



Office of
the Schools
Adjudicator

Determination

Case references: VAR2351, VAR2358

Admission authority: Sandwell Metropolitan Borough Council for Cape Primary School, Smethwick

Date of decision: 5 July 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 Sandwell Metropolitan Borough Council for Cape Primary School for September 2023 and for September 2024.

I determine that the published admission number for 2023 will be 60 and that the published admission number for 2024 will be 60.

The referral

1. Sandwell Metropolitan Borough Council (the local authority) has referred proposals for variations to the admission arrangements (the arrangements) for September 2023 and September 2024 for Cape Primary School (the school) to the adjudicator. The school is a community school for children aged three to eleven in Smethwick.
2. The proposed variations are that the published admission number (PAN) be reduced from 90 to 60 for admissions to reception year (YR) in September 2023 and in September 2024.

Jurisdiction and procedure

3. The referrals were 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. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variations are within my jurisdiction.
5. In considering this matter 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 20 June 2023 relating to the variation request for September 2023 and supporting documents;
 - b. a follow-up letter dated 28 June 2023 extending the original variation request to September 2024;
 - c. the determined arrangements for 2023 and the proposed variation to those arrangements;
 - d. the determined arrangements for 2024 and the proposed variation to those arrangements;
 - 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.

The proposed variations

7. It is proposed to reduce the PAN for YR entry in September 2023 and September 2024 from 90 to 60. This is one of two requests from the local authority in relation to admission arrangements within Smethwick Town for 2023 and 2024. For both schools, the proposed variations are to reduce the PAN for September 2023 and for September 2024.
8. The referral states that:

“Since the unprecedented birth rate boom started to impact on schools circa 2011/12, Smethwick was always the town where the increased demand for school places was first experienced, with the need to increase school PANs and expand building stock.

A number of schools in Smethwick have started to see a slight surplus in numbers, however over the last 2 academic years Cape Primary School has seen a more immediate and sharper fall off in new applications for Reception, which is now feeding through into Key Stage 1.

Significant surplus capacity over two concurrent years has raised concerns by the school’s Governing Body that to continue with a high surplus of school places is not sustainable either financially or educationally. In turn the Governing Board have requested the Local Authority to reduce the PAN by a form of entry from 90 to 60 places.

The reduction would be managed on a rolling year on year intake basis to the Reception year, introducing the lower PAN of 60 from 2023/24 academic year.

With the school taking a reduction in PAN, this will support other schools with the number reductions proposed within the Smethwick area. To do nothing is not an option – to leave the school with the higher PAN is not financially viable for them.”

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 variations requested are justified by the change in circumstances.

Consideration of proposed variations

10. There is no formal consultation required for a variation, in which case parents and others are not afforded the opportunity to express their views. However, in this instance the local authority has carried out an extensive consultation process for the variation for September 2023, involving the appropriate bodies and other stakeholders.

11. Throughout that process it has been made clear that the intention is for the PAN to remain at the lower level in future years should the variation for 2023 be agreed. This is also made clear in the published determined arrangements for 2024. These state that the PAN is 90 and contain a proviso that it will reduce to 60 if the variation for 2023 is agreed. Under the Code, since the 2024 arrangements have already been determined, a reduction in PAN for that year requires a separate variation. The local authority has submitted a letter to me requesting that all the material provided in support of the 2023 variation be considered as applying to the 2024 variation as well.

12. I have 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 90

to 60 for September 2023 and for September 2024. I have also considered the demand for places at the school, the reasons given for the change, the potential effect on parental preference and whether the change is justified in these circumstances.

13. 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. The school is one of 15 schools admitting children to YR in its planning area. Table 1 below summarises the numbers of children admitted to these schools in recent years.

Table 1: numbers of school places in the planning area and numbers admitted to YR or predicted to be offered a place in YR

	2021	2022	2023	2024	2025	2026
Sum of current PANs of schools in the planning area for YR	1050	1050	1050	1050	1050	1050
Number of children admitted or projected to be offered a place	918	937	904 (allocated as of 2 June 2023)	861 (projected)	861 (projected)	859 (projected)
Vacant places	132	113	146 (potentially)	189 (potentially)	189 (potentially)	191 (potentially)
Vacant places as a percentage	13%	11%	14%	18%	18%	18%

14. From the figures in Table 1, I am satisfied that if the PAN for the school were to be reduced to 60 for 2023, there would be sufficient places left for those seeking a place in YR. If the variation for the other school in the area seeking a PAN reduction were also approved, there would potentially still be 86 places available within a new revised PAN total of 990. I am satisfied that this is plenty to guarantee sufficiency for 2023/24.

15. I am similarly satisfied that if the PAN were to be reduced to 60 for 2024, there would be sufficient places left for those seeking a place in YR. If the variation for the other school in the area seeking a PAN reduction were also approved, there would potentially still be 129

places available within a new revised PAN total of 990. I am satisfied that this is plenty to guarantee sufficiency for 2024/25.

16. If the variation for 2024 is agreed, it will be possible for the local authority to determine a PAN of 60 for the following year without consultation. I am satisfied that a PAN of 60 for 2025 would not lead to a shortage of places in 2025/26.

17. I now turn to the number of children at the school and the reasons given by the school in support of the variation request. Table 2 summarises the numbers admitted to the school in recent years.

Table 2: numbers of children admitted to YR or predicted to be offered a place in YR at the school

	2021	2022	2023	2024
The PAN for the school	90	90	90	90
Number of children admitted or projected to be offered a place	49	56	48 (allocated as of 2 June 2023)	N/A*
Vacant places in YR	41	34	42	N/A*

*The local authority tells me it does not forecast at school level

17. Since the local authority does not forecast at school level, the above table does not contain any data beyond 2023. However, the trend of admissions and the data in table 1 show no evidence that parental preference will be frustrated if the PAN for 2023 and for 2024 is 60.

18. The requests for the variations refer to the local authority's wish to align the school's staffing and budget to a reducing number of children. The school is one affected by the provisions of the School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations). The infant class size regulations 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. The infant class size regulations apply to YR, and this means that if the number admitted to YR in September 2023 were 48, as projected, and the school wishes to teach only in single year group classes, there would be two YR classes.

19. If the PAN for the school were to remain at 90, then any in year applications for YR will have to be admitted. There is therefore a possibility that if further children were admitted in year, the number of YR children might exceed 60. To avoid a breach of the infant class size regulations, the school would have to either create an extra reception class or

reorganise their infant children into mixed age classes. This would present a logistical and financial challenge.

20. After consideration of all the factors above and given that there is no evidence of any frustration of parental preference nor any indication that the variations will lead to a lack of sufficiency of places, I find that the variations are justified by the circumstances and I approve them. The PAN for 2023 will be 60 and the PAN for 2024 will be 60.

Determination

21. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Sandwell Metropolitan Borough Council for Cape Primary School for September 2023 and September 2024.

22. I determine that the PAN for 2023 will be 60 and that the PAN for 2024 will be 60.

Dated: 5 July 2023

Signed:

Schools adjudicator: Clive Sentance