



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2402

Admission authority: Birmingham City Council for St Benedict's Primary School, Birmingham

Date of decision: 16 April 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 Birmingham City Council for St Benedict's Primary School for September 2023.

I determine that the published admission number for admissions to reception year in 2023/24 shall be 30.

The referral

1. Birmingham City Council (the local authority) has referred a proposal to the adjudicator for a variation to the admission arrangements (the arrangements) for St Benedict's Primary School (the school) for September 2023. The school is a community school for children aged four to eleven in Birmingham.
2. The proposed variation is that the published admission number (PAN) be reduced from 60 to 30 for admissions to reception year (YR) for the duration of the academic year which began in September 2023.

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 have seen confirmation that the school’s governing board has been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.

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

- a. the referral from the local authority dated 27 March 2024, supporting documents and further information provided at my request;
- b. the determined arrangements for 2023 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the school’s governing board;
- d. a map showing the location of the school and other relevant schools; and
- e. information available on the websites of the local authority, the school and the Department for Education.

The proposed variation

6. The proposed variation is to reduce the PAN of the school from 60 to 30 for September 2023 for the duration of the current YR. The arrangements for the school for 2023/24 were determined by the local authority on 8 February 2022.

7. The referrer outlines three changes in circumstances since February 2022 leading to the proposed variation. These are:

“Firstly, there has been a further drop in the number of children born in the city and in the planning area: this means that schools are looking at more than just 1 or 2 difficult years of low intake numbers to cope with - rather a sustained impact.

Secondly, ...‘uptake’ is much lower: as part of the forecasting process, we look at the relationship between the number of children born and the number of children who

arrive in Reception classes 4 to 5 years later. Traditionally, the city average has been around 89% and has been relatively consistent; however, in 22/23 it was 87.8%. Our analysis indicates this is due to reduced migration into the city with Birmingham's population continuing to decline. This means that action is needed to help schools mitigate against the impacts of falling rolls and that action needs to be taken as early as possible.

Thirdly, to support Birmingham's SEND pressures, the school are working with the LA to commission a formal SEND Resource Base. They are currently operating an inclusion hub and proposing to open the Resource Base from September 2024."

8. The referral states the following in relation to the impact of increasing levels of surplus places:

"High levels of surplus places impede the school's ability to provide efficient and effective education and can lead to concerns about viability. As the current normal point of admission for the school is Reception, considerations around infant class size come into play. Admitting only 30 pupils means the school can make efficiency savings.

The school had originally requested to keep their PAN at 60 as they were hopeful to remain as a two-form entry primary school. However, they have not received the applications that they had hoped for in Reception and they are planning for becoming a one-form entry primary school.

In the circumstances, if the school's pupil numbers in Reception were to increase beyond one class this would prejudice the efficient provision of education and use of resources. The school would need to employ a further class teacher and teaching assistant, which they do not have the capacity, or finances to do at present. There are many other local primary schools with current Reception class places to support any in-year admissions."

9. The proposed variation has the support of the governing board.

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. The admission authority has concluded that there has been a major change of circumstance. 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. It is therefore particularly important that the proposed variation is properly scrutinised. I have accordingly considered the latest available data to form a view about whether there will be a sufficiency of school places in the local area if the PAN for the school which was determined as part of the September 2023 arrangements is reduced from 60 to the 30 at this point in time. I have also considered the demand for places at the school, the reasons given for the change, the potential effect on parental preference and whether the change is justified in these circumstances.

13. I note here that the local authority has already determined the admission arrangements for September 2024 and September 2025 with a PAN of 30. My decision about this variation will, therefore, have an effect on the PAN for September 2023 and, therefore, for the duration of the current YR only.

14. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical areas each containing a number of schools, for this purpose. The school is one of nine primary schools in planning area 'P37'. Table 1 summarises the data supplied to me by the local authority for the number of children admitted to schools in P37 in recent years and projected for the next two years.

Table 1: number of school places in P37 and number of children admitted to YR

	Year of entry				
	2021	2022	2023	2024*	2025*
Sum of PAN for schools in P37	630	630	630	600	600
Number of children admitted to YR in P37	544	565	481	450*	458*
Vacant places in P37	84	65	149	150*	142*
Vacant places in P37 as a proportion of total places	13.3%	10.3%	23.7%	25%	23.6%

* Figures provided by LA based on their latest forecasting model.

15. Table 1 shows that, in October 2023, there were 149 vacant places for YR children in the relevant planning area.

Table 2: PAN and number on roll (NoR) for each school within P37 (October 2023)

DFE	School name	PAN	NoR	No. of vacant places
4019	Ark Victoria Academy	90	77	13
2171	Bordesley Village Primary School	60	38	22
3317	Holy Family Catholic Primary School	30	22	8
2132	Marlborough Primary School	90	68	22
2063	Regents Park Community Primary School	60	47	13
2176	Somerville Primary (NC) School	90	88	2
2183	St Benedict's Primary School	60	26	34
2205	The Olive School, Small Heath	60	60	0
2146	Wyndcliffe Primary School	90	55	35
	Total	630	481	149

16. Table 2 shows that all but one school within the planning area had vacant places in YR in October 2023. I am, therefore, assured that if the PAN for the school were to be reduced from 60 to 30, there would be sufficient vacant places in the area for those seeking a place in YR during the current academic year. I am also assured that parents would be able to secure a place either at the school itself or at another local primary school as there are places available at several schools in the area. I do not, therefore, consider that there is any evidence to suggest a likelihood that parental preference would be frustrated if the variation is approved.

17. The request for a variation refers to the governing board's wish to align its staffing and budget to a reducing number of children. The school is regulated by the provisions of the School Admissions (Infant Class Size) (England) Regulations 2012 (the infant class size regulations). The infant class size regulations require that infant classes (those where the majority of children will reach the age of five, six or seven during the school year) must not contain more than 30 pupils with a single qualified school teacher, except in specific exceptional circumstances.

18. If the PAN for the school were to remain at 60, then any in year applications for YR during this current academic year will have to be admitted until at least 60 have been admitted. The infant class size regulations apply to YR, and so in the event of any further admissions that take YR above 30 children, the school would have to either create an extra reception class or reorganise their infant children into mixed age classes. This would present a significant logistical and financial challenge.

19. After consideration of all the factors above, I find that the variation is justified by the circumstances, and I approve it. The PAN for the duration of the academic year 2023/24 will be 30.

Determination

20. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Birmingham City Council for St Benedict's Primary School for September 2023.

21. I determine that the published admission number for admissions to reception year in 2023/24 shall be 30.

Dated: 16 April 2024

Signed:

Schools adjudicator: Catherine Crooks