



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2360

Admission authority: Leeds City Council for Moor Allerton Hall Primary School

Date of decision: 16 October 2023

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by Leeds City Council for Moor Allerton Hall Primary School for September 2024.

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. Leeds City Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) for Moor Allerton Hall Primary School (the school) to the adjudicator. The school is a community primary school for children aged 3 to 11.
2. The proposed variation is that the published admission number (PAN) be reduced from 90 to 60.

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 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 local authority dated 7 July 2023, supporting documents and further information provided at my request;
- b. the determined arrangements for 2024;
- c. comments on the proposed variation from the school and local authority;
- 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 (DfE).

The proposed variation

7. The local authority set the PAN at 90 for admissions under the 2024 arrangements but now believes that demand has reduced.

8. The local authority proposes that the PAN for 2024 is reduced to 60 and its reasons for seeking the variation are, in summary, that:

- a) demand for places at the school has reduced and is lower than that forecasted;
- b) a fall in birth rate in the area has led to reduced demand for places, and this lower demand is set to continue in future years;
- c) there are surplus places within other schools in the area; and
- d) the surplus places at the school are causing financial pressures and uncertainty regarding class organisation, which in itself may discourage parents from applying for places at the school.

9. I note that the governing board for the school has expressed its full support for the variation and has cited a number of reasons for doing so, including financial and organisational pressures on the school.

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.

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. In this case, if the variation request for 2024 were approved, the local authority could set future PANs (that is, those for admission in September 2025 and beyond) at 60 without any requirement for consultation.

13. It is therefore particularly important that the proposed variation is 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 90 to 60 from September 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 reduction is justified in the prevailing circumstances.

14. I will first consider demand for places in the area, which is an urban major conurbation. The DfE website 'Get Information About Schools' (GIAS) indicates that there are eight other schools which admit children to reception year (Year R) within one mile of the school. There are around 48 other schools that admit children to Year R within three miles of the school. 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.

15. There are ten state funded schools which admit children to Year R in the planning area for the school. Table 1 summarises the first preference applications made and the number of children admitted to the schools in the planning area in recent years, and the local authority's forecasts of demand for places in future years.

16. First preference data is important as a first preference is the school that a parent most wants their child to attend and is a good indication of demand. However, it is not the whole story of a school's popularity or of the demand for places there. 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.

17. Moreover, 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. 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 and in relation to demand from within planning areas, 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: number of school places, the number of first preferences and number of children admitted to Year R or forecast to require a place in schools in the planning area

	Year of admission						
	2021	2022	2023	2024	2025	2026	2027
Sum of PANs for the schools in the planning area and assumed for 2025 - 2027	600	600	600	600	600	600	600

	Year of admission						
	2021	2022	2023	2024	2025	2026	2027
Number of first preferences for the schools in the planning area	645	613	589	N/A	N/A	N/A	N/A
Number of places offered (2021-2023) or the number of pupils forecast to require a place (2024-2027)	576	569	560	539	517	509	517
Surplus places	24	31	40	61	83	91	83

18. Table 1 shows a forecasted decrease in demand across the years and that in 2024, the year for which a variation is sought, there is forecast to be 61 surplus places across the planning area. For subsequent years this number is forecasted to increase.

19. Table 2 summarises the potential effect on the planning area of a reduced PAN at the school for future years. The DfE document, “Basic need allocations 2025-26: Explanatory note on methodology”, refers to the need for two per cent surplus capacity in the number of school places “to provide an operating margin for local authorities. This helps to support parental choice, pupil population movement, and general manageability of the system”. Table 2 shows that in the event that the PAN reduction was approved, the surplus capacity would remain well above the figure recommended by the DfE.

Table 2: the number of school places and the number of children forecast to require a place in schools in the planning area, with vacant places calculated using the proposed PAN reduction for the school from 2024 onwards

	2024	2025	2026	2027
Sum of PANs for the schools in the planning area	570	570	570	570
Number of children admitted or forecast to require a place	539	517	509	517
Number of vacant places	31	53	61	53
Proportion of vacant places (per cent)	5	9	11	9

20. I am satisfied that if the PAN at the school were reduced the local authority would be able to fulfil its obligation to provide all children in the area with a school place. I must also have regard to parental preference and will now consider the demand for places at the school.

21. Table 3 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 90 as in the current determined arrangements.

Table 3: the number of children on roll at the school in recent years, with projections for future years

	2021	2022	2023	2024	2025	2026	2027
The PAN for the school	90	90	90	90	90	90	90
Number of first preferences	45	59	46	N/A	N/A	N/A	N/A
Number of places offered on national offer day (2021-2023) or the number of pupils forecast to require a place (2024-2027)	76	74	62	71	65	65	66
Number of children on roll at October census each year	76	78	N/A	N/A	N/A	N/A	N/A
Surplus places (calculated using census figures for 2021 and 2022, and forecasted places required for 2023-2027)	14	12	28	19	25	25	24

22. Although the number of first preference applications for the school has in recent years been below the proposed PAN of 60, as I noted earlier many children will not be admitted to their first preference school and first preference data forms only part of the picture in relation to demand for places. This is demonstrated by the difference between the number of first preference applications and admissions to the school; for example, in 2023 a total of 46 first preference applications were received, 62 children were offered places on national offer day and there are now 70 children in the year group.

23. In each of the years for which a forecast has been provided the school is predicted to admit more than 60 pupils, with 71 children expected to require a place in 2024. Although it seems clear that these children could be accommodated at other schools within the planning area I am concerned that a reduction in PAN may result in frustration of parental preference.

24. I have considered what the impact may be of the PAN either remaining the same or being reduced, and how classes may be organised in either event. 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 Year R, Year 1 and Year 2. Currently there are three, single age classes for each year group at the school.

25. Although it may be considered the norm to organise schools into single age group classes, many schools use mixed-age classes very successfully, and a reluctance to do so is not reason enough in itself for a change of PAN. I asked the local authority what consideration has been given to mixed-age classes. Their response was as follows:

“The school currently has classes with single year groups. As the year group sizes vary throughout the year it is not possible to mix classes. There are no year groups below 75 (half a class to mix with a half class from another year). The mobility of pupils means changing numbers constantly through the year in all age groups so even a temporary PAN reduction to 75 in the current year groups would not work.

It is the school’s belief that mixed age classes are not welcomed by parents and doing this would reduce their popularity in comparison with other schools in the area which don’t operate mixed classes.

Additionally, as the school will not know their allocations for September 2024 until April 2024, it would be very difficult for the school to plan in advance and inform parents of how classes would be arranged before they selected their preferred schools from November 2023.

Mixed age classes would have to be a consideration if the school were allocated another year group up to 80. However, this would necessitate mixing reception and year 1 children who are taught on two very different curricular. The school’s view is that this would be incredibly unpopular with parents and may cause withdrawal of children from their roll. In schools set up as a 45 PAN parents expect mixed age classes, and it happens year on year. A drastic change that affects only two of the year groups may not be well received by local families.

If numbers stay below 70 even mixing two of the year groups would still leave a huge gap in numbers affecting the school’s budget and would not solve the mobility issue as children would still be allocated who are using the school as a holding place until they get somewhere nearer to home.”

26. As stated in paragraph 1.2 of the Code the PAN applies only to the relevant age group, which is the age at which pupils will normally be admitted to the school. In the case of the school the PAN applies only to Year R. The local authority is therefore incorrect in its reference to PAN “in the current year groups” as this implies that the PAN applies to all year groups. Further, to intimate that the local authority has no control over pupil numbers in year groups other than Year R is incorrect.

27. In-year admissions, that is to all year groups other than Year R, are a matter to be guided by paragraph 1.4 of the Code which states, as far as is relevant here, “The PAN only applies to the relevant age group. This means that admission authorities may not refuse admission to other age groups on the grounds that they have already reached their PAN. They may, however, refuse admission where the admission of another child would prejudice the provision of efficient education or efficient use of resources.” The local

authority (as the admission authority) is bound by a duty to admit up to the PAN in Year R; the local authority is able to determine the number of pupils admitted to other year groups provided that it acts in accordance with the Code.

28. The school provided the figures in Table 4 showing the number of pupils in the current year groups.

Table 4: the number of pupils in each year group at the school, as of September 2023

Year Group	Total number of pupils
YR	70
Y1	85
Y2	88
Y3	91
Y4	85
Y5	89
Y6	89

29. I note that the smallest year groups, other than Year R, contain 85 pupils who may be arranged as, say, two classes of 28 pupils and one class of 29 pupils. These numbers are very close to what is often considered the ideal of 30 pupils per class. There are however fewer children in Year R and organising these children into three classes results in 23 or 24 pupils per class, which may not be financially efficient.

30. If the PAN reduction were agreed then in 2024 the school could organise its Year R pupils into two classes and retain its approach of single-age classes. This would result in lower expenditure than that required by the three classes currently used for Year R, particularly as regards staffing. However, most school funding is awarded on a per-pupil basis and so overall cost savings may be minimal. Funding of £3,562 per pupil (as stated in the DfE document “Schools block funding formula 2024 to 2025: technical note”) would result in £39,182 less income if the school admitted 60 children rather than the forecasted 71.

31. Current data shows that if no other children join or leave the school there will be a total of 155 pupils in KS1 in September 2024. If the PAN were not reduced the school could admit up to 85 children to reach the maximum number of 240 in Year R and KS1 who could be organised into eight classes whilst adhering to the requirements of the infant class size regulations. At least some of these classes would need to be mixed-age, and the additional

admissions could comprise admissions into Year R and in-year admissions this year or next. This would provide cost savings whilst retaining the benefit of receiving per-pupil funding above that provided if the PAN were reduced. Nine classes would only be required once there were 241 children in Year R and KS1; these pupils could be organised into classes of 26 or 27 children which does not seem prohibitively small.

32. From my illustrations above it is not necessarily true that a PAN reduction for 2024 is required to enable financial savings. However, I do recognise that a reduced PAN would be likely to lead to financial savings were it to remain in place in the long term as the school could move to a structure of two classes per year group. I also recognise that pupil mobility is an issue for the school, although I am concerned that the local authority's application of PAN to year groups other than Year R may have clouded this situation.

33. I have considered the school's view that parental preference may be reduced, leading to fewer applications for admission, if the school did move to mixed-age classes. I do not know what the views of all existing and prospective parents would be if the school did use mixed-age classes, and it is not possible for me to seek these. I have been provided by the local authority with eleven responses from parents to the proposed PAN reduction, all of which are strongly in support of a move to two classes per year group as they believe that this will reduce the pupil mobility which causes disruption for children and staff. However, although these responses are undoubtedly in favour of the variation request they represent a fraction of the total parent population and it seems speculative to conclude from this that a change to mixed-age teaching would lead to fewer applications for admission.

34. I understand the position of the school and the local authority that a reduction of PAN to 60 may provide greater stability for the school and its pupils and benefit the school financially. The local authority has stated: "The proposed variation, if accepted, would mean that the school would be highly likely to fill to its PAN of 60, and staff accordingly, rather than staffing to 90 and having a significant number of surplus places. It would then work to a PAN of 60 in future years which would be more in line with preferences and with the continued fall in the birth rate across the area. This would have a positive impact in helping support the school to manage its forecasted deficit budget". However, I find that insufficient consideration has been given to the use of mixed age teaching including how to utilise this to achieve financial savings.

35. After taking into account the above, and in particular the number of children forecasted to require a place at the school in 2024, I conclude that there is, based on current data, the potential for a significant frustration of parental preference in 2024 if the PAN for the school were to be set at 60. On this basis I am not prepared now to approve the proposed reduction in PAN for 2024.

36. However, I am also conscious of the challenges faced by the school and, indeed, the challenges in pupil number forecasting. I therefore wish to make it clear to the local authority that it would be open to it to re-apply early in 2024 for a PAN reduction for 2024.

By this time it will have more information about the number of actual applications for Year R places at the school for September 2024 and it would be possible for the adjudicator to reach a decision in the light of this. Importantly, the school would still have time to make any necessary changes to its staffing and class organisation for September 2024. In addition, the local authority would by then also have been able to consult on a PAN reduction for 2025 following the normal procedures for making changes to admission arrangements.

Consideration of the arrangements

37. 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 local authority. I have listed these matters below setting out the relevant paragraphs of the Code and where the arrangements did not conform to requirements.

38. Paragraph 1.13 of the Code states, as far as is relevant here, that “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.” The arrangements do not comply with the Code in this regard because they do not specify the point in the school from which distance will be measured and they will need to be revised in order to make this clear.

39. The Code extends the right to parents to choose whether their child’s admission to Year R should be deferred or whether the child attends school part-time if the circumstances set out in paragraph 2.17 apply. This paragraph does not state that parents are expected to request in the sense of seeking agreement or permission for deferment or part-time attendance. The arrangements state that: “All children can start Reception in the September after they turn 4 and most children thrive when starting school at age 4. If you do not think your child will be ready by then, you can speak to your offered school about starting part time, or after Christmas or Easter break.” The wording of this implies that the school may have something to decide in this circumstance and to grant if it so chooses, and does not clearly state the rights of parents as afforded by paragraph 2.17 of the Code. In this respect therefore, the arrangements do not meet the requirements of the Code, and they will need to be revised.

40. The section entitled “Waiting Lists” does not appear to comply with paragraph 2.15 of the Code. That paragraph states: “Each admission authority **must** maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.” The arrangements state: “After offers have been made in April, you can ask for your child to go on the waiting list for any school”. I pause here to note that the Code does not actually require that arrangements set out the process governing how children’s names are or are not kept on the waiting list. However, the local authority has chosen to include this in its arrangements and I can accordingly consider whether its arrangements are in this regard Code compliant. I consider that by stating that

parents have to ask for their child to be included on a waiting list – in particular without saying how this is to be done – the arrangements are not Code compliant and will therefore need to be revised.

41. The local authority has told me that it will address the issue raised regarding distance measurements, as permitted by paragraph 3.6 of the Code, which is welcomed.

42. I note that the local authority had a different view to my own in respect of the other matters raised. It is not my role to advise admission authorities on how they address any matters raised. However, it is my role to indicate where, in my view, admission arrangements do not conform to the Code. In circumstances where the Schools Adjudicator has determined that a set of admission arrangements do not comply with the Code or are otherwise unlawful, the Code requires that the arrangements be revised to render them lawful and Code-compliant. Below I include the local authority's response to the matters raised and explain why I have reached the view that these matters do not conform to the requirements of the Code.

43. In respect of the right of parents to choose whether their child's admission to Year R should be deferred or whether they should attend school part-time the local authority stated:

"We do not agree that "speak" to the school means or implies a parent must apply or request this. Parents who choose to exercise their right must communicate their decision to do so with the school, otherwise the school won't know that the parent is choosing part-time attendance or delaying starting until later in the school year. Additionally, our team are aware many parents do not understand the compulsory school age rules and dates. Every year, we get numerous requests asking for permission to delay starting reception one year for pupils who are not summer born but have additional needs. By asking parents to speak to schools, parents are helped to understand what they need to do, and the process is smoother and easier to navigate for all. Our published communication is written to meet the needs of people with a low reading age (around 9 year old) ... We use the term "speak" as that shows that parents need to communicate their decision with the school. If there was a decision to be made by the school, the policy would say a written request sent to the school was needed."

44. I note that the local authority is aware of the importance of making the arrangements accessible to all parents and easy to understand. However, if a schools adjudicator may interpret the current wording as implying that parents may request part-time or deferred attendance rather than having a right to it, then surely it is possible that some parents may interpret the wording in the same way. The local authority may wish to continue to use its current wording, if indeed it reflects the steps a parent needs to take in order to exercise their rights. However, it must in any case revise its arrangements to include a statement that makes the rights of parents clear in order to ensure that the arrangements comply with the Code.

45. In respect of waiting lists, the local authority stated:

“We believe our wording complies with paragraph 2.15 as the Code requires a waiting list to be kept until 31 December and we keep such a list and no one is prohibited from being on the list. The Code does not state that everyone who applied must be added to it or has to ask to be removed. We always re-rank the list before any place is offered as new applicants will be added after offer day. We read the wording in 2.15 which explicitly states “...each added child...” as allowing local authoritys [sic] to automatically add parents or to ask parents if they want to be added. On offer day, many parents are content with their school offer even if this is for a lower preference. By automatically adding all applicants to all higher preference waiting lists, some parents are at risk of being allocated a school later, and the previous offer automatically being withdrawn, who didn’t realise this would be the case. By asking parents to take a simple action to be added to the waiting list we know they are there through choice, not just a default process. The only time we automatically add a child to a waiting list is when we receive a request for appeal, if they have not already requested a place on the waiting list.”

46. I understand the local authority’s position that the Code does not explicitly state that unsuccessful applicants for a school must be automatically added to that school’s waiting list. However, the process regarding waiting lists must be clear and fair to all parents in order to comply with the Code and in my view this is not currently the case. The local authority’s website contains a link to a form for parents to use to request that their child be added to a waiting list; this information is not contained within the local authority document “Primary school admission policy for September 2024 to July 2025” which forms the main body of the arrangements and the process is therefore unclear. The larger issue is that the local authority’s approach may not be fair to all parents as it requires a proactive action from them. As an example, a fair and clear approach may be for the local authority to send a communication to all parents whose children have not been awarded their first preference school, asking them whether they would like their child to be placed on the waiting list for higher preference schools.

47. In addition to the above points I am concerned that the statement on the local authority’s website that parents should “Join the waiting list within 2 weeks of offer day for a better chance of getting a place at a school you want” implies that applicants may be prioritised based on the date on which they joined the waiting list. Paragraph 2.15 of the Code states that “Priority **must not** be given to children based on the date their application was received” and the arrangements may not therefore comply with the Code in this regard. I find that the arrangements must be revised regarding waiting lists.

Determination

48. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by Leeds City Council for Moor Allerton Hall Primary School for September 2024.

49. 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.

50. 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: 16 October 2023

Signed:

Schools adjudicator: Jennifer Gamble