



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2364

Admission authority: Hampshire County Council for Hythe Primary School, Southampton

Date of decision: 2 August 2023

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Hampshire County Council for Hythe Primary School, Southampton for September 2023.

I determine that for September 2023 the published admission number will be reduced from 45 to 30.

The referral

1. Hampshire County Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2023 (the arrangements) for Hythe Primary School (the school) to the adjudicator. The school is a community school for children aged four to eleven in Southampton.
2. The proposed variation is to reduce the published admission number (PAN) for September 2023 from 45 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:

“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 variation and I have received supportive responses from the governing board concerning the proposed variation. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.

5. In considering this matter I have had regard to all relevant legislation, and the Code. The information I have considered in reaching my decision includes:

- a. the referral from the local authority dated 19 July 2023, 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 school’s 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, the school and the Department for Education.

The proposed variation

6. The proposed variation is to reduce the PAN of the school from 45 to 30 for September 2023. The arrangements for the school for 2023/24 were determined by the local authority on 28 February 2022.

7. 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

8. When an admission authority wants to reduce the PAN at a school before it determines its arrangements, it is required to consult parents and others listed in paragraph 1.44 of the Code for at least six weeks. This allows public scrutiny of the proposed new PAN. Once arrangements have been determined, they may only be varied in limited circumstances. The variation process is set out in paragraph 3.6 of the Code. That process is designed for use when there is a “major change in circumstances” occurring since the arrangements were determined. An example of a major change in circumstance might be where an unanticipated problem occurs with a school building requiring remedial work that temporarily reduces the capacity of the building without leaving time to consult on any necessary changes to admission arrangements. The variation process does not include the wider consultation process. In this case the variation requested is for a reduction in the PAN from 45 to 30 at the school for September 2023 with the intention that the school will be able to operate with one class in Year R. While I am concerned that parents and others should be able to have their views fully considered when changes are made to admission arrangements whenever possible and as required by the Code, I consider below whether there are circumstances here that mitigate against the need for consultation. I would, however, urge the school and the local authority to take this point into consideration when contemplating the PAN that is to be applied in future years.

9. There is one further important point I should make for the avoidance of doubt. The PAN does not apply beyond the year of normal admission, which in this case is Year R. Decisions about whether or not there are places available in the cohort in subsequent years, for example in Year 1, are made by the admission authority and the Code requires that places will be offered if there is space available. The decision about whether or not there is space available is made on the basis of any potential prejudice to the efficient delivery of education or use of resources in the school. For year groups other than Year R, the admission authority could choose to argue that the number of places are limited by the number of classes and the number of children within them. This is because in order to admit a child it might be necessary to create an additional class to comply with the School Admissions (Infant Class Sizes) (England) Regulations 2012. In this case the school would not receive sufficient budget to be able to fund such an additional class and in consequence could decide to refuse to offer a place. In such a circumstance, if an applicant wishes to appeal against a refused application for in-year admission they have the right to do so to the admission authority’s independent appeal panel.

10. Before I consider the proposed variation, I should note that the local authority determined the 2024/25 arrangements, including the PAN, for the school on 21 February 2023. The PAN is 45 for 2024. As the arrangements have already been determined, my decision on this application will not affect that determination. My decision affects only admissions to Year R at the school for 2023. If the local authority and the school wish to vary the arrangements for 2024 there will need to be a further request for a variation submitted.

11. The school is currently operating with a PAN of 45 and there are 10 classes. In May 2023 the numbers in the classes were as shown in the following table:

| Class | Foundation | Key Stage 1 | | Key Stage 2 | | | |
|--------------|------------|-------------|-----------|-------------|-----------|-----------|-----------|
| | YR | Y1 | Y2 | Y3 | Y4 | Y5 | Y6 |
| 1 | 25 | - | - | - | - | - | - |
| 2 | - | 12 | 13 | - | - | - | - |
| 3 | - | 12 | 13 | - | - | - | - |
| 4 | - | 14 | 11 | - | - | - | - |
| 5 | - | - | - | 14 | 16 | - | - |
| 6 | - | - | - | 14 | 15 | - | - |
| 7 | - | - | - | 15 | 15 | - | - |
| 8 | - | - | - | - | - | 15 | 13 |
| 9 | - | - | - | - | - | 13 | 15 |
| 10 | - | - | - | - | - | 15 | 15 |
| Total | 25 | 38 | 37 | 43 | 46 | 43 | 43 |

12. For September 2023 admissions, 28 places have been allocated. This is the second year where the number of admissions has been below the proposed PAN of 30. All applicants have been offered a place at the school and would also have been offered places if the PAN had been 30. I have expressed my concern about the lack of consultation when changes are made to admission arrangements by means of a variation. However, in this case the concern appears unwarranted in the sense that all parents seeking a place for their child at the school have been offered a place and there remain two unallocated places which would be available should a family seek a place for a child during the school year.

13. The local authority has confirmed that in the local planning area there are sufficient places available in the school year beginning in September 2023 for it to be able to meet its obligation to provide places for children who move into the area during the school year. The table below shows the PAN for each of the schools in the planning area that admit at Year R; the number of children admitted in each of the previous three years; the number of places offered for 2023 and the forecast numbers for 2024.

| SCHOOL | PAN for 2023 | Pupils 2020-2021 | Pupils 2021-2022 | Pupils 2022-2023 | Number of places offered for Sept. 2023 | Forecast numbers for 2024 |
|---|--------------|------------------|------------------|------------------|---|---------------------------|
| Blackfield Primary School | 60 | 46 | 46 | 46 | 44 | 40 |
| Cadland Primary School | 50 | 50 | 36 | 43 | 47 | 28 |
| Fawley Infant School | 30 | 26 | 14 | 15 | 13 | 15 |
| Hythe Primary School | 45 | 38 | 37 | 23 | 28 | 36 |
| Manor Church of England Infant School | 30 | 53 | 24 | 23 | 25 | 16 |
| Marchwood Church of England Infant School | 60 | 73 | 71 | 63 | 51 | 59 |

| SCHOOL | PAN for 2023 | Pupils 2020-2021 | Pupils 2021-2022 | Pupils 2022-2023 | Number of places offered for Sept. 2023 | Forecast numbers for 2024 |
|--------------------------|--------------|------------------|------------------|------------------|---|---------------------------|
| Orchard Infant School | 90 | 75 | 92 | 80 | 90 | 76 |
| Waterside Primary School | 30 | 25 | 30 | 26 | 29 | 26 |
| Wildground Infant School | 56 | 39 | 51 | 52 | 38 | 43 |
| Total Year R | 451 | 425 | 401 | 371 | 365 | 339 |

14. The requested variation is to reduce the PAN from 45 to 30. This will allow the school to plan for its staffing without the uncertainty that it would need to create an additional class if the number of children in the year group increased above 30 children. This is because the school is restricted by the School Admissions (Infant Class Sizes) (England) Regulations 2012 to a maximum size of class of 30 children in the Reception Year. Looking at the information in the table above I am satisfied that there are sufficient vacant places in the planning area if there are further requests for places during the 2023 school year.

15. A variation can be requested if there has been a major change in circumstances which come after the admission arrangements have been set. In this case the change in circumstance is that the number of children applying for places was fewer than had been anticipated and that the school needs to continue to operate with ten classes in order to remain within its budget. I find that the variation is justified by the circumstances and approve the proposed variation to reduce the PAN from 45 to 30.

Determination

16. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Hampshire County Council for Hythe Primary School, Southampton for September 2023.

17. I determine that for September 2023 the published admission number will be reduced from 45 to 30.

Dated: 2 August 2023

Signed:

Schools adjudicator: David Lennard Jones