



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: VAR2297**

**Admission authority: The governing board for St Elphin's Church of England Primary School, Warrington**

**Date of decision: 2 February 2023**

## Determination

**In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements for September 2023 determined by the governing board of St Elphin's Church of England Primary School in Warrington.**

**I determine that for 2023 the published admission number will remain at 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2023.**

## The referral

1. The governing board of St Elphin's Church of England Primary School (the admission authority) has referred a proposal for a variation to the admission arrangements (the arrangements) for September 2023 for St Elphin's Church of England Primary School (the school) to the adjudicator. The school is a voluntary aided school for children aged three to eleven. The school has a Church of England religious character and the relevant faith body is the Church of England Diocese of Liverpool (the faith body). The school is in the area of Warrington Borough Council (the local authority). Warrington is in the ceremonial county of Cheshire.

2. The proposed variation is to reduce the published admission number for September 2023 from 60 to 30.

## Other Matters

3. When I reviewed the arrangements, I considered that there were a number of matters which did not conform with the School Admissions Code and need to be amended so that they do so conform. These were: a lack of clarity about starting school and an inaccurate and hence unclear reference to '60 children in all year groups' under the heading Published Admission Number (PAN); the requesting of information which is already covered in the local authority common application form (CAF); out of date references to 'residence orders' and 'a statement of special educational needs'. There was also an incomplete definition of looked after and previously looked after children, the home address and incorrect information about the waiting list. The Supplementary Information Form (SIF) appeared not to meet the requirements relating to such forms in a number of ways which are set out in more detail and addressed under 'Consideration of the arrangements' from paragraph 20 onwards.

## Jurisdiction and procedure

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

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

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

5. The chair of governors has provided me with confirmation that the appropriate bodies have been notified. 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 determined arrangements in accordance with my power under section 88I of the Act as they have come to my attention and determine whether or not they conform with the requirements relating to admissions and if not in what ways they do not so conform.

6. In considering these matters I have had regard to all relevant legislation, and the Code.
7. The information I have considered in reaching my decision include:
  - a. the referral from the governing board dated 22 November 2022, supporting documents and further information provided at my request;
  - b. the determined arrangements for 2023 and the proposed variation to those arrangements;
  - c. comments on the proposed variation from the local authority and the faith body;
  - d. further information from the local authority provided at my request;
  - 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

8. The proposed variation is to reduce the PAN of the school from 60 to 30 for September 2023. The arrangements for the school were determined by the Admissions Panel of the governing board on 16 February 2022. The proposal to apply for a reduction in PAN was agreed by the governing board on 1 November 2022.
9. 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

10. The school is in the Primary Central Warrington planning area with ten other schools which admit to the Reception Year (YR). The local authority commented in a notification notice:

“We are entering a period of low birth numbers in Warrington and primary school intakes are expected to be 20% lower in some areas between 2023 and 2025. Central Warrington is one such area, where intakes are expected to fall from a peak of 563 pupils to less than 420 by 2025, alongside 570 places. Therefore a significant level of surplus places are expected.

St Elphin’s CE Primary School, based on lower reception numbers in 2021 and 2022 and a projected low intake for 2023, have made the decision to apply for variation in

admission number from 60 to 30. This will allow the school to manage this period of low reception intakes, until the birth rate picks up again.”

11. If I am to determine that the PAN reduces to 30 for admission to YR in 2023, I need first to consider if there are sufficient places to meet demand locally with that reduced PAN. The local authority has a duty to make sure that there are sufficient school places for the children in its area. To carry out this duty the local authority considers the availability of places and the need for places in planning areas (the planning area) which are geographical groups of schools.

12. The local authority provided me with information on admissions to YR for the schools in the planning area in recent years and this is shown in Table 1 below.

Table 1: The combined PANs of the schools in the planning area for entry to YR and the number of children admitted to these schools at the usual point of admission.

	Combined PANs	Offers	Surplus spaces	Surplus places as a % of places available
2023	570 (540 proposed)			
2022	570	507	63	11%
2021	570	526	44	8%
2020	570	509	61	11%

Table 2: The forecast numbers to be admitted to these schools at each normal point of entry for the coming two years with totals for the planning area.

	Forecast intake	Surplus spaces	Surplus places as a % of places available
2023	484	86	15%
2024	457	113	20%
2025	416	154	27%

13. I am satisfied that the local authority is able to meet its duty to provide sufficient places in the planning area as set out in Tables 1 and 2. That is not, however, the end of the matter. There is also the important question of the situation at the school itself and whether the reduction in places will impact on parental preferences.

14. In the context of the impact on parental preferences, I am concerned about the timing of this application to reduce the PAN at the school for admission in September 2023 as parents had to complete the application form and set out their preferences by 16 January 2023. Online applications for the school opened on 1 September 2022. The application to vary the PAN was submitted to the Schools Adjudicator on 22 November 2022 and parents may not have been aware about the proposal to reduce the number of places available and may indeed have changed their preferences if they had been aware. When the admission arrangements were determined for 2023, the governing board agreed that the PAN should remain at 60 and that number was published not only in the local authority's composite prospectus, Primary Education, First admission to Reception Class, Information for Parents 2023/24, but also on the school website. The application for a variation stated:

“Within the range of forecasting, it is possible that 1-2 children will not be offered a first preference place at the school in 2023 only, but there are numerous schools within close proximity also projected to have low intakes who would welcome the pupils to boost numbers.”

15. I asked the local authority, when the date (16 January) had passed for applications to be submitted, for information about applications for the school. The local authority sent me detailed and helpful information and I include some of that information below.

“The local authority would like to provide the first set of preferences after deadline, but caveat that these may change slightly. We'd also like to frame the context of the preferences in light of preferences in the surrounding area.

	PAN	1st	2nd	3rd	% 1st
<b>St Elphin's CE</b>	<b>60</b>	<b>37</b>	<b>10</b>	<b>15</b>	<b>62%</b>

This is higher than forecast, with intakes forecast at 31/32 for 2023.

There is significant surplus at surrounding schools, therefore it is highly unlikely that any second or third preferences will be required to be allocated places at St Elphin's.

To the north of the school, there are three local schools within close walking distance with the following preferences:

	Distance	PAN	1st	2nd	3rd	% 1st
Beamont	0.8 miles	60	48	26	19	80%
Oakwood Avenue	0.6 miles	90	72	43	24	80%
St Benedict's Catholic	0.7 miles	30	18	11	10	60%
<b>Central sub area</b>		<b>180</b>	<b>138</b>	<b>80</b>	<b>53</b>	<b>77%</b>

Within this sub area of Central PPA, none of the schools is expected to be full on first preferences and the surplus is a cause of concern for some schools.

Within the St Elphin's preferences, Oakwood Avenue features as the most chosen 2<sup>nd</sup> preference with 8 pupils selecting the school. Therefore if 7 first preferences are unable to be allocated St Elphin's, it is likely that they will achieve their second preference at Oakwood, should these be the first preferences rejected. 1 pupil selected Beamont as a second preference (also 7 3<sup>rd</sup> preferences) and 2 pupils selected St Benedict's as a second preference.

To the south of the school, there is the Central South PPA consisting of 4 schools:

	Distance	PAN	1st	2nd	3rd	% 1st
Alderman Bolton	1.0 miles	45	28	10	10	62%
Latchford St James CE	1.1 miles	30	21	8	6	70%
Our Lady's Catholic	1.4 miles	30	16	11	4	53%
St Augustine's Catholic	1.0 miles	30	12	11	6	40%
<b>Central South PPA</b>		<b>135</b>	<b>77</b>	<b>40</b>	<b>26</b>	<b>57%</b>

Central South is an area of concern, and additional pupils are required in this area to maintain the viability of the schools in the area. Within the first preferences for St Elphin's CE, there are 7 2<sup>nd</sup> preferences for these schools, with Latchford St James CE having 4 2<sup>nd</sup> preferences.

If the decision be made to allow an admission number of 30, the 7 first preferences rejected are highly likely to achieve their second or third preferences within one mile walking distance of their first preference.”

16. 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 and so parents and others do not have the opportunity to express their views. The governing board has undertaken a formal consultation, with the support of the faith body and the local authority, to reduce the PAN to 30 from 2024 and will determine their admission arrangements before 28 February 2023.

17. The local authority predicted that 31 to 32 first preference applications would be made for the school. But 37 first preference applications have been made which could mean that seven sets of parents who would like their child to attend the school would be disappointed if the PAN is reduced. However, we know that some of those who are offered places in the first round of offers may move to a different area, or for whatever reason not accept the offer of a place at the school. As parents decide whether to accept the offers that have been made, there may still be some movement in the numbers due to start at the school in September 2023.

18. The school told me:

“School already has a much reduced number of children within Reception (36) which is expected to fall to 30 in September 2023 which puts considerable strain on the school budget requiring us to maintain 2 Reception teachers if the PAN remains at 60.”

“The change in circumstances would put undue pressure of maintaining 2 classes and funding 2 teachers with numbers of pupils expected to be in line with one class of 30. Significant budget implications would incur. This is not a circumstance we feel is feasible and would have a detrimental impact on the school budget which is already under considerable pressure.”

“The proposed variation would alleviate considerable financial pressure on the budget. We currently have a fixed term teacher whose contract ends at the end of this academic year. It would therefore enable the change to be put in place without the consequence of redundancies.”

19. The school has set out clearly the pressure on the budget, but I also have to consider the very clear preference of parents who have looked at all the options open to them and have submitted applications to the school for their children. Although these two pressures appear to be an either/or decision, this is not in fact the case. It is for example possible that the school may be able to find scope to mitigate the pressure on their budget, including by creating mixed age classes. I understand also that it is still early in the process as offers are not made until 17 April 2023 and as I note above there may after that point also be changes which will affect how many children actually join the school for Reception in September 2023. However, I find that the variation to reduce the PAN would impact on parental preference and thus it is not justified at this stage by the circumstances and I do not approve the proposed variation. Should the school’s concerns that numbers may fall to 30 materialise – when offers have been made and accepted or declined or later in the process - then it would be open to the school to submit a further request for a variation.

20. The school has published its admission arrangements for the school in 2024/25 on its website and has included a PAN of 30. The document says that the arrangements were approved by the governing board in November 2022. I understand that the policy was taken to governors in November for approval in principle to support going forward with the consultation which took place from 30 November 2022 and ended on 11 January 2023 without comment or feedback. I should emphasise that my determination has no effect on that process or on the determination of a PAN of 30 by the governing board for September 2024.

## **Consideration of the arrangements**

21. 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 governing board. I have listed these matters below setting out the relevant paragraphs of the Code and where the arrangements did not conform to requirements. Paragraph 14 of the Code says:

“...admission authorities **must** ensure that the practices and 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.”

22. Age of admission, deferred admission, part-time admission and admission out of the normal age group: The arrangements say “Children must be aged four by 31<sup>st</sup> August 2023 to be admitted to the Reception Class (YR) at the beginning of the academic year September 2023.” It is not clear that while all children have a right to a full-time place from the September following their fourth birthday, they are not required to attend full time or at all from that point. Parents have a right for their child to attend part-time until he or she reaches compulsory school age and to defer their child’s admission until they reach compulsory school age. Parents may also look for a place outside their normal age group. The Code requires that the process for applying outside the normal age group be included in the arrangements but this information does not appear to be included in the arrangements. (Paragraphs 2.17 to 2.20 of the Code).

23. Published Admission Number: The arrangements say, “This will be 60 children in all year groups from Reception to Y6.” Paragraph 1.2 of the Code requires that admission authorities must set a PAN for “each relevant age group.” The only relevant year of entry at the school is the Reception Year. If applications are made for other year groups, the governing board, as the admission authority, must consider them. 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).

24. Definitions of special needs and looked after and previously looked after children: The reference in the arrangements to a statement of special educational needs (SEN) should be removed as statements have been replaced many years ago now by the Education, Health and Care Plans (EHCPs). (Paragraph 1.6). Oversubscription criterion 1 includes looked after children previously in state care outside of England but does not include more information in the notes section. In that section there is a reference to a residence order. Paragraph 1.7 footnote 18 says that the term “residence...order” has been replaced with “child arrangements order” by the Children and Families Act 2014.

25. Faith-based elements of the arrangements: As it is entitled to do by virtue of its designation as a school with a religious character, the school gives priority to children on the basis of faith. The relevant oversubscription criteria are:

2. Baptised children whose parents are actual communicant members of the Church of England and attend St. Elphin’s Parish Church.

4. Children whose parents or carers are regular worshippers at any church which is a member of Churches Together in Britain and Ireland or the Anglican Communion and



whose names are entered on the Church Electoral Roll. Applicants must submit a written reference from their Minister as confirmation of their commitment.

6. Baptised children living within the ecclesiastical parish of St Elphin, Warrington at the date of application. A map showing the Parish boundaries can be inspected at the school.

26. Criterion 2 has a note which helpfully explains what is meant by “actual communicant members of the Church of England” in the context of applications to the school. It says: “‘Actual communicant member of the Church of England’ means a person who is baptised, is on the electoral roll of St. Elphin’s Parish Church and has declared him or herself to be a member of the Church of England or of any other church in communion with it, and has received communion at St. Elphin’s according to the use of the Church of England (or of any other church in communion with the Church of England) at least once a month during the 12 months preceding the date of application.”

27. Criterion 4 is rather less clear. It does not define “regular” either in terms of how long someone must have been attending church or how often they must attend in order to satisfy the criterion. It is hard to see how a Minister of religion would be able to attest to this criterion being met or not met and not at all clear that they would be able to do so consistently.

28. Criterion 6 does not make clear whether it includes children baptised into any Christian denomination or solely children baptised into the Church of England. So far as this priority being accorded to children living within the ecclesiastical parish of St Elphin is concerned, this makes the parish a catchment area within the terms of paragraph 1.14 as it falls within the definition in the Code’s glossary, namely “A geographical area, from which children may be afforded priority for admission to a particular school.” As the glossary goes on to say, “A catchment area .. must be ..published in the same way as other admission arrangements.” Providing a map for inspection at the school is not the same as publishing the catchment area as part of the admission arrangements.

29. Social and medial need: Oversubscription 5 states: “[Priority will be given to] Children for whom advice from a medical practitioner or psychologist has been provided by the parents in support of admission to St Elphin’s Fairfield Church of England Voluntary Aided Primary School, which, in the Governors’ view, justifies admission to the preferred school. The Governors, if it is considered appropriate, will seek the views of the School Medical Officer or Educational Psychologist in the event of parents requesting admission on medical or psychological grounds to St Elphin’s Fairfield Church of England Voluntary Aided Primary School, which, in the Governors’ view, justifies admission to the preferred school..” Paragraph 1.16 of the Code on social and medical need states “...admission authorities.....**must** set out in their arrangements how they will define this need and give clear details about what supporting evidence will be required.....”. The oversubscription criterion is not sufficiently clear about what supporting evidence must be provided.

30. The tie-breaker: The arrangements include the following “Where the school reaches its planned admission limit [that is its PAN] from pupils within one of the categories listed above, those pupils to be admitted from within that category will be those whose permanent place of residence is closest to the school. Proximity to the school will be measured using a Geographical Information Address Point System based on Ordnance Survey. Warrington Borough Council’s Children’s Services Department will calculate these figures for the Governors”. To put it another way, if the PAN is reached and exceeded among, say, baptised children living in the parish, they will be ranked on the basis of their distance from the school, with those living nearer having higher priority. That is clear and Code compliant. It would not, however, deal with circumstances where two applicants for the final place lived the same distance from the school. This requires a final tie-breaker as is explained in the Code at paragraph 1.8. Later on the arrangements address this when they say under a heading “Tie-breaker”: “A tie breaker must be applied to decide which applicant will be offered the last place at a school when two or more applicants cannot otherwise be separated. In the event of the distances (in miles) being the same for two or more applicants and the last place to be allocated would be to one of these applicants, the measurements would be taken again in kilometres and the place will be offered to the applicant living nearest to the school in kilometres. In the event that the distances measured in kilometres are the same, a random allocation will be applied.” It was not clear to me whether the element of this process involving converting miles to kilometres would always be used as part of the initial ranking by distance or only as a final tie-breaker where two or more candidates within any oversubscription category lived the same distance from the school under the initial distance measurement.

31. Waiting List: Paragraph 2.15 of the Code sets out that admission authorities **must** maintain a waiting list until at least 31 December of each school year of admission. The arrangements must also state clearly that “each added child will require the list to be ranked again in line with the published oversubscription criteria.” The school’s arrangements state that the waiting list will be held until the end of the autumn term. The autumn term invariably ends before 31 December each year so the arrangements do not meet the Code’s requirements.

32. Determination of home address: Paragraph 1.13 requires arrangements to include information on how the home address will be determined in cases where a child lives at two addresses following the breakdown of a relationship in cases where parents have shared responsibility and live separately. The school’s arrangements do not do this and so do not meet the Code’s requirements.

33. The governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. I need only here make clear that the Code requires that the arrangements be amended to address the points set out here.

## Summary.

34. The local authority has provided data which sets out the high number of surplus places in the planning area and the governors are concerned about the school budget which they have explained is already under pressure. However, parents have made 37 applications for places at the school at a time when they believed there were 60 places available. There may be changes over the next few months as parents make decisions on offers they have received and it is possible that the numbers accepted may fall below 30. At that point it would be open to the governing board to make another application to reduce the PAN to 30 as parents' preferences would have been met.

35. The forecast for future numbers indicates that the reduction in admission requests is likely to continue and the school has the potential to be able to organise classes so that it can manage its budget to best effect. On the basis of the information provided to me, I do not approve the request to vary the admission arrangements for September 2023 and the PAN will remain at 60. I have also determined that the arrangements do not conform with the Code in a number of respects and the Code requires that the arrangements be amended.

## Determination

36. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements for September 2023 determined by the governing board of St Elphin's Church of England Primary School in Warrington.

37. I determine that for 2023 the published admission number will remain at 60.

38. 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.

39. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2023.

Dated: 2 February 2023

Signed:

Schools adjudicator: Lorraine Chapman