranged in discrete year groups, for the 2023/24 academic year; and
- (c) it marginally increases the likelihood, but does not guarantee, that the current YR group will be at 60 or below by September 2024, thereby allowing the six class model to be put into place.

23. Against these benefits, which I consider to be relatively limited, must be weighed the potential disadvantage for parents moving into the area not being able to obtain a YR place at the school, were the reduction in PAN to be approved. It is not possible to know how many, if any, parents will be affected in this way.

24. On balance, I have come to the conclusion that the potential benefits of the reduction in PAN are slightly more significant than the disadvantage it might possibly cause. The school currently operates in a way that is not financially viable and must be given every opportunity to address its budget deficit. Although a reduction in the PAN for the current academic year offers no guarantees, it does increase the chances, albeit in a small way, of accelerating the transition to a sustainable budget model and therefore a more efficient use of resources for all of the children who attend. It is impossible to know whether any more children will require a YR place at the school before the end of academic year. Although there are no other schools in Marchwood, and I would understand parents' disappointment if their children could not go to school within their local community, it appears likely that the local authority would provide transport to an alternative school.

25. Therefore, I approve the proposed variation.

Determination

26. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Hampshire County Council for Marchwood Church of England Infant School for the 2022/2023 academic year.

27. I determine that the school's Published Admission Number for admissions in the 2022/2023 academic year shall be 60.

Dated: 10 November 2022

Signed:

Schools adjudicator: Peter Goringe