



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2366

Admission authority: The governing board for Penistone St John's Voluntary Aided Primary School

Date of decision: 31 January 2024

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 the governing board of Penistone St John's Voluntary Aided Primary School for September 2024.

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

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. The governing board of Penistone St John's Voluntary Aided Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) to the adjudicator. The school is a primary school for children aged three to eleven. The local authority for the school is Barnsley Metropolitan Borough Council (the local authority). The school has a Church of England religious character and the faith body for the school is the Diocese of Sheffield (the diocese).

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 school 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 decision includes:

- a. the referral from the school dated 12 July 2023, supporting documents and further information provided at my request;
- b. the determined arrangements for 2024;
- c. evidence that the arrangements were determined by the governing board for the school on 9 November 2022;
- d. comments on the proposed variation from the school, local authority and diocese;
- e. a map showing the location of the school and other relevant schools;
- f. information I received during a meeting which I convened on 12 January 2024 which was attended by representatives of all parties (the parties’ meeting); and

g. information available on the websites of the local authority, the school and the Department for Education (DfE).

7. There was some delay in my consideration of this case as the school did not provide confirmation that the appropriate bodies had been notified until 8 November 2023. In December 2023 it became clear to me that a parties' meeting was required; it was not possible to set a date convenient to all parties until 12 January 2024 which created an additional delay.

The proposed variation

8. The school set the PAN at 90 for admissions under the 2024 arrangements but now believes that demand has reduced.

9. The school 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 this lower demand is set to continue in future years; and
- b) surplus places at the school are causing significant financial pressures.

10. I note that the diocese has expressed its full support for the variation and stated, "[The] Diocese of Sheffield fully supports the school's intent to reduce its PAN and sees this as highly important for the future stability of the school. The Diocese is in full support of the school's variation."

11. 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

12. 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.

13. 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. The school is currently conducting a consultation regarding its arrangements for 2025; this includes a reduction of PAN to 60. I must be clear however that if the variation request for

2024 were approved the school could set future PANs (that is, those for admission in September 2025 and beyond) at 60 irrespective of the outcome of that consultation.

14. 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.

15. I will first consider demand for places in the area, which is urban. The DfE website 'Get Information About Schools' (GIAS) indicates that there are two other schools which admit children to Year R within one mile of the school. There are seven other schools that admit children to Year R within three miles of the school, two of which have a Church of England religious character.

16. 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. There are six state funded schools which admit children to Year R in the planning area for the school.

17. Table 1 uses data provided by the local authority and shows the number of places in the schools in the planning area, the number of first preference applications and the number of children admitted to or expected to require a place at those schools. In this table I have summarised the potential effect of a reduced PAN at the school from 2024 onwards.

18. A first preference is the school that a parent most wants their child to attend and is a good indication of demand. However, 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.

19. 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. 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, 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: the number of school places and 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

	2021	2022	2023	2024	2025	2026	2027
Sum of PANs for the schools in the planning area	215	215	215	185	185	185	185
Number of first preferences for the schools in the planning area	196	167	165	161	-	-	-
Number of children admitted or forecast to require a place	197	172	166	164	115	174	142
Number of actual or forecast surplus places	18	43	49	21	70	11	43
Percentage of actual or forecast surplus places	8	20	23	11	38	6	23

20. The DfE document, “Basic need allocations 2025-26: Explanatory note on methodology”, refers to the need for two per cent surplus capacity “to provide an operating margin for local authorities. This helps to support parental choice, pupil population movement, and general manageability of the system”. Table 1 shows that in the event that the PAN reduction was agreed the surplus capacity would remain well above the figure recommended by the DfE, both in 2024 and in subsequent years.

21. Despite the forecasted capacity in the area, in response to my initial enquiries the local authority stated, in August 2023:

“The local authority recognises that the school are [sic] concerned with low numbers projected for the school and this has had a significant impact on the finances of the school. However, we are concerned that although birth rate projections have been falling we are aware that these will increase for the 26-27 reception cohort. The Penistone area also has a large number of housing development[s], 700 houses are planned up to 2032 and the school would be the local school for these developments. To cope with this projected demand, the local authority has previously invested £3.5m capital into expanding the school over an 8 year period. For the school to reduce PAN would mean that this investment has not been utilised. Whilst we recognise the difficulty for the school at the moment, the local authority would be concerned if the school reduced its PAN to 60. We would encourage the school to work with us in the short term to look at ways to utilise the space in school. If the variation is agreed, the LA would want assurances from the school and governing body that the PAN would revert back to 90 if the projections indicate that the places are required to meet demand and ensure that the LA delivers its statutory duty for school place sufficiency.”

22. I note in passing the local authority’s wish for an assurance from the school that the PAN would be increased in future years if demand for places so required; the school did provide an email to this effect. As I have set out above, once the PAN has been set for a particular year then objections to that PAN remaining the same in future years, for which arrangements have not yet been determined, cannot be made by any person or body except the governing board of a community school which is not the case here. Any assurances would therefore not be binding or enforceable in any way and I have discounted this suggestion.

23. At the parties’ meeting the local authority revised its position and said that it no longer opposed the requested variation, due to updated forecasts of demand for school places in future years. The local authority explained that not all planned housing developments had come to fruition, and that housing which had been built had not resulted in the additional primary pupil numbers initially expected. I requested that the local authority provide the updated figures that had informed their revised view; forecasts provided on 19 January 2024 were the same as those already submitted. In any case, as there is predicted to be surplus capacity above that recommended by the DfE if the requested variation were agreed, even without any reduction in forecasted demand, I am satisfied the local authority would be able to fulfil its obligation to provide sufficient places in the planning area.

24. As parental preference is important, as well as sufficiency of places, I will now consider the demand for places at the school.

25. Table 2 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 2: 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	78	61	58	54	-	-	-
Number of children admitted, or projected to be admitted, to YR	83	66	65	69	45	56	44

26. Table 2 shows that demand for places is expected to be below the proposed PAN of 60 from 2025 onwards but that for 2024 there would be 69 children requiring admission to the school. Clearly this is higher than the proposed PAN for that year.

27. On 19 January 2024, that is after the closing date for applications, the local authority told me that they had received 54 first preference applications for entry to the school and

stated, “the projections for Penistone St John’s will be higher for 24/25 due to the forecasting methodology using past intake averages – obviously with higher numbers being admitted due to PAN of 90. As you can see that there are 54 1st preferences, so we would not be expecting to admit 69, even accounting for allocating children who are unsuccessful in their 1st/2nd preferences.”

28. From the local authority’s explanation, it seems that there may be a fundamental inaccuracy or limitation in the methodology for forecasting demand for places at the school, and that the figures provided to me are too high. Notwithstanding this, I have considered – so far as this is possible – how many children will actually seek to be admitted to the school. First, the number of first preference applications for 2024 is below the proposed PAN by six pupils. It is, of course, the case that the school has regularly admitted more children than the number for whom it was the first preference. While the school has been undersubscribed it will have been able to admit all those who wish to attend, including therefore all those for whom it was the first preference. In 2024, if the variation is approved, the situation may be different. Some of the 54 first preference children may not be offered a place if there are more than six other children for whom the school is a second or lowest preference but who cannot be accommodated at a higher preference school and who also rank higher against the school’s oversubscription criteria than do some of the first preference applicants. In 2023, the school admitted 65 children having received 58 first preferences - so 12% more children. If the same pattern were repeated this year, then the school could expect to admit 60 or 61 children. If any child could not be accommodated at the school he or she could be accommodated at other schools in the area. In subsequent years the number of children expected to require a place is below the proposed PAN.

29. Accurately forecasting demand for pupil places can undoubtedly be challenging, and the difficulties surrounding this plus the local authority’s change of position have added some complexity to my consideration of this case. I must make a decision based on the data available to me and from this data I am, on balance, satisfied that there would not be a significant frustration of parental preference were the variation request to be agreed.

30. For the sake of completeness I have considered whether the benefits to the school of lowering the PAN are a reasonable justification of any potential frustration of parental preference in the longer term. The school provided financial information which shows that a sizeable deficit is forecast for the end of this financial year, which will rise significantly in future years unless action is taken to reduce costs. It is almost always the case that the largest proportion of a school’s expenditure is on staffing; the situation the school wishes to avoid is staffing classes of a size which are not financially viable.

31. 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, the school

organises all its pupils into single age classes. There are three classes in each year group except for Year 3 and Year 4, each of which contain two classes.

32. If the PAN of 90 remains in place then even if fewer than 60 children were initially admitted in 2024 who could be accommodated in two Year R classes, the school would be obliged to admit up to PAN if additional applications were received during the year. This could result in, say, 61 Year R children who may have to be accommodated in class sizes that were not financially efficient. This would also create uncertainties in school organisation and staffing. Although it may be considered the norm to organise pupils into single age group classes, schools may use mixed-age classes and any reluctance to do so is not reason enough in itself for a change of PAN. I have considered whether the use of mixed age classes may be a viable alternative to the proposed reduction in PAN.

33. The school provided the figures in Table 3 showing the numbers of pupils in the current year groups at the school.

Table 3: current pupil numbers at the school

Year Group	Total number of pupils
YR	64
Y1	70
Y2	84
Y3	63
Y4	66
Y5	71
Y6	84

34. There are, excluding nursery, currently 19 classes in the school. If no other children joined or left the school before September 2024 and the PAN of 90 remained, the pupils could be accommodated in 18 classes. That is, three classes could be retained for Year R to provide for the requirement to admit up to PAN in that year group and, say, the other children could be organised into five classes for each of: Year 1 and Year 2 combined, Year 3 and Year 4, and Year 5 and Year 6. This would provide an immediate saving in expenditure for the school. It is not necessarily true therefore that a PAN reduction for 2024 is required to enable financial savings.

35. I asked the school whether the use of mixed age classes was something they had considered. In correspondence the school stated, "It is felt that this would be detrimental to

the school and pupils within it and is not attractive to prospective parents.” I explored this matter further in the parties’ meeting as I was keen to understand in what ways the school considered that mixed age classes would be detrimental. The headteacher cited three factors: concern that the school is due to be inspected by Ofsted and such a change would affect the school’s quality of provision at a time at which they are “sitting on outstanding”; the workload effect on teaching staff as curriculum planning would require alterations, and this would not be time well spent as the school would “go down to two-form entry for the following year anyway”; and that “children could go backwards in their learning”, an assertion which the headteacher appeared to view as self-evident.

36. The possibility of an Ofsted inspection cannot be a reason for making or not making changes to a school’s organisation. I do, on the other hand, accept that changes in school organisation present challenges for schools. However, they cannot always be avoided and potential impacts on children’s education can be mitigated. There are many schools which operate mixed-age classes very successfully, some of which adjust their organisational model from one year to the next to accommodate fluctuations in pupil numbers. Nor am I satisfied that a requirement for additional curriculum planning is reason enough for this variation to be agreed. Notwithstanding the fact that at the time of the parties’ meeting the consultation on the 2025 arrangements was underway and it was perhaps unwise to anticipate its outcome, curriculum planning is a core part of any teacher’s role.

37. Nevertheless, I recognise that three further points are pertinent to my consideration of retaining the current PAN and using mixed-age classes. First, the current Year R is well below PAN and the school must admit up to a further 26 children into that cohort this year if applications are received. As there are currently 134 children in Year R and Year 1 combined, if 17 or more children were admitted then a reduction to five classes for Key Stage One in 2024 would not be possible under the infant class size regulations. Secondly, the school considers that parental preference may be negatively impacted if the school did move to mixed-age classes. Thirdly, a reduced PAN would be likely to lead to significant 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; that is a total of fourteen classes.

38. In the parties’ meeting the representative of the diocese told me that although in his view the use of mixed-age classes should not have a negative impact on parental views it was nevertheless his experience that a move to such a model does affect parents’ perceptions. I understand the position of the school in this regard. Where schools are over-subscribed or in circumstances where options are otherwise limited, for example in rural locations, parents may be more willing to accept changes such as a move to mixed-age teaching. The school is in neither of these positions; it is significantly under-subscribed and located in an area where there are alternative schools which have capacity. Of the five other schools in the planning area, only two have received more first preference applications than there are places available for 2024.

39. I find the financial position of the school to be a considerable factor in my consideration of this variation. I note that even if it was possible to reduce from a total of 19

classes to 18 for 2024 this may not provide cost savings sufficient to address the anticipated budget deficit. The school has forecasted that, without changes being made, there will be a deficit of over seventy-nine thousand pounds at the end of the current financial year, rising to two hundred and ninety thousand pounds the following year.

40. For all of the reasons above I agree with the school that a reduction of PAN to 60 would provide greater stability for the school and its pupils, benefit the school financially and retain the confidence of parents.

41. I find that the variation for 2024 is justified by the circumstances and approve the proposed variation.

Consideration of the arrangements

42. Having considered the arrangements as a whole it appeared to me that several matters may not conform with the requirements of the Code. On 21 November 2023 I wrote to the school setting out in what ways the arrangements did not, or may not, conform to the Code; my letter invited the school's comments and stated that the school was not expected to make any changes to the arrangements until receiving this determination. In response the school provided an amended set of arrangements on 4 December 2023 and stated that all matters "are addressed by alternations [sic] made to our Admissions policy (approved by the Governing Body)".

43. The Code requires that admission authorities determine, that is formally agree, their arrangements annually; paragraph 3.6 of the Code states that once admission arrangements have been determined for a particular year they cannot be revised except in specific circumstances. Where an admission authority wishes to propose variations other than those provided for by that paragraph these must be referred to the schools adjudicator.

44. The amended arrangements sent to me on 4 December 2023 made changes other than those permitted by paragraph 3.6 of the Code; the changes also far exceeded the matters I had raised. The school must revise the arrangements to comply with this determination and the revisions must be limited to the matters set out here. To be clear, I have discounted the "amended arrangements" which have not been lawfully made and hence have no effect. My consideration below is of the arrangements determined by the governing board on 9 November 2022.

45. I have listed below the matters in the arrangements which do not comply with the Code, setting out the relevant paragraphs of the Code and where the arrangements do not conform to requirements. Paragraph 14 of the Code 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. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated." That paragraph of the Code is relevant to the matters set out below unless otherwise specified.

46. Paragraph 1.50 of the Code requires that admission authorities publish their determined arrangements by 15 March in the determination year. As the determination year is the academic year beginning two years before the year to which the arrangements relate, there was a statutory requirement for the arrangements for entry into the school in 2023 to be published by 15 March 2022. The 2023 arrangements remain in force until September 2024 and must be published until then. The school has not acted in accordance with the Code in that the arrangements for 2023 are not available on the school's website.

47. Following my letter to the school setting out in what ways the arrangements may not comply with the Code, the school published its non-determined, revised arrangements in lieu of the determined arrangements for 2024. This was a breach of the Code for two reasons. First, this meant that the determined arrangements were not published as required by paragraph 1.50 of the Code. Second, "arrangements" that were not those that had been lawfully determined were published purporting to be determined arrangements. This may have been confusing for parents and was contrary to paragraph 14 of the Code.

48. The school name which appears on GIAS is "Penistone St John's Voluntary Aided Primary School"; the school confirmed to me in the parties' meeting that this is correct. The arrangements are contained in a document entitled "St John's Primary School Admissions Policy". As the cover page states neither the correct name of the school or the year of entry to which the arrangements relate, this is likely to be confusing to parents and lacks the clarity required by paragraph 14 of the Code. I note that the body of the arrangements refers to "Penistone St John the Baptist CE (VA) Primary School" which may also be unclear.

49. Oversubscription criterion 2 prioritises applicants who reside within one of two specified parishes, or whose parents are on the electoral roll of the specified churches within those parishes, where those applicants or their parents are "At the heart of the church" or "Attached to the church". The arrangements are contrary to paragraph 14 of the Code in that it is not clear whether applicants deemed to be "At the heart of the church" are afforded equal priority to those "Attached to the church", or whether this is hierarchical.

50. The arrangements state that applicants who wish to apply under "Christian Commitment Criteria" must complete the supplementary information form (SIF). As the term Christian Commitment Criteria is not defined, or used within any of the oversubscription criteria, it is not clear to what this refers. This lack of clarity is contrary to paragraph 14 of the Code.

51. The SIF is not included in the arrangements and is not published on the school's website. It is not clear how parents should obtain the SIF, with the arrangements stating only that this is "available from Barnsley Admissions" with no contact details provided. In their written response to my request for the SIF, the school stated "Available from LA website", a position which they reiterated in the parties' meeting. The SIF forms part of the arrangements; it is the responsibility of the school as its own admissions authority to ensure it is readily available in order to comply with paragraph 14 of the Code.

52. The arrangements refer, on page 2, to “children with statements of Special Educational Needs in which the school is named on the Statement”. Statements of special educational needs no longer exist, and arrangements should therefore only refer to Education Health and Care Plans (EHCPs) as in paragraph 1.6 of the Code.

53. The arrangements prioritise, in criterion 1, looked after and previously looked after children as required by paragraph 1.7 of the Code. However, the arrangements are not compliant with the Code in that the definitions of such children (on pages 1 and 4 of the arrangements) differ from that within the Code.

54. Oversubscription criterion 2 prioritises applicants on the basis of residence in two parishes: Penistone St John the Baptist and Thurlstone St Saviour’s. The arrangements are contrary to the Code in that:

54.1. The arrangements state that a map showing the parish boundaries “is available at the school”. Requiring parents to attend the school to view this map renders the information difficult to access and the arrangements do not comply with the requirements of paragraph 14 of the Code that parents should be able to easily understand how places at the school are allocated. As the catchment area is part of the admission arrangements, it must be published on the school website.

54.2. The arrangements refer to “the admissions priority area” on page 3 but not elsewhere. It is unclear whether this area is the same as or differs from the area covered by the two specified parishes. This means that the catchment areas are not clearly defined and the arrangements do not comply with paragraph 1.14 of the Code which states, in so far as is relevant here: “Catchment areas **must** be designed so that they are reasonable and clearly defined”.

55. Paragraph 2.17 of the Code requires that admission authorities make clear in their arrangements: the entitlement to full-time places for children in the September following their fourth birthday; the parental right to defer admission until later in the school year when the child has reached statutory school age; and the parental right to part-time attendance for their child prior to the point at which they reach statutory school age. The arrangements do not include this information and therefore do not comply with the Code.

56. Paragraph 2.18 of the Code specifies that “Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, 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. Admission authorities **must** make clear in the admission arrangements the process for requesting admission out of the normal year group.” The arrangements make no reference to admission out of the normal year group and are therefore contrary to the Code.

57. The section entitled “Waiting Lists” does not 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.” In respect of this, it is not clear in the arrangements the date until which the waiting list is maintained.

58. Page 4 of the arrangements deals with how home address will be determined in the event of shared parental responsibility, stating: “Where responsibility for a child is ‘shared’, the person receiving Child Benefit is deemed to be the person ... whose address will be used for admissions purposes”.

59. The eligibility requirements for the receipt of child benefit require that the child lives with the parent concerned for some of the time as part of a “settled course of daily living” or that the parent (or other person) concerned contributes towards the cost of supporting the child (at least the amount of the child benefit claimed) regardless of whether the child ever lives with that parent. Although only one parent may claim child benefit in respect of the same child it is possible that both would meet the eligibility requirements for doing so. Moreover, in some families parents may have earnings over the threshold at which any child benefit paid will be reclaimed by HMRC in whole or in part and so parents may choose not to claim the benefit. In some families neither parent may be eligible for the benefit and there may also be families who are not aware they can claim, and so no claim will be made; the arrangements do not explain what approach will be used in these circumstances. The use of child benefit to establish the address of a child of parents who do not live together, with no scope for other indicators to be used, is unclear in the arrangements and risks causing an unfairness to the child. This part of the arrangements does not therefore comply with paragraph 14 of the Code.

60. Page 5 of the arrangements states “In accordance with paragraph 3.20 of The Admissions Code. - As soon as school places become vacant The Governing Body must fill the vacancies from any waiting list, even if this is before admission appeals have been heard. Placing a child’s name on a waiting list does not affect a parent’s right of appeal against an unsuccessful application”. As paragraph 3.20 of the Code relates to Fair Access Protocols rather than to waiting lists this is unclear and does not comply with paragraph 14 of the Code.

61. There are two matters on page three of the arrangements that are likely to be confusing for parents and are therefore contrary to paragraph 14 of the Code. First, the arrangements refer to “more applications in a particular category than the number of places available”. As the word “category” is not defined it is not clear to what this refers. Second, an explanation that places within each oversubscription criterion are prioritised on the basis of distance appears after the arrangements for a tie-break between two applicants who are resident equidistant from the school; this renders the arrangements unclear.

62. Page 5 of the arrangements states “It should be noted that children who are the subject of direction by a local authority to admit or who are allocated to a school in accordance with an In-Year Fair Access Protocol (paragraph 3.21 of The Admissions

Code), **must** take precedence over those on a waiting list. Where an admission authority holds a waiting list, they **must** make clear in their admission arrangements that these children will take precedence over any child already on that list. Legislation enables this to be done immediately without the need to apply to the Schools Adjudicator for a variation in determined admission arrangements.” This is unclear, and therefore does not comply with paragraph 14 of the Code, in that it refers to general responsibilities on admission authorities rather than setting out the school’s own arrangements.

63. Paragraph 2.26 of the Code requires that admission authorities publish how in-year applications will be dealt with. This information is not included in the arrangements or on the school’s website and therefore the arrangements are not compliant with requirements in this regard.

Determination

64. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by the governing board of Penistone St John’s Voluntary Aided Primary School for September 2024.

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

66. 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.

67. 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: 31 January 2024

Signed:

Schools Adjudicator: Jennifer Gamble