



Office of
the Schools
Adjudicator

Determination

Case references: VAR2398 and VAR2399

Admission authority: Wigan Council for Marsh Green Primary School

Date of decision: 22 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 Wigan Council for Marsh Green Primary School for September 2024. I do not approve the proposed variation to the admission arrangements for 2025.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

The referral

1. Wigan Council (the local authority) has referred proposals for variations to the admission arrangements for September 2024 (the 2024 arrangements) and September 2025 (the 2025 arrangements) for Marsh Green Primary School (the school) to the adjudicator. The school is a community school for children aged two to eleven in Wigan.
2. The proposed variations are that for both 2024 and 2025 the published admission number (PAN) be reduced from 45 to 30.

Jurisdiction and procedure

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which deals with variations to determined arrangements. Paragraphs 3.6 and 3.7 of the School Admissions Code (the Code) say (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 variations. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variations are within my jurisdiction.
5. In considering this matter 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 local authority dated 19 March 2024, supporting documents and further information provided at my request;
 - b. the determined arrangements for 2024 and 2025 and the proposed variations to those arrangements;
 - c. comments on the proposed variations from the 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 and the Department for Education.

The proposed variations

7. In 2023 the PAN for 2024 was reduced from 60 to 45 by a variation approved by the adjudicator (case reference VAR2315). The local authority set the PAN for 2025 at 45 following formal consultation. The local authority has now requested that the PANs for both 2024 and 2025 be further reduced to 30, stating:

“As pupil funding is directly linked to the number of children on roll, this puts schools under financial pressure if they have unfilled places. This can be particularly difficult for schools who have more than one form of entry where the second class does not fill....the number of 1st preferences received for the school for 2024 is lower than projected.” The local authority also stated, “A PAN of 30 would be more manageable for the school’s financial planning and there is sufficient capacity in the area to maintain sufficiency.”

8. The local authority’s reasons for seeking the variations are, in summary, that:
 - a) the number of first preference applications received for the school for admission in 2024 is lower than was projected;

- b) the PANs were higher than necessary to meet the demand for places across the planning area;
- c) the reduced PANs would allow the school to adjust its staffing and resources and thus support financial planning;
- d) schools with surplus places are vulnerable to in-year movement which makes planning difficult and can have a destabilising effect on the school; and
- e) the reductions in PAN would support effective school place planning by mitigating the impact of falling birth rates.

9. 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 variations requested are justified by the change in circumstances.

Consideration of proposed variations

10. 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 wherever possible via the process of determination following consultation, as the consultation process allows those with an interest to express their views. This also allows for objections to the adjudicator. None of this is afforded by the variation process.

11. 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, the PAN for both 2024 and 2025 have been set but the PAN for 2026 has not. This means that if the variation request for 2025 were approved, the local authority could set future PANs (that is, those for admission in September 2026 and beyond) at 30 without any requirement for consultation. It is therefore particularly important that the proposed variations are properly scrutinised.

12. I will first consider the demand for places in the area, which is urban in nature. The website Get Information About Schools shows that there are eight other schools which admit children to the reception year (YR) within one mile of the school and around 40 such schools within three miles. The local authority has a statutory duty to make sure that there are sufficient places for the children in its area. In order 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 groups of schools, for this purpose.

13. There are six state funded schools in the planning area for the school which admit children to YR. Table 1 below summarises the first preferences made to those schools in

recent years, the number of children admitted and local authority forecasts of demand in future years.

14. A first preference shows the school that a parent has indicated they most want their child to attend. While this is a good indication of demand for any individual school, applications are made months in advance of admission and people’s circumstances can change significantly in the intervening period. Applications for a primary school place in September of any given year must be made by 15 January of that year, leaving scope for material changes such as house moves or alterations to family circumstances to occur.

15. A child will be offered a place at the highest preference school possible depending on demand for schools and on the schools’ oversubscription criteria. If a place can be offered at the first preference school, then it will be. If it cannot, then a place offered at a second or third preference school will be preferable to a parent than the offer of a place at a school for which they have not expressed any preference. It is common that the number of children admitted to a school, or to a group of schools within any given area, will differ from the number of first preference applications made for those schools. I also note that planning areas are administrative constructs drawn up by local authorities for school place planning purposes; they will not necessarily reflect the needs or desires of families within the planning area. Some families may express a preference for schools outside the planning area because they better suit their specific circumstances.

Table 1: the number of school places, the number of first preferences and the number of children admitted to YR to schools in the planning area or forecast to require a place

| | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 |
|---|------|------|------|------|------|------|------|
| Sum of PANs for the schools in the planning area | 300 | 300 | 300 | 285 | 285 | 285 | 285 |
| Number of first preferences | N/A | 282 | 245 | 257 | 234 | N/A | N/A |
| Number of children admitted or forecast to require a place | 263 | 289 | 260 | 274 | 226 | 251 | 240 |
| Number of vacant places | 37 | 11 | 40 | 11 | 59 | 34 | 45 |

16. Table 1 shows a forecasted decrease in demand for places from 2024 onwards, and that in 2024 there are 59 surplus places across the planning area. In 2025 the number of surplus places is forecast to be 34.

17. Table 2 summarises the potential effect on the planning area of a reduced PAN at the school for future years.

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 |
|---|------|------|------|
| Sum of PANs for the schools in the planning area | 270 | 270 | 270 |
| Number of children requiring a place | 226 | 251 | 240 |
| Number of vacant places | 44 | 19 | 30 |
| Proportion of vacant places (per cent) | 16 | 7 | 11 |

18. 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 indicates that, in the event that the PAN reduction was approved, the surplus capacity would remain well above the figure recommended by the DfE.

19. However, school place planning is complex and additional data suggests that the number of pupils requiring a place in the area may be higher than the forecasted figures. In 2021 there were seven more children admitted to schools in the planning area than the number of first preference applications received. In 2022, 15 more children were admitted than the number of first preferences; in 2023 this figure was 17.

20. The local authority has told me that for September 2024 they have received 234 first preference applications for schools in the planning area. They have now confirmed that they have offered 226 places across the planning area (as shown in the table). While the pattern of admissions in previous years has been that more children have been admitted than the number of first preference applications received, this has not happened in 2024.

21. A combined PAN of 270 for schools in the planning area means that up to 264 children could be admitted whilst maintaining two per cent surplus capacity as recommended by DfE. Only 226 places have been offered and this would therefore leave 38 places available across the planning area for any late applications for September 2024. I am satisfied that there would be sufficient places in the area in that year if the PAN of the school was reduced to 30.

22. For 2025 however, only 13 more children could be admitted than the number forecast before the surplus capacity became insufficient (lower than the recommended two percent). Given the pattern of previous years up to 2024, I am not satisfied that if the PAN of the school was reduced to 30 for 2025 the local authority would be able to fulfil its statutory duty to ensure a sufficiency of school places in the area.

23. I will now consider the demand for places at the school. Table 2 shows the number of children admitted to the school in recent years and the numbers projected to require a place in future years.

Table 2: the number of children admitted to the school in recent years, with projections for future years

| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 |
|---|------|------|------|------|------|------|
| The PAN for the school | 60 | 60 | 45 | 45 | 45 | 45 |
| Number of first preferences (past, current and forecast) | 41 | 49 | 37 | 35 | 42 | 40 |
| Number of children admitted to YR | 58 | 54 | 40 | 30 | N/A | N/A |
| Number of vacant places | 2 | 6 | 5 | 15 | N/A | N/A |

24. In 2021, 17 more children were admitted to the school than there were first preference applications, taking the number admitted to 58. In 2022, five more children were admitted than there were first preferences and in 2023, three more children were admitted than there were first preferences, taking the number admitted to 40. There has therefore been a clear pattern of more children being admitted than the number of first preferences expressed. This may have been caused by, say, late applications or by parents naming the school as a second or third preference and not being successful in gaining a higher preference school.

25. At the time that the variation request was submitted the local authority told me that there were 35 first preference children who, under the current PAN, were due to be offered a place at the school on national offer day.

26. As of the 16 April 2024 (national offer day) only 32 places were offered, two of which were then withdrawn as the family of twins had relocated. This means that the school has had only 30 places offered for September 2024. Despite the pattern of previous years, no additional children have been allocated places at the school.

27. Forecast figures for the school for 2024 indicated 39 first preferences, with 42 first preferences for 2025 and 40 for 2026.

28. 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.

29. The infant class size regulations have implications for class organisation and school finances. This is because schools are largely funded on the number of pupils on roll and staffing is normally the greatest expense in a school's budget. Classes are likely to be

financially efficient if they contain close to 30 pupils. If classes are much smaller than 30 pupils, then the cost of providing that class may well be more than the funding received for the number of children in that class.

30. Until the previous variation for the school, granted by the adjudicator on 3 April 2023, the school had a PAN of 60; this enabled a structure of two classes in each year group. That variation was in response to a reduction in pupil numbers and at that time the local authority told the adjudicator that it was the school's intention to move to a mixed age class model in order to be more financially efficient, stating, "As the lower admission number moves through the school with each new intake, the Governing Body will be able to reduce staffing accordingly to assist with balancing the school budget." The school has confirmed to me that they have yet to move to a mixed aged structure.

31. The reduction of the PAN to 30 would enable the school to organise its structure on a one class per year group basis from 2024. This is a financially efficient model if the school fills up to or close to its PAN of 30.

32. The 2024 arrangements were determined by the Cabinet of Wigan Council on 16 February 2023. Four weeks later, on 14 March 2023, the local authority submitted variation requests to the adjudicator for 2023 and 2024. This resulted in the PANs for both these years being reduced, from 60 to 45.

33. The local authority consulted on a PAN of 45 for 2025 and this was determined, as part of the admission arrangements, by the Cabinet on 15 February 2024. This was a few weeks before the current variation request was received on 19 March 2024.

34. By repeatedly requesting variations to PAN after the determination of arrangements the local authority is preventing parents and other interested parties from having the opportunity to respond to a consultation. Parents did not have the opportunity to comment on the reduction of PAN that was agreed by variation for 2023 and 2024. If the current variation requests were agreed it would mean that the PAN for the school would have been reduced, between 2022 and 2024, from 60 to 30 without any consultation and therefore without the opportunity for parents or other parties to comment. Neither would they have the opportunity to object to the adjudicator.

35. In its variation request, the local authority has stated that its pupil projections and thus the current PANs were based on "trends relating to birth rates and new housing" but that "In reality, the anticipated yield did not materialise and the school is not projected to reach its PAN for the foreseeable future". The local authority also stated that "Reducing surplus places is beneficial to the planning area as it will help to mitigate the impact of falling birth rates".

36. Whilst acknowledging the complexity of school place planning, this does remain a statutory duty of the local authority. It is clear that forecast figures have not proven reliable in relation to this planning area. There has been significant variation between forecast and actual numbers of children. For the first time in recent years the established pattern of

additional pupils has not been followed for 2024. However, it is for the local authority to forecast figures and these must therefore be taken into account.

37. The variation has been requested for 2024 and 2025. Given the actual number of places which have been allocated for September 2024, I approve the variation for 2024 that the PAN be reduced from 45 to 30.

38. The forecast numbers for 2025 are significantly higher for the planning area than for 2024. At this juncture, I do not feel confident that the local authority would have sufficient places across the planning area if I were to approve the variation for 2025.

39. There is scope for the local authority, as the admission authority, to seek the variation at a later date. This would give the opportunity to gather further information on the actual demand for places for 2025. The closing date for primary applications is 15 January in the year of entry, giving the local authority ample time to make a variation request in advance of the national offer date of 16 April. Late variation requests, particularly if they occur over holiday periods, can lead to added uncertainty for the school.

40. At the present time, the determined admission arrangements for the school for 2025 are for a PAN of 45.

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

42. I find that the variation for 2025 is not justified by the circumstances and do not approve the proposed variation.

Determination

43. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Wigan Council for Marsh Green Primary School for September 2024. I do not approve the proposed variations to the admission arrangements for September 2025.

44. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

Dated: 22 April 2024

Signed: Tess Gale

Schools adjudicator