



Office of
the Schools
Adjudicator

Determination

Case references: VAR2314 and VAR2315

Admission authority: Wigan Council for Marsh Green Primary School

Date of decision: 3 April 2023

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Wigan Council for Marsh Green Primary School for September 2023 and September 2024.

I determine that the published admission number for 2023 will be 45 and the published admission number for 2024 will be 45.

The referral

1. Wigan Council (the local authority) has referred a proposal for variations to the admission arrangements for September 2023 (the 2023 arrangements) and September 2024 (the 2024 arrangements) for Marsh Green Primary School (the school) to the adjudicator. The school is a community school for children aged two to eleven in Wigan.
2. The proposed variations are that for both 2023 and 2024 the published admission number (PAN) be reduced from 60 to 45.

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 and supports them. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variations are within my jurisdiction.

5. In considering these 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 14 March 2023, supporting documents and further information provided at my request;
- b. the determined arrangements for 2023 and 2024 and the proposed variations to those arrangements;
- c. comments on the proposed variations and information from the governing board;
- d. a map showing the location of the school and other relevant schools; and
- e. information available on the websites of the local authority and the Department for Education (DfE).

The proposed variations

7. The local authority set the PAN at 60 for each of 2023 and 2024 but now believes that demand has reduced. The local authority said, “ As pupil funding is directly linked to the number of children on roll, this puts schools under financial pressure if they have unfilled places. This can be particularly difficult for schools who have more than one form of entry where the second class does not fill.”

8. The local authority proposes that the PAN for both 2023 and 2024 is reduced to 45 to “allow the governing body to adjust staffing and resources and support their financial planning whilst allowing all first parental preference applications to be admitted.” The local

authority said in its referral that its reasons for seeking the variations were, in summary, that:

- a. the PANs were higher than necessary to meet demand;
- b. the reduced PANs would allow the school to plan ahead regarding class sizes and staffing which would reduce financial pressure on the school; and
- c. schools with vacant places are “vulnerable to in-year movement which makes planning difficult and can have a destabilising effect on the school.”

9. In relation to this last point, I ask the local authority and the governing board to note that the PAN only applies to the year of entry, that is reception year (YR) in this case. For every other year the admission authority can only refuse admission if the admission would cause prejudice to the provision of efficient education or the efficient use of resources. Any change to the PAN will therefore not affect in-year admissions except for YR and by that I mean YR for the two years beginning September 2023 and 2024. It will not for example affect year 1 (Y1) in September 2024.

10. 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 variations requested are justified by the change in circumstances.

Consideration of proposed variation

11. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Once the PAN has been set for a particular year then no body, except the governing board of a community or voluntary controlled school, can object if that PAN remains the same in subsequent years. 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.

12. I will first consider the demand for places in the area, which is urban. There are eight other schools which admit children to reception year (YR) within one mile of the school and around 40 within three miles. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical groups of schools, for this purpose.

13. There are six state funded schools which admit children to YR in the planning area for the school. Table 1 below summarises the first preferences made and the number of children admitted to the schools in the planning area in recent years, and the local authority’s forecasts of pupil demand for future years.

14. A first preference is the school that a parent most wants their child to attend and is a good indication of demand. However, applications are made months in advance of admission and people’s lives can change considerably in that time. Families can, for example, decide to move house or their family circumstances change in other ways which affects their choice of schools between the application which has to be made by 15 January and the following September when the child has the right of admission.

15. A child will be offered a place at the highest preference school possible depending on demand for schools and their oversubscription criteria. If a place can be offered at the first preference school it will be but if it cannot, then a second or third preference offer is better from the parent’s point of view than a school for which no preference has been made. It is therefore common that, for a variety of reasons, the number of children admitted will be different to the number of first preferences made. In addition, planning areas are administrative constructs for local authority school place planning purposes and parents can apply for schools wherever they wish as suits their situation. The most convenient or desired school for any given family may not be in the planning area.

Table 1: numbers of school places, the number of first preferences and numbers of children admitted to YR to schools in the planning area or forecast to require a place

	2020	2021	2022	2023	2024	2025	2026
Sum of PANs for the schools in the planning area	300	300	300	300	300	300	300
Number of first preferences for the schools in the planning area	N/A	282	245	257	N/A	N/A	N/A
Number of children admitted or forecast to require a place	263	289	260	257	233	251	240
Number of vacant places	37	11	40	43	67	49	60
Proportion of vacant places	12%	4%	13%	14%	22%	16%	20%

16. Table 1 shows a proportion of vacant places between 2020 and 2022 which is forecast to increase significantly for 2024. There is not much difference forecast in demand between 2022 and 2023. A proportion of vacant places is desirable as it allows flexibility for those children who may move into an area after admissions have been made. In 2021 there was a low proportion of vacant places. If the PAN for the school in 2021 had been 45 (15 fewer as requested for 2023 and 2024) then there would have been insufficient places to meet demand in the planning area based upon the sum of the PANs.

17. In 2021 there were seven more children admitted to schools in the planning area than the number of first preferences made. In 2022 there were 15 more children admitted to

the schools in the planning area than the number of first preferences made. For 2023, there were 257 first preferences and so the forecast is that 257 will be admitted but, as in previous years, it could be more. However, there are 40 vacant places forecast so if the PAN for the school were reduced by 15, as requested, and there were 15 more children seeking a place in the planning area than the number of first preferences (as occurred in 2022) there would still be ten vacant places. I am therefore of the view that if the PAN for the school were to be reduced to 45 that there would be sufficient places in the planning area for the children requiring a place in 2023.

18. The forecast demand for places in 2024 across the planning area is 233 which would mean 67 vacant places across the area if the PAN were to remain as 60. Again, if the PAN were reduced to 45 and there were more children seeking a place than anticipated then there would still be sufficient places for the children requiring a place. I further note that admission authorities can admit over the PAN without consulting or seeking a variation. As in this case the local authority is the admission authority, it is likely to admit above the PAN if it is necessary to do so to make sure that there are sufficient places for the children in its area.

19. I will now consider the demand for places at the school. Table 2 shows the number of children admitted to the school in recent years and the number of first preferences for the school.

Table 2: the number of children on roll at the school in recent years

	2021	2022	2023
The PAN for the school	60	60	60
Number of first preferences	41	49	37
Number of children admitted to YR	58	54	N/A
Number of vacant places	2	6	N/A

20. The case manager wrote to the local authority on my behalf and raised my concern that previous trends did not show that there was a clear case that a PAN of 45 was justified. The letter explained that, as shown in table 2, the school was close to its PAN of 60 in 2021 and 2022. The local authority said in its response that its forecasts put considerable weight on birth data and said that in 2016/17 (the year of birth for those seeking admission to YR in 2021) there was a higher number of births than other years. The information provided to me by the local authority is summarised in table 3 below.

Table 3: the number of births in the relevant intake year and the number of admissions or forecast admissions across the planning area

Year of admission	2020	2021	2022	2023	2024
Year of birth	2015/16	2016/17	2017/18	2018/19	2019/20
Number of live births	315	364	309	294	270
Number or forecast number of admissions	263	289	260	257	233

21. Table 3 shows that the number of births in the relevant year has reduced year on year from 2021. I note that between 2022 and 2023 there has only been a reduction of three places in terms of forecast demand but a significant forecast reduction in demand for 2024 from 2023.

22. In 2021, 17 more children were admitted to the school than there were first preferences and the numbers rose to 58 accordingly. In 2022, five more children were admitted than there were first preferences. If the PAN were reduced to 45 for 2023, then it is likely, but not certain, that the 37 children for whom the school was the first preference would be admitted. It is not certain because parents who had made another school their first preference and this school their second or third preference may not be offered a place at their first preference and could, theoretically, take precedence over a child for whom the school was their first preference. In this situation, then it would be possible that some of the 37 children for whom the school was the first preference may not be offered a place. In other words, parental preference could be frustrated.

23. In 2023, no school in the planning area is oversubscribed by the number of first preferences. This is an indication that parental preferences would not be frustrated if the PAN were reduced to 45 as local children will achieve their first preference if their first preference is one of the schools in the planning area. However, in 2022 also no school in the planning area was oversubscribed by the number of first preferences. In 2022, there were 49 first preferences for the school and 54 children admitted (five more than the number of first preferences).

24. This type of increase, described above for each recent year, could have been caused by late applications and parents naming the school as a second or third preference who did not make one of the schools in the planning area their first preference. I have considered the risk of frustrating parental preference for 2023. The number of first preferences for the school for 2023 is 37. If there was a similar increase to 2022 (five more than the number of first preferences), then 42 children would be admitted which would be below the PAN of 45 requested.

25. The infant class size regulations apply to YR, Y1 and year 2 and have implications for class organisation and school finances. This is because schools are largely funded on the number of pupils attending and staffing is normally the greatest expense to a school's budget. Classes are likely to be financially efficient if they contain approaching 30 pupils. If classes are much smaller than 30 pupils then the cost of providing that class may well be more than the income generated by the number of children in that class.

26. In this case the school has chosen to arrange its classes so that there are two classes to each year group. The current year groups vary in size between 46 (year 3) and 58 (Y1). The two Y1 classes will have around 29 children in each class which is cost efficient. The two year 3 classes will have around 23 children in each class which is an expensive model. An alternative model is classes with more than one year group (often called mixed age classes). If mixed age classes were used then more financially efficient sized classes can be one result. A PAN of 45 will require mixed aged classes to be financially efficient and the local authority has told me that it is the school's intention to work on this basis in the future and so, "As the lower admission number moves through the school with each new intake, the Governing Body will be able to reduce staffing accordingly to assist with balancing the school budget."

27. I will now consider the cases for the two variations. Parents have already made their applications for admission for September 2023 in the understanding that the PAN was 60. I was concerned that, while knowing that 37 first preferences had been made, that parental preference could be frustrated as discussed above. I have concluded that the risk of significantly frustrating parental preference by reducing the PAN to 45 for 2023 is low. As the school is keen for the PAN to be reduced so that it can plan for a more financially robust future, I find that the proposed variation, that the PAN is set at 45 for 2023, is justified by the circumstances.

28. For admissions in 2024, the local authority has recorded a clear reduction in the number of births in the relevant year compared to previous years; the local authority's forecast of the demand for 233 places across the planning area reflects this. As the number of first preferences for 2023 was 37 out of 257 applications, it seems likely that the demand for the school will be lower for 2024. If the PAN is set at 45 now, then parents will know the PAN for the school in advance of making their applications and can plan accordingly. I do not think that parental preference will be frustrated by the PAN being set at 45 and I note the school's wishes to be able to plan its school organisation and staffing in a financially efficient way. I therefore find that the variation, that the PAN for 2024 will be 45, is justified by the circumstances.

29. As the PAN has not been set for 2025, the PAN of 45 set for 2024 will set a baseline for 2025 without the requirement for consultation. However, the local authority has said that it will consult on setting the PAN at 45 for 2025 and this is welcomed.

Determination

30. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Wigan Council for Marsh Green Primary School for September 2023 and September 2024.

31. I determine that the published admission number for 2023 will be 45 and the published admission number for 2024 will be 45.

Dated: 3 April 2023

Signed:

Schools adjudicator: Deborah Pritchard