



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4125

Objector: Surrey County Council

Admission authority: GLF multi academy trust for Banstead Infant School, Surrey

Date of decision: 3 July 2023

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2024 determined by GLF Trust for Banstead Infant School, Surrey.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by the Surrey County Council (the local authority), (the objector), about the admission arrangements (the arrangements) for Banstead Infant School (the school), a 5-7 mixed infant academy school for September 2024. The objection is to the reduction in Published Admission Number (PAN) from 90 to 60.

2. The local authority for the area in which the school is located is Surrey County Council. The local authority is the objector in this case. Other parties to the objection are the local governing board for the school and the academy trust (the Trust).

Jurisdiction

3. The terms of the Academy agreement between the multi-academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the multi-academy trust, which is the admission authority for the school, on that basis. The local authority as the objector submitted its objection to these determined arrangements on 17 April 2024. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

5. The documents I have considered in reaching my decision include:

- a. a copy of the minutes of the meeting of the Trust at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 17 April 2024, supporting documentation and subsequent correspondence, maps and statistics;
- d. the response to the objection by the governance manager for the Trust on behalf of the school, supporting documentation and subsequent correspondence, statistics and charts;
- e. the local authority's composite prospectus for admissions to primary schools in 2023;
- f. maps of the area identifying planning areas and schools; and
- g. confirmation of when consultation on the arrangements last took place and details of the nature and responses to it, and
- h. information from the Department for Education's (DfE) Education Hub website.

The Objection

6. The local authority objected to the school's 2024 admission arrangements because the Trust had reduced the published admission number (PAN) from 90 to 60. The local authority, as the body which oversees school place planning in the area, says that the arrangements would leave insufficient school places in the area and would therefore be unfair and contrary to paragraph 14 of the Code which states that 'In drawing up their admission arrangements, admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective.'

Other Matters

7. Having considered the arrangements as a whole it would appear that the oversubscription criteria relating to children of staff (paragraph 1.39 and 1.40 of the Code) may not conform with requirements. I have accordingly decided to exercise my powers under section 88I of the Act to consider the arrangements as a whole and whether they conform with the requirements relating to admissions.

8. Paragraphs 1.39 and 1.40 of the Code relate to oversubscription criteria relating to children of staff and they read;

- 1.39 Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances: a) where the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made; and/or b) the member of staff is recruited to fill a vacant post at the school for which there is a demonstrable skill shortage.
- 1.40 Admissions authorities must specify in their admission arrangements how this priority will be applied, for example, which groups of staff it will apply to.

9. The current arrangements read;

10 'Children of staff'

10.1 Priority will be given to a child if their parent is a permanent member of staff at the school and meets either or both of the following circumstances:

10.1.1 the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made; and/or

10.1.2 the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.

10.2 For applications made as part of a normal intake, the length of employment will be considered as of the closing date for applications. For in year applications and for the purpose of maintaining a waiting list, the length of employment will be considered as of the date the application is received or the date a place becomes available, if a place is considered from the waiting list.

10.3. A member of staff will qualify as being employed at the school, or being in post at the school, if they satisfy all of the following:

10.3.1. They have a contract of employment with GLF Schools and

10.3.2. For school-based staff, either:

10.3.2.1. They are based permanently in the school; or

10.3.2.2. They work regularly within the school as part of their work across a cluster of schools.

10.3.3. For central team staff:

10.3.3.1. The school is their named base within their employment contract;
and

10.3.3.2. They work on the school site for a majority of their working time'.

10. I am of the view that these arrangements do not conform to the Code because they are not explicitly applied or limited to members of staff at the school. The Trust has suggested removing the whole of 10.3 and replacing it with 'A member of staff will qualify as being employed at the school or being in post at the school if they have a contract of employment with GLF schools and the school is their named base in their employment contract.

11. It is not for me to require the admission authority to adopt any particular form of words in response to my finding that the existing provision does not conform with the Code. However, I can and do welcome the readiness to address the matter.

Background

12. The school is a 5-7 years mixed infant academy school in Banstead in Surrey. In December 2022 the Trust opened a wide-ranging consultation on changing its admission arrangements with the following key changes;

- The reduction of the PAN from 90 to 60.
- The addition of an oversubscription criterion which gives priority to siblings of children at the school and also at the local Banstead Junior School.

13. One response was received during the consultation (1 December 2022) and that was from the Service Manager School Admissions at the local authority which said 'I note that you have proposed to reduce your Reception PAN from 90 to 60. I have liaised with Surrey's Education Place Planning team in relation to this proposal and they have confirmed that Banstead Infant School is part of the Banstead & Woodmansterne planning area and that there is only a small surplus expected in this planning area according to their forecasts. As a reduction in PAN by 1FE at Banstead Infant School may lead to a potential deficit of places in the area, I regret that we cannot support the reduction in PAN at this time and would encourage you not to proceed with this change. My colleague LC has indicated that she is waiting for the updated forecasts and will look at the surplus alongside the neighbouring planning areas once that is received. She has been in touch with the GLF Trust to suggest holding a meeting to discuss the forecasts further once they have been received.'

14. A meeting took place in the spring term and following this meeting the local authority said that 'At this current time, the local authority is still unable to support the proposed reduction in PAN at Banstead Infant School from September 2024. However, we would be happy to discuss this again during the autumn term once updated pupil place forecasts are available. Should the local authority be able to support a request at the time, this would be for a change in the admissions arrangements from September 2025.

15. At the Trust Board Meeting on 10 February 2023 the admission arrangements including the PAN of 60 for admission in September 2024 was approved and the arrangements determined and published in line with the Code. The local authority submitted its objection to the arrangements on 17 April 2023.

Consideration of Case

16. It is important to remember that this determination covers the admission arrangements for September 2024 only.

17. The reasons for the Trust's reduction in PAN are laid out in the Trust Board's minutes of the 10 February 2023. They read as follows;

Final determination of admissions policies for 2024-25

DECISION: The Trust Board APPROVED the changes to the policies for linked infant and junior schools for entry in September 2024.

The Trust Board discussed the situation at Banstead: Surrey Local Authority has decided not to support the reduction in PAN at the school. Following a question from the Board, it was confirmed that the Trust could move forward without LA support; the Trust Board should be confident that the decision is the correct one. Information on numbers was requested by the Chair (and provided after the meeting)

	Reception	Year 1	Year 2
October 2020	87	88	89
September 2021	88	81	90
September 2022	72	84	75
September 2023	60 1 st preferences as at 11 Jan 2023		

The Trust Board is aware there is significant mobility throughout all year groups because children offered places at Banstead Infants tend to come from outside the Banstead/Nork/Woodmansterne area and so move schools when a place is offered closer to home. The Trust Board is also aware that class numbers are below the level at which they are financially viable to staff. The Trust Board discussed Surrey's objections to the PAN reduction, highlighting that the planning area is large and that the purported deficit is small and it is for the area overall, rather than for the specific area where Banstead Infants is located.

DECISION: The Trust Board APPROVED the changes to the PAN for Banstead Infants and XX.

18. From the minutes it would appear that there are a number of reasons why the school has decided to reduce the PAN; pupil numbers; application preferences; mobility from the school, financial viability of classes; the large planning area and the small deficit. I will cover these areas; and the local authority's responses to them in order below.

Pupil Numbers

19. The Trust has confirmed the numbers on roll and the allocation of pupils to classes as of 1 May 2023. There are three classes in each of three year groups as follows;

YEAR GROUP	Class	Number of children
YR	Blue	22
YR	Green	25
YR	Orange	24
Total YR		71
Y1	Yellow	28
Y1	Red	28
Y1	Aqua	27
Total Y1		83
Y2	Lilac	27
Y2	Pink	25
Y2	Purple	25
Total Y2		77
Total		231

20. The local authority reports that for admission in September 2020 the school was oversubscribed and 90 (PAN) children were allocated for admission. These are the current Y2 cohort in the table above. There are now 13 fewer children in the year group than when the cohort joined the school.

21. In September 2021 the school was undersubscribed and all applicants were admitted. The number was 84. (Six below PAN) These are the current Y1 cohort in the table above. There is one child fewer in the year group than when the cohort joined the school.

22. In September 2022 the school was undersubscribed and all applicants were admitted. The number was 81. (Nine below PAN) These are the current YR cohort in the table above. There are now 10 fewer children in the year group than when the cohort joined the school.

23. The local authority states that the projected number of children joining the school in September 2023 will be 84 (six below PAN) the Trust reports a figure of 82. (Eight below PAN).

24. The school census information suggests that the school has the accommodation to serve full intakes of 90 pupils indicating that the school's capacity is 270. The current number on roll is 231.

25. If the school's PAN had been 60 over the last few years, then the number of children who would have been unsuccessful in their application for the school would have been as follows;

Year of Admission	Number admitted (expected to be admitted for 2023)	Unsuccessful applicants if the PAN had been 60
2020	90	30
2021	84	24
2022	81	21
2023	84 or 82	24 or 22
Total		99

26. The Trust suggests that the school is experiencing falling rolls and yet the admission numbers do not support that statement. With 84 or 82 children expected to be admitted in September 2023 it is hard to see how this can be described as falling numbers. Even looking at the numbers of children currently on roll in each of the year groups, which includes the numbers lost through leaving the school, the numbers are 77, (Y2) 83, (Y1) and 71 (YR). Again, it is difficult to conclude a pattern of falling rolls from these numbers.

Application preferences

27. The Trust says that 'the school receives fewer first preferences than places. In September 2023 the school received 65 applications for 90 places; not all 65 lived within the immediate planning area. If the School reduces its PAN to 60, it will continue to be able to accommodate all first preference families within the planning area.

Figures for first preferences received from the local authority indicate;

YEAR	PAN	1st preference in LA	1st preference out of LA	TOTAL 1st preferences
2020	90	84	4	88
2021	90	67	5	72
2022	90	67	4	71
2023	90	65	7	72

28. The Trust suggests that not all the first preferences applications from within the local authority come from the planning areas associated with the school although accepts that the majority do. The local authority provided maps of where the children in Y1 and Y2 live and this shows that the majority of the children live in the school's immediate planning area or the one adjacent to it. The Trust's argument that a reduced PAN would allow it to admit all children for whom the school is the parent's first preference and who also live in the planning area does not take account of a key tenet of admissions law. It is a longstanding principle that parental preference should be met where possible. Another tenet is that where parents cannot be offered the school they would most like, they should still be offered the highest preference possible. A statement on the Government's Education Hub dated 30 March 2023 in relation to National Offer Day for Primary schools included the following 'we want parents to feel reassured when it comes to getting one of their top choice primary schools' and goes on to say that nationally 92.2 percent of families were given their first-choice school. The effect of the reduction in PAN will be to prevent some families (including some for whom the school is their highest preference) from gaining a place there because they do not live particularly close to the school. The children concerned will have to be admitted to a school that their parents would prefer less than this one. If the PAN of 60 had been in place for the forthcoming 2023 admission, then twelve families who chose the school as a first preference would be disappointed. This would be 20 per cent of first preference places. Moreover, the reduction in PAN could adversely affect the local authority's duty to secure the provision of places – a matter I will deal with later in the determination. Even if some of those parents may subsequently choose to move their children to another school, that does not mean they should be denied a place at the school which is the highest preference that can be offered on national offer day each year.

29. I am of the view that this does not support parental preference and does not support a reduction in PAN from 90 to 60.

Mobility from the school

30. The Trust's minutes of the 10 February 2023 state that 'the trust board is aware there is significant mobility throughout the year groups because children offered places at Banstead Infants tend to come from outside the Banstead/Nork/Woodmansterne area and

so move schools when a place is offered closer to home.’ The Trust provided the following figures for mobility;

	Year group	No of children leaving school	Total	Average distance of home address from school
2019-2020	YR	6		
	Y1	5		
	Y2	3	14	2.66 miles
2020-2021	YR	9		
	Y1	7		
	Y2	4	20	3.13 miles
2021-2022	YR	8		
	Y1	7	15	2.13 miles
	Y2*			

*Y2 data is for the number of children leaving prior to the end of the year.

28. This is a total of 49 children leaving the school during the school year in the last three years which at 21 per cent of the school population is a high proportion. The Trust did not provide the figures for in-year admissions which will counter these figures but the table in paragraph 16 shows the current position. The current Y2 cohort numbers 13 fewer children now that when the children joined the school; the corresponding figure for Y1 is one and YR is 10. This is a total of 24 fewer children which takes into account mobility into and out of the school. I understand that this reduction in roll will cause issues with the planning and management of the classes and I will cover this aspect later in the determination. However, I do not consider a reduction of 24 (or 10 per cent) from a total number on roll of 231 to be sufficiently significant to warrant a reduction in PAN.

Financial viability of classes

31. The Trust Board minutes of the 10 February 2023 state the ‘the trust board is also aware that class numbers are below the level at which they are financially viable to staff’. In the letter from the Trust, it suggests that the in-year deficit for 2022-3 is £25,770 growing to £202,046 in 2024-25. This assumes three classes in each of three year groups.

32. The DfE performance table financial details for the school show that in the 2021/22 financial year the income for the school was £1.38 million and the expenditure for the school was £1.38 million with an in-year balance of £294. It also shows school reserves of

£161,900. These figures show that the school was managing within its budget for the 2021/22 year, but the Trust suggests that this cannot be maintained.

33. The Trust does not seem to have considered the possibility of mixed age classes in the school's planning. Thousands of successful schools across the country have mixed age group classes. With 231 on roll and classes of 30, eight classes rather than nine would be fully viable with an associated saving of staff and resources which would cover the school's predicted deficit. I am therefore of the view that the financial implications do not support a reduction in PAN.

Large planning area; small deficit of places.

34. The final statement in the Trust Board minutes says 'The Trust Board discussed Surrey's objections to the PAN reduction, highlighting that the planning area is large and that the purported deficit is small and it is for the area overall, rather than for the specific area where Banstead Infants is located.' I asked the Trust and the local authority for details of planning areas and projected numbers.

35. Surrey is divided into a number of planning areas. The local authority says that these areas are used to assist in forecasting pupil numbers and are based on travel to school patterns over several years. The forecast data includes demographic trends – the birth rate and mid-year population estimates – and the effects of pupil movement trends (between schools, in and out of borough/districts/county etc.) as well as additional pupil yield from housing calculated from housing permissions and trajectories provided by the borough/district council.' 'These areas are a 'best fit' of where children live and attend school but do not have borders in a physical sense.'

36. The planning area in which the school is situated is the Reigate and Banstead area which is divided into seven smaller areas; the Banstead and Woodmansterne (B and W) planning area is the smaller area in which the school is situated and, according to the map which shows where children at the school live, the other smaller area which is relevant to its intake is the Tadworth, Walton and Preston (T,W and P) area. The Trust suggests that another Surrey planning area (South Epsom and Langley Vale) and an area in the adjacent borough of Sutton should also be considered. The map of where children live does not support this. A small number of children live in the planning areas to the south of the school but the majority of children live in the two adjacent planning areas, including the one in which the school is located. It is therefore sensible to look at the projected numbers in these two areas.

37. As I stated at the beginning of the section, I have jurisdiction to consider only the fairness of the admission arrangements for the 2024 intake and I will therefore consider only those statistics. In the B and W area there are three schools which have a YR intake; the school, a primary school and a Roman Catholic primary school. Currently the total PANs for these school is 210 including 90 at the school. The forecast projection for 2024 shows that there would be a deficit of two places in this area in September 2024. The local authority says that should the school have a reduced PAN of 60 then the deficit would rise to 32.

38. In the T, W and P area there are six schools which have a YR intake and the total PAN for these schools is 285. The forecast projection for 2024 shows that there would be a surplus of 37 places in YR. The local authority says that should the school reduce the PAN to 60 the overall surplus for the two planning areas would be five (37-32). This would be a one per cent margin and the local authority consider this too slim a margin to ensure delivery of a place to all children who need one. I agree that a one per cent margin is too small for effective planning.

39. Therefore, even if both planning areas were used to plan for pupil places in 2024 there would still not be sufficient places available if the school reduces its PAN to 60.

Summary of Findings

40. I conclude that the decreasing of the PAN from 90 to 60 for the admission of children in September 2024 is unfair to groups of children and does not therefore conform to the Code at paragraph 14. Numbers admitted to the school do not show a marked reduction, a reduction in PAN would prevent a significant number of first preference applications being admitted, the mobility figures do not justify a reduction in PAN, the school has not explored acknowledged working arrangements for reducing financial constraints, the immediate planning area and the adjacent planning area would not be able to offer sufficient places in 2024. I therefore conclude that the PAN for the school for 2024 should remain at 90.

41. Paragraph 3.6 of the Code states that '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 Schools Adjudicator or any misprint in the admission arrangements.' In this case the change in PAN to 90 and the change in the oversubscription arrangements described under Other Matters above may be changed by the Trust without consultation as it is in line with a determination by a Schools Adjudicator.

Determination

42. In accordance with section 88H (4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2024 determined by GLF Trust for Banstead Infant School, Surrey.

43. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

44. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 3 July 2023

Signed:

Schools Adjudicator: Ann Talboys