



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** ADA4205

**Objector:** Barnsley Metropolitan Borough Council

**Admission authority:** Astrea Academy Trust for Gooseacre Primary Academy, Thurnscoe, Rotherham, South Yorkshire

**Date of decision:** 16 November 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 Astrea Academy Trust for Gooseacre Primary Academy in the local authority area of Barnsley Metropolitan Borough Council.

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 Barnsley Metropolitan Borough Council (the local authority) to the admission arrangements for 2024 (the arrangements) for Gooseacre Primary Academy (the school) determined by the Astrea Academy Trust (the trust). The school is an academy for children aged two to eleven. The objection is that consultation on changing the arrangements may not have met the requirements of the School Admissions Code (the Code); that the admission arrangements were not published by 15 March in the determination year as required by the Code; and to the reduction in the

published admission number (PAN) from 50 to 45. The local authority and the trust are the parties to the objection.

## Jurisdiction

2. The terms of the academy agreement between the 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 trust, which is the admission authority for the school, on that basis.

3. The local authority submitted its objection to these determined arrangements on 15 May 2023. 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 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 and a copy of the determined arrangements;
- b. the local authority's form of objection, further documents and information in response to my requests;
- c. the trust's response to the objection, the other matters I have raised and further information provided at my request including information on the most recent consultation on the arrangements;
- d. a map of the area identifying relevant schools; and
- e. information available on the websites for the school and the Department for Education (DfE).

6. My consideration of this case was delayed by a variety of factors related to miscommunications.

## The Objection

7. The local authority was concerned that the requirements of the Code on consultation where a change to the arrangements was proposed, had not been met. The Code sets out the requirements for consultation in paragraphs 1.45 to 1.48. The local authority also said that the arrangements were not published on the school's website by 15 March in the determination year as required by paragraph 1.50 of the Code.

8. Furthermore, the local authority objected to the PAN for the school being reduced from 50 to 45. The local authority wrote to the trust on 31 January 2023, and raised its concerns regarding the reduction in the PAN in response to the consultation held by the trust on this matter. In summary, the concerns were that pupil projections showed that the local authority may not be able to meet its duty to make sure that there were sufficient school places in the area if the PAN were reduced to 45. The local authority explained in the letter that it was willing to discuss the matter with the trust and had sought reassurances that if the PAN were reduced, that if there were sufficient demand, the trust would admit above the PAN. The local authority said in its objection that it “has not received a formal response to the issues raised, despite contacting the school, and the trust.”

## Background

9. The school is situated on the edge of Thurnscoe, which is a town with four other primary schools. The school was judged to be good by Ofsted at its last inspection in 2020. Two of the five schools in the town were judged to require improvement at their last inspection by Ofsted. The schools in the area have relatively high levels of pupils eligible for free school meals. The DfE website, ‘Compare school and college performance in England’ (the DfE website) shows that just under half of the pupils at the school are eligible for free school meals compared to 25.9 percent across all primary schools in England.

10. The trust is also the admission authority for other primary schools including The Hill Primary School (The Hill), which is the nearest primary school to the school at less than a mile in a straight line. The DfE website shows 16 schools within three miles of the school (measured by straight line).

11. Local authorities have a duty to make sure there are sufficient school places for children in its area. To meet this duty local authorities assess the number of school places available and the number required using forecasts and then take steps to address any shortfall. Most local authorities undertake this school place planning work using ‘planning areas’ which are normally geographic areas. The school is one of five primary schools in its planning area and all admit children to reception year (YR). Four of the primary schools (including the school) in the planning area are in Thurnscoe and the fifth in the nearby village of Great Houghton. Another primary school, Highgate, is in Thurnscoe but is not in the same planning area.

## Consideration of Case

### The consultation

12. I will consider the objection to the consultation first. Paragraph 1.45 of the Code requires that, “When changes are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year.” The case manager wrote to the trust on my behalf and the letter asked for detail of the

consultation and the request said, “This should include what information was sent to which people and/ or bodies and on what dates.” In response the trust said,

“On 20th December 2022, the consultation proposal and covering document were posted to the school’s website and shared with the Local Authority. This was followed up by further notification to parents by letter on 6th January 2023. No parents responded to the consultation. The Local Authority shared its concerns and asked for a commitment that future place need would be discussed favourably in future years – this was agreed internally, but appears not to have been communicated to the LA.”

13. When I received the papers for this case, I looked on the school’s website and a consultation paper is there. This sets out the proposal to reduce the PAN to 45 and asks for responses by 31 January 2023. Paragraph 1.46 of the Code requires that the consultation must last for at least six weeks and take place between 1 October and 31 January. The period between 20 December and 31 January is six weeks and so by posting the paper on the website, it could be argued that that consultation was six weeks. However, for a consultation to be effective, those who need to be consulted need to know it is happening. I understand from the trust’s response that parents of children at the school were informed of the consultation on 6 January 2023; this would not give six weeks of consultation.

14. Paragraph 1.47 of the Code says (as far as is relevant here):

“Admission authorities **must** consult with:

a) parents of children between the ages of two and eighteen;...

c) all other admission authorities within the relevant area (except that primary schools need not consult secondary schools); [and]

d) whichever of the governing body and the local authority is not the admission authority”.

15. Consulting with parents who already have children at the school is not sufficient to meet the requirements of 1.47a) above. It is likely to be particularly parents of children under the age of five who will have an interest in the arrangements as they are the ones most likely to be seeking a school place for their child. I have been provided with no evidence that the trust consulted effectively with parents of children between the ages of two and eighteen. There are ways of doing this without undue demands on the trust’s resources and local authorities can often play a role. In this instance, the trust did not meet the requirements of 1.47a) of the Code.

16. The trust provided no evidence that it consulted any other admission authorities in the relevant area (except the local authority) and so it did not meet the requirements of 1.47c) of the Code. It did consult with the local authority and so did meet the requirements

of 1.47d) of the Code. Overall, however, the consultation was insufficient to meet the requirements of the Code and I uphold this part of the objection.

#### Arrangements not published on the website

17. Paragraph 1.50 of the Code says, “Once admission authorities have determined their admission arrangements, they... **must** publish a copy of the determined arrangements on the school’s website... by 15 March in the determination year and continue displaying them for the whole offer year (the school year in which offers for places are made).” The local authority said in its objection that this had not happened. I checked when I received the objection and the arrangements for 2024 were not on the school’s website as required by the Code and are, at the time of writing, still not on the school’s website. The trust has not complied with the Code in this regard and I uphold this part of the objection.

#### The PAN

18. The Code does not permit objections when an admission authority increases the PAN for a school or the PAN remains the same (paragraph 3.3b)). This means that if the PAN were to remain the same for 2024, 2025 or future years, then the local authority could not object. Understandably, therefore, in making its objection the local authority will be considering demand for school places beyond 2024.

19. I asked the trust, via the case manager, why the PAN was reduced from 50 to 45. The trust responded, “The primary reason for the reduction in PAN was to achieve numbers per year group that could be split 30:15 in order to manage overall group sizes without compromising the infant class size regulations and in order to achieve financial efficiency over the medium- to long-term.” The trust has told me that it would be willing to go above 45 if there was sufficient demand and had intended to tell the local authority this but this did not occur. I note, however, that the PAN is the only lawful guarantee of the number of admissions that will be made if there is sufficient demand. I asked the local authority for information on the planning area including previous and forecast demand. I have summarised this in table 1 below.

Table 1: pupil numbers and forecast demand for schools in the planning area

	2021	2022	2023	2024	2025	2026	2027
<b>Sum of PANs of schools in the planning area for YR</b>	210	210	210	205 <sup>1</sup>	205 <sup>2</sup>	205 <sup>2</sup>	205 <sup>2</sup>

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<sup>1</sup> Reduced by five places reflecting the reduction of PAN at the school

<sup>2</sup> Assumes no other changes to PANs in the planning area

	2021	2022	2023	2024	2025	2026	2027
<b>Number of children admitted or forecast to require a YR place</b>	136	142	156	182	150	195	211
<b>Vacant places and forecast vacant or lack of places for YR</b>	74	68	54	23	55	10	-6 <sup>3</sup>

20. The number of YR places exceeded demand for YR places in the planning area in 2021, 2022 and 2023. Indeed, in September 2023 about a quarter of all YR places were vacant. However, forecasts show increased demand in 2024 and again in 2026 until in 2027 the forecast is that there will be insufficient places. Highgate, the other primary school in Thurnscoe which is not part of the same planning area, currently has vacant places in YR and is forecast to remain in this position until 2027 when it is expected to be full to its PAN. It would therefore appear, from the information provided to me, that there would be sufficient places for all the children in the planning area if the PAN remained as set at 45 until 2027. Clearly, forecasting the demand for admission to YR, four years in advance, is challenging as some of the children will not yet have been born. In such cases, the forecasts will take into consideration demographics such as the number of women of child bearing age, previous patterns and matters such as housing developments.

21. I also note that The Hill, the nearest primary school to the school at less than a mile, has a significant number of vacant places in each year group. Reflecting the pattern of the planning area, the local authority also forecasts that The Hill will reach its PAN and possibly above in 2027. I am therefore of the view that while there is minimal risk of the local authority not being able to meet its duty to provide sufficient pupil places in each year before 2027; in 2027 there could be a shortage of YR places.

22. I will now consider the demand for places at the school and its accommodation. The trust provided, at my request, information on the number of children in the school and its current class organisation. The trust provided different figures on different days and any inconsistencies are due to some children leaving or joining the school. Every year group has 45 or fewer pupils except YR which has 50. The school has 12 classrooms for YR to year 6 and the classes comprise a mix of classes where there are more than one year group to a class (known as mixed aged classes) and classes with single year groups. The trust explained that the school has received additional funding for Y6 so there are three

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<sup>3</sup> Minus figure indicates shortfall

classes for Y6 with 15 pupils in each class. Detailed information on the organisation of the school is in Table 2 below.

Table 2: class organisation at the school

<b>Class</b>	<b>Year group(s)</b>	<b>Number of children</b>
<b>1</b>	YR	24
<b>2</b>	YR	26
<b>3</b>	Year 1 (Y1)	30
<b>4</b>	Y1 and year 2 (Y2)	15 Y1 and 12 Y2 (27)
<b>5</b>	Y2	30
<b>6</b>	Year 3 (Y3)	26
<b>7</b>	Y3 and year 4 (Y4)	18 Y3 and 12 Y4
<b>8</b>	Y4	33 Y4
<b>9</b>	Year 5 (Y5)	33 Y5
<b>10</b>	Year 6 (Y6)	15 Y6
<b>11</b>	Y6	15 Y6
<b>12</b>	Y6	15 Y6
<b>Total</b>		304

23. As explained above, all year groups except YR have 45 or fewer pupils. Table 2 shows for year groups 1 to 5, that the school has made efficient use of the number of pupils in each with a combination of single year group classes and mixed year group classes. This has been possible because there have not been more than 45 to a year group. The school is therefore organised on the pattern that it wishes to establish for the future, except for YR and Y6.

24. I turn now to consider demand for places at the school. The information provided by the local authority on first preferences for the school, the number admitted and forecast to require a place in the future is shown in table 3. A first preference indicates the school that a parent most wants their child to attend.

Table 3: number of first preferences for the school, number of places offered and forecast of future demand

	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
<b>Number of first preferences</b>	55	45	47	N/A	N/A	N/A	N/A
<b>Number of children offered a place or forecast to want a place</b>	47	42	46	54	44	54	55

25. Table 3 illustrates that there is some turbulence between preferences being made and children admitted. For example, for 2023 there were 47 first preferences. With a PAN of 50, all 47 could have been admitted but there were 46 offers of places which indicates that at least one parent decided otherwise for their child before offers were made. In addition,

there were 50 children in YR when information was provided to me by the trust on 2 October 2023. Table 3 also shows that the local authority expects demand for YR places at the school to be 54 children in 2024. This is nine places above the PAN of 45.

I have given careful consideration to the information provided to me. The school has operated efficiently with numbers at 45 and below for several years. I am conscious that 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. The infant class size regulations mean that the school will not have the flexibility to arrange its infant classes as it has done for years 4 and 5, for example, where there are 33 pupils to a class. This could bring it financial challenges. However, the trust has not brought any such potential challenges to my attention. The trust has said that it wished to achieve financial efficiency in the longer term by reducing the PAN to 45; this is an understandable and reasonable intention.

26. I am not convinced by the local authority's concern that it will not be able to meet its duty to provide sufficient places in 2024 as its own forecasts show vacancies at The Hill and other schools for that year. The evidence shows there would be sufficient places in the planning area in every year up to and including 2026. Nor am I convinced that a possible lack of places in 2027 across the planning area is sufficient cause for upholding the objection to the PAN being 45 in 2024.

27. However, the local authority forecast demand for YR at the school being 54 places in 2024 and 55 in 2026, with demand below 45 only in 2025. It would therefore appear that if the PAN remained at 45, there would be considerable frustration to parental preference. The trust, in its explanations for reducing the PAN to 45, does not present a strong educational or financial argument for setting the PAN at 45. In other words, the trust presents as quite relaxed on this matter. While it has set out its reasons for wanting a PAN of 45, it has not provided evidence of being unable to continue to operate effectively with a PAN of 50 and it has indicated that it would be prepared to admit more children if there were to be demand. If the PAN were to be 50, it seems likely that at least 50 children would be admitted in 2024. If this were to happen, the school could operate, as now, with two YR classes of around 25. This would be sound educationally and financially. Taking account of the 45 children who will leave at the end of Year 6, the school will have enough classrooms to accommodate them all while meeting the requirements of the infant class size regulations.

28. This is a finely balanced case. I have concluded, taking all these matters into account, that I uphold the objection as the evidence shows that parental preference will be significantly frustrated if the PAN is 45 for 2024 and this frustration of demand is not outweighed by the trust's arguments in favour of a PAN of 45.



## Other Matters

29. When I considered the arrangements, I thought that there may be other matters that did not meet the requirements of the Code. I therefore brought these to the attention of the trust and I have used my power under section 88I of the Act to consider the arrangements as a whole. The other matters are as described below. Paragraph 14 of the Code requires arrangements to be clear and so is relevant.

30. The arrangements say, “When the school receives more applications than places available, after the admission of pupils with an Education, Health and Care Plan or a Statement of Special Educational Needs naming the school, priority for admission will be given to those children who meet the” oversubscription criteria in the given priority order. There are no longer statements of special educational needs so reference to them makes the arrangements unclear.

31. The first priority is for looked after children and previously looked after children and definitions are provided. However, the definition for previously looked after children does not include “those children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted.” This does not meet the requirements of paragraph 1.7 of the Code, which includes these children in its definition. In addition, not to do so makes the arrangements unclear.

32. The second oversubscription criterion is for siblings of existing pupils who live in the catchment area. Paragraph 1.14 of the Code says, “Catchment areas **must** be designed so that they are reasonable and clearly defined.” The trust provides no information on the catchment area in the arrangements. In response to my enquiries the trust said that information on the catchment area was provided by the local authority. The catchment area is part of the arrangements and it is the responsibility of the admission authority to publish the arrangements. The arrangements therefore do not meet the requirements of the Code in this regard.

33. Paragraph 1.13 of the Code is concerned with distance of the home from the school or the nodal point used and says, “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.”

34. The arrangements say, “The home address is where a child normally lives. Where parents are separated and the child lives with each parent for part of the week, the home address will be the one where the child spends the majority of his or her time.” This does not provide clarity for when the parents share care equally, for example, caring for the child in alternate weeks. The arrangements are not clear in this regard and so do not meet the requirements of paragraphs 14 and 1.13 of the Code.

35. The arrangements provide information on admission for children other than for their normal age group. Paragraph 2.18 of the Code says: “the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1.” This is not stated and so the arrangements do not meet the requirements of paragraphs 14 and 2.18 of the Code.

36. Paragraph 2.15 of the Code says, “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.” It is not clear that the waiting list is maintained until at least 31 December and so the arrangements do not meet the requirements of paragraphs 14 and 2.15 of the Code.

37. The trust has said it will address these matters, which is welcomed. Paragraph 3.6 of the Code permits changes to determined arrangements “to give effect to a mandatory requirement of this Code, admissions law, a determination of the Schools Adjudicator.” Paragraph 3.1 of the Code requires that the trust address these matters within two months of the date of this determination.

## Summary of Findings

38. The evidence shows that the consultation did not meet the requirements of the Code and that the arrangements have not been published as required by the Code. I also uphold the objection to the PAN being set at 45 on the grounds that parental preference will be frustrated without a compelling reason to do so. I also find that other parts of the arrangements do not comply with the Code as explained above.

## Determination

39. 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 Astrea Academy Trust for Gooseacre Primary Academy in the local authority area of Barnsley Metropolitan Borough Council.

40. 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.

41. 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 November 2023

Signed:

Schools Adjudicator: Deborah Pritchard