



Office of
the Schools
Adjudicator

Determination

Case references: VAR2318 and VAR2334

Admission authority: The governing board of Leigh St Peter's CofE Primary School, Leigh, Wigan

Date of decision: 31 May 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 the governing board of Leigh St Peter's CofE Primary School for September 2023 and September 2024.

I determine that the published admission number for 2023 will be 30 and the published admission number for 2024 will be 30.

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 governing board of Leigh St Peter's CofE Primary School (the school) has referred a proposal for variations to the admission arrangements for September 2023 (the 2023 arrangements) and September 2024 (the 2024 arrangements) for the school to the adjudicator. The school is a voluntary aided school for children aged 2 to 11 in Leigh, Greater Manchester, within the local authority of Wigan. The school has a Church of England religious character.

2. The proposed variations are that for both 2023 and 2024 the published admission number (PAN) be reduced from 60 to 30.

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 governing board 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.

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 decisions includes:

- a. the referral from the governing board dated 23 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 from the school, local authority and faith body;
- d. A previous determination for the school, case reference VAR2234, agreeing a variation to reduce the PAN for admissions in September 2022 from 60 to 30;
- 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 (DfE).

The proposed variation

7. The governing board set the PAN at 60 for admissions under each of the 2023 and 2024 arrangements but now believes that demand has reduced.

8. The school proposes that the PAN for admissions under both the 2023 and 2024 arrangements is reduced to 30 and its reasons for seeking the variations are, in summary, that:

- a) the PANs set are higher than necessary to meet demand;
- b) there are surplus places within other schools in the area, such that places at the school which may have previously been required to support high local mobility are no longer required; and
- c) the surplus places at the school are causing financial pressures, and a reduction in the PANs would allow financial savings “without compromising the quality of support for our most vulnerable children elsewhere in school”.

9. The school said, “The current Year 1- Year 6 groups are not low enough to have 3 classes for 2 year groups instead of 4, therefore, we still need to maintain a PAN of 60 in the other year groups”. I ask the governing board to note that a school’s PAN applies only to the normal year of entry, i.e. to the reception year (YR) in this case (paragraph 1.2 of the Code). 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 (paragraph 1.4). 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 September 2024 if both variation requests were to be approved.

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 variation requested is 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. 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. I note that the PAN for the school in 2022 was reduced to 30 following the approval of a variation request (VAR2234).

This means that were the proposed variations for 2023 and 2024 to be approved this would be three consecutive years of a reduced PAN being set without any opportunity for consultation. The school has stated that, "Due to predicted numbers thereafter [beyond 2023 and 2024], no consideration has been given to consulting on a reduced PAN."

12. 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 for which arrangements have not yet been determined.

13. In this case, if only the variation for September 2023 were to be agreed, the PAN for September 2024 would remain at 60 as in the current determined arrangements. However, if the variation request for 2024 were approved the governing board could set future PANs (that is, those for admission in September 2025 and beyond) at 30 without any requirement for consultation.

14. It is therefore particularly important that the proposed variations are properly scrutinised. I have accordingly given careful consideration to the latest available data in order to form a view about the sufficiency of school places in the local area were the PAN to be reduced from 60 to 30 for September 2023 and 2024. I have also considered the demand for places at the school, the reasons given for the change in demand, the potential effect on parental preference and whether the proposed PAN reductions are justified in the prevailing circumstances.

15. I will first consider demand for places in the area, which is urban. The DfE website 'Get Information About Schools' (GIAS) indicates that there are eight other schools which admit children to YR within one mile of the school. Four of these schools have a Church of England religious character, two have a Roman Catholic religious character and the remaining two have no religious character. There are around 48 other schools that admit children to YR within three miles of the school, 22 of which have a Church of England religious character. 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 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.

16. There are 16 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.

17. 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.

18. 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 which has been assigned by the local authority.

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

	2020	2021	2022	2023	2024	2025	2026
Sum of PANs for the schools in the planning area	585	585	555	585	585	585	585
Number of first preferences for the schools in the planning area	582	569	579	530	N/A	N/A	N/A
Number of children admitted or forecast to require a place	534	528	522	530	506	529	529
Number of vacant places	51	57	33	55	79	56	56
Proportion of vacant places	9%	10%	6%	9%	14%	10%	10%

19. Table 1 shows little difference in forecasted demand across the years, with the exception of 2024 when forecasted demand is lower. In each of 2020, 2021 and 2022 the number of first preferences was higher than the number of children subsequently admitted into the planning area schools. The local authority explains that Leigh is an area with high levels of pupil movement, and that first preference applications from families outside the planning area further complicate the picture.

20. In 2022 the PAN for the school was reduced to 30 by variation. This was the only year when the number of first preferences across the planning area exceeded the sum of the PANs, although the number admitted was much lower than the number of first preferences and there were sufficient places across the planning area. A proportion of vacant places is desirable as it allows flexibility for those children who may move into an area after the usual point of admission.

21. Table 2 summarises the potential effect of a reduced PAN at the school for future years. This shows that the proportion of vacant places across the planning area would of course be lower, but still allows for in-year admissions.

Table 2: numbers of school places, the number of first preferences and numbers of children admitted to YR or forecast to require a place in schools in the planning area, with vacant places calculated using the proposed PAN reduction for the school from 2023 onwards

	2023	2024	2025	2026
Sum of PANs for the schools in the planning area	555	555	555	555
Number of first preferences for the schools in the planning area	530	N/A	N/A	N/A
Number of children admitted or forecast to require a place	530	506	529	529
Number of vacant places	25	49	26	26
Proportion of vacant places	5%	9%	5%	5%

22. The school has stated that, “We would like to reduce our PAN to 30 from 2023 onwards while the birth rate in the local area is low and the data shows for the next few years this will still be an issue”. Table 3 shows the birth rate figures provided by the LA.

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	2025	2026
Year of birth	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
Number of live births	592	610	560	574	505	528	528
Number or forecast number of admissions	534	528	522	530	506	529	529

23. The figures show a decrease in the number of births after 2018-2019, and therefore the forecast number of admissions in the area has decreased for the three years from 2024.

24. In the years 2020 to 2023, the years for which there is actual admissions data, the number of admissions each year was significantly lower than the number of live births for each cohort. However, the forecast admissions data for 2024 to 2026 is almost identical to birth numbers. If admissions for 2024 onwards were to follow the pattern of previous years in relation to birth data then the number of admissions would be lower than forecasted and the number of surplus places in Tables 1 and 2 would be higher. For example, there were 64 more births for the 2020 cohort than for 2026, yet the number of projected admissions differs by only five.

25. I will now consider the demand for places at the school. Table 4 shows the number of children admitted to the school in recent years and the number of first preferences for the school, plus local authority projections for future years. This table uses a PAN of 60 for both 2023 and 2024 as in the current determined arrangements.

Table 4: the number of children on roll at the school in recent years, with projections for future years

	2021	2022	2023	2024	2025	2026
The PAN for the school	60	30	60	60	N/A	N/A
Number of first preferences	45	33	29			
Number of children admitted, or projected to be admitted, to YR	48	28	33	33	32	40
Number of vacant places	12	2	26	27	N/A	N/A

26. The local authority explained that for 2023 the number of first preference applications received on time was 23. The local authority has made 26 offers of admission so far, 23 to the on-time applicants plus one offer to a child for whom the school was the third preference and two offers to children refused their preferences as the school is their nearest alternative school.

27. Figures provided by the local authority show that there are seven late applications for 2023, six of which name the school as first preference and one as second preference. If the PAN were to remain unchanged then all applicants, that is a total of 33 children, would be admitted to the school.

28. If the PAN were to be reduced to 30, four of the late applicants would be offered a place at the school and the remaining three applicants would be refused a place. The local authority has supplied the information in Table 5 to show the effect of the requested PAN reduction for 2023 on existing late applicants to the school.

Table 5: destinations for existing late applicants to the school for September 2023 who would not be admitted to the school in the event of the proposed variation being agreed

	Distance to the school	Preference to be offered	School to be offered	Distance to offer school
Applicant 1 – the school named as 1st preference	0.249 miles	Only 2 preferences named which can't be met. Will be offered nearest school with a vacancy	Sacred Heart Primary Leigh	0.53 miles

	Distance to the school	Preference to be offered	School to be offered	Distance to offer school
Applicant 2 – the school named as 1st preference	0.687 miles	Only 1 preference named which can't be met. Will be offered nearest school with a vacancy	Leigh CE Primary	0.274 miles
Applicant 3 – Leigh St Peter's CE Primary named as 2nd preference	0.286 miles	This is an additional application changing the family's preferred schools. The family have already been allocated their 1 st preference based on an earlier application.	Leigh CE Primary	0.526 miles

29. The timing of the variation request and its consideration is important as the local authority may need to complete the allocation of places under its co-ordinated scheme for September 2023, to late applicants, before my determination is received. Unless and until a variation is approved the local authority and the governing board as the admission authority must adhere to the determined PAN of 60. It should be noted that, in accordance with paragraph 2.13 of the Code an admission authority is unable to withdraw the offer of a place unless in very specific circumstances. However, admission authorities are able to admit more children than the PAN set for a school. It is therefore possible for the PAN reduction to be agreed even at a point at which more than 30 children have been offered places at the school, although in the case of this school that could have implications for school organisation and class structure in order to meet the requirements of relating to infant class sizes as I set out in more detail below.

30. I am satisfied that there would be limited frustration of parental preference for September 2023 entry, even if the PAN reduction is approved before further places are offered resulting in some of the late applicants not being offered places at the school. Any alternative schools that will be offered to existing applicants are within a reasonable distance of home addresses and all are faith schools, although Sacred Heart Primary is of Roman Catholic religious character rather than Church of England. The LA informs me that, "Having considered demand for places, existing capacity at schools in Leigh and the surrounding areas, the local authority believes that it will have sufficient capacity to meet demand if Leigh St Peter's CE Primary School reduces its PAN from 60 to 30 for the 2023 and 2024 reception intakes." The faith body for the school is also in support of the variation requests.

31. The longer-term position of the school must be considered, especially as agreement of the variation request for September 2024 would result in the reduced PAN remaining in

place as long as the governing board wished it to. The school has stated that, “The school has experienced a fall in school numbers over the last 5 years” and provided the figures in Table 6 showing the current year groups and classes:

Table 6: current pupil numbers and class sizes at the school

Year Group	Total number of pupils	Class Size 1	Class Size 2
YR	30	30	-
Y1	52	24	28
Y2	50	25	25
Y3	49	24	25
Y4	55	27	28
Y5	50	26	24
Y6	56	27	29

32. The above figures do not in my view demonstrate a “fall in school numbers over the last 5 years” as the school states. The current YR is noticeably smaller than other year groups but this was the year for which a variation to reduce the PAN to 30 was agreed. The projected pupil figures and the birth data do suggest that numbers will fall in the future or at least remain significantly below the current PAN of 60.

33. Although it may be considered the norm to organise schools into single age group classes, many schools use mixed-age classes very successfully, and the requirement to do so is not reason in itself for a change of PAN. The school is one affected by the provisions of the School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations) which require that infant classes (those where the majority of children will reach the age of five, six or seven during the school year) must not contain more than 30 pupils with a single qualified school teacher except in specific exceptional circumstances (paragraph 2.16 of the Code). The infant class size regulations apply to YR, Y1 and Y2. The school’s current position and future projected pupil numbers, together with the requirements of the infant class size regulations, show that reorganisation into mixed age classes could not be easily achieved. Minutes of governing board meetings that have been shared with me show that this option has been discussed but discounted due to the difficulty of organising the number of pupils concerned into mixed age classes and that the governing board was keen to maintain the higher PAN of 60 if there were sufficient pupils to justify this.

34. The school has stated the following in relation to the financial impact of the current PAN and the reasons for requesting a reduction of PAN:

- “Due to the number of surplus places, with most staff at the top of their salary scale and increasing costs to schools our budget is projecting a deficit and we need to look

at staff reductions. Just with the current number of surplus places we lose at least £260,000 in funding.

- If we are unable to make these changes we will have to:
 - restructure staffing
 - move needed resources from elsewhere in school to cater for 2 x Reception classes with less than 15 in each.”

35. The assertion that the current number of surplus places causes the school to “lose at least £260,000 in funding” may be misleading. The majority of funding received by schools is on a per pupil basis. Therefore, if the school were ‘full’ it may indeed receive an additional £260,000 in funding but spare capacity does not result in funding being taken away or lost. Financial pressures occur when a school is obliged to organise its pupils into classes of significantly fewer than 30 pupils as this is not financially efficient, and I accept that without the variation requested the school might be placed in this position.

36. I queried the assertion made by the school in the variation application that, “If we are unable to make these changes we will have to...move needed resources from elsewhere in school to cater for 2 x Reception classes with less than 15 in each” as if there were to be fewer than thirty YR pupils in total there would be no need to have more than one class. The school clarified, “If we are able to reduce the PAN to 30 we will only need one reception teacher, thereby reducing pressure on the budget. If the PAN remained at sixty we could possibly need 2 Reception teachers if the number of children admitted was to go above 30; this will not be cost effective.” A PAN of 60 results in uncertainty for the school, as even if fewer than 30 children were to be admitted initially, in-year admissions could result in more than 30 children in YR who could not be organised into one class due to the infant class size regulations.

37. As the Code allows for variations to be made only where there has been a major change in circumstances, I have sought to identify the major change that has occurred since the arrangements for 2023 and 2024 were determined. It is helpful here to consider the chronology of events:

- 24 January 2022: the governing board determined its arrangements for September 2023 entry;
- March 2022: LA pupil number projections supplied to the school were for 44 pupils for entry into YR in 2023, and 35 pupils in 2024;
- 13 December 2022: the governing board finance committee noted a projected intake of 45 pupils in September 2023 and considered a reduction of PAN but agreed that the PAN should remain at 60;
- 4 October 2022: the governing board determined its arrangements for September 2024 entry;

- 15 January 2023: national closing date for primary school applications;
- 13 March 2023: a ranking meeting at the school discussed the applications for September 2023 entry which totalled 26, and considered that a PAN reduction should be applied for, as later agreed with the full governing board; and
- 25 March 2023: the variation requests were submitted, at which point there were 24 first preference requests.

38. I note also that there was some delay in my consideration of the case whilst the school supplied the necessary information for me to establish that I had the necessary legal jurisdiction to consider the case; this was not received until 11 May 2023.

39. It is clear that projected pupil numbers for admissions in 2023 and 2024 are significantly lower than admissions in the previous years for which the school had a PAN of 60 (that is, the current year groups 1-6) as shown in Table 6, and the birth data in Table 3 does not give any indication that numbers are likely to rise in future years. It also seems that the school has been in a difficult position regarding forecasts and projections of pupil numbers. The projected number of 45 applications for 2023 was significantly higher than the 24 first preferences (later reduced to 23) that were made as on-time applications. I am satisfied that there has been a major change in circumstances since the 2023 and 2024 arrangements were determined.

40. Parental preference and the provision of suitable places for pupils is of prime importance. The application information for 2023 does not demonstrate that the variations, if approved, would cause a significant frustration of parental preference. Taking this into account along with the birth figures that inform places for future years, I am satisfied that if I agree a reduction in PAN to 30 for 2023 and 2024 there will remain sufficient school places within the planning area without any undue impact on parental preference. I have also taken into account that the local authority is confident that it can fulfil its statutory responsibility to provide sufficient school places.

41. I find that the variation for 2023 and the variation for 2024 are justified by the circumstances and approve the proposed variations.

Consideration of the arrangements

42. Having considered the arrangements as a whole it appeared to me that several matters may not conform with the 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.

43. The arrangements for 2023 and 2024 prioritise looked after and previously looked after children (oversubscription criterion 1) but refer to residence orders, which were replaced by the Children and Families Act 2014 with child arrangements orders. This

reference to obsolete terminology renders the criterion unclear. (Paragraph 1.7 of the Code).

44. The arrangements for 2023 and 2024 are unclear in that note C, which supports oversubscription criterion 2, does not properly define when full siblings will be considered as siblings for the purposes of the oversubscription criterion, including whether it is necessary for them to live at the same address as the child for whom an application is being made. (Paragraph 1.11 of the Code).

45. Paragraph 1.37 of the Code states that “Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied”. Oversubscription criteria three and four in both sets of arrangements are likely to be confusing for parents, plus there are inconsistencies between the arrangements and the supplementary information form (SIF) in that:

- 45.1. oversubscription criterion 4 refers to "church or any fresh expression of a Christian church". It is unclear what denomination of 'church' this oversubscription criterion is referring to, though the fresh expression is recorded to be Christian;
- 45.2. the SIF asks the priest, minister or pastor countersigning it to confirm “that the Church is one which is named in the Admissions Policy or belongs to one of the denominations named in the policy”. It is not possible to do this with the arrangements as they stand as there is no such list; and
- 45.3. oversubscription criterion 3 only prioritises baptised children, whilst criterion 4 also prioritises those who are dedicated. Note A states that "Evidence of infant baptism or dedication of the child and of regular attendance of parent(s)/guardian(s) must be provided by a member of the clergy or other designated church officer on the Supplementary Information Form available from school" and is referenced from criterion 3 only. The SIF refers to Baptism only and not to dedication. It is therefore not clear whether children who are dedicated rather than baptised are included in criterion 3, or how evidence of dedication will be established.

46. Section 2.4 of the code states that when supplementary information forms are used, admission authorities “**must** only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria”. On the SIF included in the 2023 and 2024 arrangements, parents are asked for the child’s gender. This information does not have a direct bearing on oversubscription criteria and therefore may not be requested.

47. “Paragraph 1.13 of the Code states: "Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the ‘home’ address will be determined and the point(s) in the school or nodal points from which all distances will be measured. This

should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent." The 2023 arrangements do not appear to comply with this requirement.

48. The 2023 arrangements do not clearly state the entitlement to full-time places for children in the September following their fourth birthday, or the parental right to defer admission until later in the school year. The parental right to part-time attendance for their child prior to the point at which they reach statutory school age is also unclear, as although addressed on page 3 of the arrangements, a further statement on page 4 implies that part-time attendance is something that may be requested, rather than a right. (Paragraph 2.17 of the Code).

49. Paragraph 2.18 of the Code specifies that "admission authorities **must** make clear in the admission arrangements the process for requesting admission out of the normal year group." The section in the 2023 arrangements 'Admission of children outside their normal age group' in the arrangements is unclear for parents as it includes information which is not relevant to the school, for example reference to entry into year 7 and to academies. The 2024 arrangements make no reference to admission out of the normal year group.

50. The governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the governing board has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.

Summary

51. The governing board has requested this reduction in PAN from 60 to 30 from September 2023 and September 2024 to secure greater certainty regarding pupil numbers and school organisation, and provide financial stability. The proposals have the support of the local authority and the diocesan board. The reduced PAN will not adversely affect the local authority's ability to secure the provision of school places in the area nor has any evidence been provided that parental preference will be unduly frustrated. Following a review of the pupil numbers, with recent figures much lower than earlier forecasts, a decision was made to request a variation. I find that the variations requested are justified by the circumstances.

Determination

52. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by the governing board for Leigh St Peter's CofE Primary School for September 2023 and September 2024.

53. I determine that the published admission number for 2023 will be 30 and the published admission number for 2024 will be 30.

Dated: 31 May 2023

Signed:

Schools adjudicator: Jennifer Gamble