



Office of  
the Schools  
Adjudicator

## Determination

**Case references:** VAR2408, VAR2414

**Admission authority:** Trafford Council for Willows Primary School

**Date of decision:** 8 August 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 Trafford Council for Willows Primary School for September 2024.

I determine that the published admission number for 2024 will be 45.

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Trafford Council for Willows Primary School for September 2025

I determine that the published admission number for 2025 will be 45.

I have also considered the arrangements for 2024 and 2025 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. Trafford Council (the local authority) has referred a proposal for variations to the admission arrangements for September 2024 (the 2024 arrangements) and September 2025 (the 2025 arrangements) for Willows Primary School (the school) to the adjudicator. The school is a community primary school for children aged three to eleven.

2. The proposed variations are that for both 2024 and 2025 the published admission number (PAN) be reduced from 60 to 45.

## Jurisdiction and procedure

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act), which deals with variations to determined arrangements. Paragraphs 3.6 and 3.7 of the School Admissions Code (the Code) say (in so far as relevant here):

“3.6 Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it **must** consult the governing body of the school before making any reference.

3.7 Admission authorities **must** notify the appropriate bodies of all variations”.

4. The local authority has provided me with confirmation that the appropriate bodies have been notified. I find that the appropriate procedures were followed, and I am satisfied that the proposed variations are within my jurisdiction. I am also satisfied that it is within my jurisdiction to consider the determined arrangements for 2024 and 2025 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. The local authority has provided evidence that the arrangements, which are those for all community and voluntary controlled primary, infant and junior schools in its area, were determined. The arrangements for 2024 were determined on 9 February 2023 and those for 2025 on 15 February 2024.

6. The parties to this case are the local authority and the school’s governing body.

7. In considering these matters I have had regard to all relevant legislation, and the Code.

8. The information I have considered in reaching my decision includes:

- a. the referral from the local authority (undated and with the date field deleted, but submitted 9 April 2024) and supporting documents;

- b. further information provided by the local authority at my request, including data regarding applications and offers for places at the school in 2024;
- c. the determined arrangements for 2024 and 2025;
- d. comments on the proposed variations from the school; and
- e. information available on the websites of the local authority, the school and the Department for Education (DfE).

## The proposed variation

9. The local authority set the PAN at 60 for admission under both the 2024 and 2025 arrangements but wishes to reduce this to 45 for both years.
10. The local authority's reasons for seeking the variation are, in summary, that:
- a. the PAN of 60 was set "in error" and this should have been 45 (as it is in the 2023 arrangements); and
  - b. the variations are necessary to protect the financial viability of the school.
11. The school has expressed its support for the proposed variations and the chair of the governing body stated:

"we can foresee no detriment to any child by decreasing the PAN at the Willows, partially because we do not believe there will be sufficient demand in the catchment area for a place at the Willows and partially because there are sufficient places elsewhere in the locality to accommodate pupils. . . Should the PAN remain at 60 and less than 60 arrive at school it will have an ongoing impact for the entire time those children are at our school both in financial terms and educationally."

12. 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.

## Background

13. The local authority, when requesting the proposed variations, stated:
- "Under the Making Significant Changes statutory process, a physical enlargement was carried out at Willows Primary School which was implemented from September 2023, increasing its physical capacity from 45 per year group to 60 per year group. The driver for this expansion was an increase in pupils in key stage two year groups.

Even after the physical enlargement, the PAN correctly remained at 45 in the determined admission arrangements for September 2023 for entry to reception. The admission number did increase to 60 in key stage two year groups to accommodate additional demand from in-year applicants.

An error was then made in the consultation for the 2024 admission arrangements, where the Willows Primary School PAN was incorrectly stated as 60. It was never the intention to increase the PAN for the reception cohort entering the school, only for the key stage two classes.

The national falling birth rate has been impacting future admission numbers across the whole country. Forecasts indicate that it will have a significant impact on the financial viability of the primary schools in Trafford and in particular in the Altrincham planning area. Predictions show that numbers will further decrease in the next two years and Trafford Council is taking action to apply for further reductions in PAN for 2025 and beyond to protect the financial viability of schools. It did not intend to go against this strategic work and increase the PAN for Willows Primary School for the reception intake in 2024.”

14. There were two aspects of the above statement which I sought to clarify with the local authority: firstly, how an error in the consultation process led to the incorrect PAN being set; and secondly, the reference to PAN in key stage two classes.

15. Admission authorities are required to consult upon their proposed arrangements; that does not mean that the only choice they have following consultation is to adopt the arrangements consulted on. They may, provided they properly consider comments, adopt arrangements that are different from those consulted on. In respect of this I asked the local authority to explain why or how an error at the point of consultation resulted in the incorrect PAN being set for 2024, and why consultation was not undertaken to correct this for 2025.

16. The local authority responded: “It was an error which was overlooked...[this] error was only noticed when allocations for reception 2024 were undertaken and it was too late to correct the 2025 admission arrangements as they had already been determined.”

17. PAN applies only to the normal year of entry, which in the case of the school is Year R. In respect of this I asked the local authority to clarify their comments regarding PAN in key stage two and to explain why there is greater demand for places at key stage two than in the younger year groups.

18. The local authority responded thus:

“Demand from in-year applicants, particularly in key stage 2 year groups, is driven by the selective secondary education system in Trafford, this is a long standing historical trend. In addition to this Trafford experienced a surge in applications during a 6 month period in 2021, largely due to international migration. We had the second highest number of school place applications from Hong Kongers (sic) arriving in Trafford under

the Hong Kong BNO visa scheme, alongside families moving under the Home for Ukraine scheme, a newly opened hotel for asylum seekers and also domestic migration. Elevated levels of in-year applications remained up to the end of autumn term 2023, when compared to pre-pandemic average rates.

There is not a separate PAN in place for entry to year 3. The current additional capacity operates similar to a bulge class arrangement in year groups where the capacity is needed. If an application was received from any parent wanting to transfer to this school, they would be allocated a place up to the admission number of 60 in relevant year groups if there were a vacancy. Demand from in-year applications is now starting to reduce and so the arrangements are reviewed termly by the relevant strategic board to ensure the local authority continues to meet its sufficiency duty”.

19. For the avoidance of doubt, in the case of the school the PAN applies only to Year R and the Code does not allow for set admission numbers in any other year group. The local authority’s reference to “admission number” in year groups other than Year R is incorrect and does not comply with the Code. The local authority might find it helpful to note the most recent annual report from the Office of the Schools Adjudicator, published March 2024. In paragraph 86 of this report the Chief Adjudicator stated:

“The Code makes it clear that the test for whether a child should be admitted as part of a normal in-year application for admission to all year groups other than the relevant year group is whether prejudice to the efficient use of resources or efficient provision of education will arise. Prejudice is not based on whether the number of children in the year group will be higher or lower than the PAN that applied when that cohort joined the school and does not automatically arise when that number is reached. I am concerned that some local authorities and admission authorities may not fully appreciate that it is necessary to establish prejudice in order for an admission authority to refuse to admit a child in-year.”

20. As part of the background to this case I also note the statement of the chair of the governing body regarding the building enlargement works at the school:

“We understand that it may appear odd to an outsider observing that the school has just been extended and yet there are insufficient pupils to fill those new classrooms. This is a concern that the school has raised with the Local Authority as it impacts upon the school's budget going forward. It is unfortunate that the impact of a decreased birth rate (as reported both nationally and locally) does not appear to have affected predictions, but we also understand that the influx of new families into the area has also slowed - this tends to affect the junior years, not all of which are full at present either.

Ultimately, this school should not have to endure the negative impact of an administrative error by the Local Authority in mistakenly increasing the PAN to 60. Therefore, we request that it is reduced to 45.”

## Consideration of proposed variation

21. 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.

22. The arrangements for 2024 and 2025 have been determined and the PAN for those years has been set at 60. If the PAN for 2024 is reduced by variation there will be no effect on future PANs as the PAN for the following year has already been set. However, the arrangements for 2026 have not yet been determined. This means that if the PAN for 2025 is reduced to 45 then the PAN for 2026 and subsequent years may remain at 45 without any requirement for consultation.

23. In many variation cases the adjudicator must consider the effects of a proposed PAN which is lower than the PAN currently in place; this case differs somewhat. The PAN is 45 under the 2023 arrangements and has been 45 for at least several years. In practical terms the proposed variations would not change the status quo; rather, they would enable the school to continue with its current organisation and staffing.

24. Nevertheless, the local authority has set the PAN for 2024 and 2025 at 60 and the timing of the variation request must be noted. The national closing date for primary school applications for places in 2024 was 15 January; the proposal was submitted after that date and just before national offer day of 16 April. This means that parents applied for places at the school on the basis that the PAN was 60. I have therefore considered the demand for places at the school and in the local area, the potential effect on parental preference and whether the proposed variations are justified in the prevailing circumstances.

25. I will first consider demand for places at the school and in the area, which is defined on the DfE website Get Information About Schools (GIAS) as an “urban major conurbation”. GIAS indicates that there are about eight other schools which admit children to Year R within one mile of the school and 44 schools that admit children to Year R within three miles of the school.

26. 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.

27. Table 1 sets out data provided by the local authority and shows the number of places in the schools in the planning area and the number of children offered a place or expected to require a place at those schools. This table uses a PAN of 60 for the school for 2024 onwards and assumes that the PANs of all the other schools remain unchanged.

**Table 1: the number of school places and number of children offered a place, or forecast to require a place in schools in the planning area**

	2021	2022	2023	2024	2025	2026
Sum of PANs for the schools in the planning area	935	965	965	980	980	980
Number of children allocated a place on national offer day (2021-2024) or forecasted to require a place (2025 and 2026)	815	806	739	727	737	702

28. Table 1 shows that for 2024 the sum of the PANs for the schools in the planning area is 980. If the PAN of the school were to be reduced to 45 then this sum would be 965. As there are 727 children who have been offered a place this year, this leaves 238 spare places which equates to 25 per cent surplus capacity. In 2025 there would be 228 spare places, or 24 per cent surplus capacity.

29. 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”. The data shows that in the event the PAN was reduced the surplus capacity in the area would be well above that recommended by the DfE. I am therefore satisfied that the local authority would be able to fulfil its obligation to provide sufficient places in the planning area.

30. I will now consider the demand for places at the school. The local authority has told me that they do not produce school level forecasts for future years but they have provided data for recent years. This is set out in table 2.

**Table 2: the PAN of the school, the number of first preference applications for places at the school and the number of children offered a place**

	2021	2022	2023	2024
PAN	45	45	45	60
Number of first preference applications	48	53	46	49
Number of children allocated a place on national offer day	45	45	45	45

31. A first preference is the school that a parent most wants their child to attend. 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 may change in other ways which affect their choice of schools between the date of the application which has to be made by 15 January and the following September when the child has the right of admission.

32. A child will be offered a place at the highest preference school possible; if a place cannot be offered at the first preference school then a second or third preference offer is better from a 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 to a school may differ from, and often be higher than, the number of first preference applications.

33. I must first deal with the fact that 45 offers were made for places at the school in 2024, four lower than the 49 first preference applications and well below the current PAN of 60. I queried this with the local authority who stated:

"The 4 remaining first preferences were not allocated because allocating all first preferences would have caused future infant class prejudice which would have resulted in the school having to employ an additional teacher in the future, the cost of which would increase the school's current budget position."

34. Admission authorities are required by law to set a PAN for each relevant year group, which in the case of the school is Year R. Once set, the main effect of the PAN is that prejudice under Section 86 of The School Standards and Framework Act cannot arise in the normal admissions round until that number of pupils have been admitted. Thus, applicants must be admitted up to PAN if enough applications are received. This means that the PAN is in effect a minimum, which remains in place for the entirety of the school year; any argument of prejudice to the provision of efficient education or efficient use of resources which may concern in-year admissions to other year groups does not apply.

35. In offering places to only 45 children despite other parents expressing a first preference for the school, the local authority has clearly acted unlawfully. I raised this matter with the local authority's Director of Standards, Quality and Performance who stated:

"Unfortunately, our error [of setting the PAN at 60] was identified too close to national offer day to enable us to submit a variation request and achieve a decision before offers were made. Regardless of any error, we wholeheartedly acknowledge that we should have offered up to 60 places on national offer day as this was the determined PAN of the school.

I have addressed these issues with the relevant services involved and would like to provide assurance that our processes have been reviewed and strengthened to ensure an error such as this cannot occur again in the future."

36. A serious failing has been made by the local authority in its allocation of places at the school for 2024. If the proposed variation for 2024 is approved, it remains the case that there were four children who should have been offered places at the school on national offer day who were not offered places at the correct time. The local authority have confirmed that those four children have now been offered places at the school.



37. In my consideration of this case I have sought to balance the actions of the local authority with the impact on the school of the variations that are proposed, taking into account any likely frustration of parental preference if those variations are agreed.

38. The number of first preference applications gives an indication of the level of demand for a school; the data in table 2 suggests that demand is well below the current PAN of 60. In recent years the number of first preference applications has generally been just above the proposed PAN of 45; when 53 such applications were received in 2022 the number of children requiring a place in the planning area was some 79 higher than in 2024. Considering table 1 and table 2 together gives no reason to assume that demand for the school will rise significantly in 2025 or 2026.

39. I have noted from other data supplied by the local authority that there is a total of twelve schools in the planning area to which the school belongs; only one of these received more first preference applications than the number of places available in 2024. I am satisfied that there is unlikely to be significant frustration of parental preference if the variations are agreed. That is, it is not the case that the number of parents expressing a first preference for the school is or is likely to be well above the proposed PAN, and I have not seen any evidence that a significant number of children will require a place at the school due to being refused a place at their first preference school.

40. 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.

41. The current model at the school is that there are 45 children in each of Year R, Year 1 and Year 2. The Year R children are taught in two classes. Those in key stage one are organised into three classes of thirty; one of these is a mixed age class. As schools are largely funded on a per-pupil basis, classes of around 30 pupils are generally considered to be the most financially efficient. Other than Year R, classes at the school contain 30 pupils or are close to this number.

42. Paragraph 2.8 of the Code states: "With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have enough places available **must** offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria." That is, admissions must be made at least up to PAN or, to put it another way, if the PAN of the school remains at 60 then a total of 60 pupils must be admitted to Year R if sufficient applications are received.

43. Putting aside the errors the local authority has made regarding the allocation of places, 45 children have been offered places for 2024. This number allows the school to continue with its current organisational model. It is important to note that additional

applications for Year R may be received at any point from now until the end of the 2024-2025 school year and the local authority would, if the PAN remains unchanged, be obliged to admit those applicants until at least 60 children were in the year group.

44. If it had been the case that 60 parents had expressed a first preference for the school then 60 children should by law have been admitted. This would have required an extra class which could, from what I have been told about the school buildings, have been accommodated. The school would have received funding for those pupils to offset additional staffing requirements.

45. The difficulty that may arise is that, say, Year R could contain 46 pupils at any point during the school year. This would mean (if the number of pupils currently at the school remains unchanged) that in the following year there would be 91 children in key stage one. In this event the existing class model would not be possible due to the infant class size regulations; it is likely that an additional class would be required and some classes would be of a size which was not financially efficient. It is this situation which the local authority seeks to avoid via the proposed variations.

46. I note here that if the additional four first preference applicants were to be admitted then there would be 49 Year R children who could be accommodated in the existing two-class structure in 2024. The same difficulty as that described above would arise the following year however, when there would be 94 children in key stage one. In this event I would hope that the local authority would assist the school with the associated organisational and financial implications. I also note that if the PAN were to be reduced by variation to 45 then all of those 49 children would still have a place at the school, but if any were to leave during the course of the year then the local authority would not be obliged to admit new applicants such that the PAN of 45 was exceeded.

47. The local authority has stated that the forecasted budget position for the school at the end of the current financial year is a deficit of £30k. In the following year this deficit is set to rise to £204K. The school told me:

“The School's Governors are currently attempting to address a budget deficit based upon the PAN being 45. Should it be increased this will exacerbate the deficit further. An additional teacher would need to be employed and this would create a much larger deficit than is currently predicted. “

48. This has been a curious case and it is regrettable that the local authority and the school have found themselves in their current position. The PANs for 2024 and 2025 have apparently been set in error; building enlargement works have been carried out (presumably at considerable cost) but the local authority does not wish the PAN to increase; and the process for the allocation of places for 2024 has been contrary to the law.

49. With regard to the building enlargement works the chair of the governing body remarked that the impact of a decreased birth rate does not appear to have affected predictions of pupil numbers. I do not know the details of how the local authority conducts

its school place planning or why it chose to spend public money on enlarging the school. It seems to me that the actions of the local authority have been disjointed at best, and I trust that their Director of Standards, Quality and Performance will address the apparent issues within the organisation as she has assured me she will.

50. I have considered the variation requests carefully and am mindful that the actions of the local authority should not impact unduly upon the school. The local authority is the admission authority and has undoubtedly made errors. It is the school, however, which would be required to address the result of those errors in terms of its organisation and staffing, with associated pressures on the school budget.

51. I find it helpful to return to a comment from the chair of the school's governing body:

“Ultimately, this school should not have to endure the negative impact of an administrative error by the Local Authority in mistakenly increasing the PAN to 60.”

52. I have weighed this case carefully and find that any prejudice to parental preference is limited and is outweighed by the detriment to the school of having to maintain a PAN which was set in error and over which they had no control.

53. I find that the variations for 2024 and 2025 are justified by the circumstances and approve the proposed variations.

## Consideration of the arrangements

54. Having considered the arrangements as a whole it appeared to me that several matters may not conform with the requirements of the Code, and so I brought them to the attention of the local authority. These matters apply to both the 2024 and 2025 arrangements and I have listed them below setting out the relevant paragraphs of the Code and where the arrangements do not conform to requirements. Paragraph 14 of the Code requires that arrangements must be clear for parents on how places are allocated. The issues listed below apply to that paragraph of the Code unless otherwise specified.

55. When I raised the following matters with the local authority I made it clear that they were not expected to make any changes to the arrangements until they had received my determination; in response the local authority stated that they had amended the arrangements on the local authority website. I must be clear that it is not my role to consider the amendments that the local authority has made; I must limit my consideration to the arrangements that have been determined and the matters below concern those determined arrangements. It is the responsibility of the local authority to ensure that the arrangements are revised to give effect to my determination.

56. Paragraph 1.14 of the Code requires that “Catchment areas **must** be designed so that they are reasonable and clearly defined”.

57. The arrangements state that “All Trafford Community/Voluntary Controlled Infant and Primary Schools have a catchment area.” A link is provided to a webpage concerning catchment areas but this does not work; clearly this is contrary to the Code as parents are not able to easily view the catchment areas of any of the schools.

58. Paragraph 15d of the Code states: “Published admission arrangements **must** make clear to parents that a separate application **must** be made for any transfer from nursery to primary school, and from infant to junior school”.

59. The arrangements do not make it clear to parents that a separate application must be made for any transfer from nursery to primary school, and from infant to junior school; this omission is contrary to the Code.

60. Paragraph 1.9 of the Code states “It is for admission authorities to formulate their admission arrangements, but they **must not** ... take into account any previous schools attended, unless it is a named feeder school”.

61. The arrangements state, “Trafford Community Junior Schools will admit into Year 3 all pupils from year 2 of their partner Infant school whose parents so wish, regardless of their published admission number.” There is no corresponding list of partner schools, or other information regarding such schools, in the arrangements. The arrangements are therefore contrary to paragraph 1.9 of the Code.

62. Paragraph 2.18 of the Code provides for parents to seek a place for their child outside of their normal age group and states “Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.”

63. The arrangements state, “Parents may seek a place for their child outside of their normal age group” but do not make clear the process for requesting such admission as is required by the Code.

64. The arrangements refer to a “statement of special educational needs”. Statements of special educational needs no longer exist, and arrangements should therefore only refer to Education Health and Care Plans as set out in paragraph 1.6 of the Code.

## Determination

65. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Trafford Council for Willows Primary School for September 2024.

66. I determine that the published admission number for 2024 will be 45.

67. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Trafford Council for Willows Primary School for September 2025

68. I determine that the published admission number for 2025 will be 45.

69. I have also considered the arrangements for 2024 and 2025 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.

70. 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: 8 August 2024

Signed:

Schools adjudicator: Jennifer Gamble (Revised by Tom Brooke)