



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2446

Admission authority: The Governing Board for Barton Church of England Voluntary Aided Primary School, Cambridgeshire.

Date of decision: 25 July 2024

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by the governing board for Barton Church of England Voluntary Aided School for September 2024 and September 2025.

I determine that for September 2024 and September 2025 the published admission number will be reduced from 20 to 15.

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 for Barton Church of England Voluntary Aided School (the school) has referred a proposal for a variation to the admission arrangements for September 2024 and September 2025 (the arrangements) for the school to the adjudicator. The school is a voluntary aided school for children aged 4 to 11 in Barton, Cambridgeshire (the local authority). The religious character of the school is Church of England, and the Diocese of Ely is the religious authority.

2. The proposed variation is to reduce the published admission number (PAN) from 20 to 15 for September 2024 and September 2025.

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 governing board provided me with evidence of the bodies which it had notified about the proposed variations. Because of some discrepancies in the list of schools provided with the application I questioned whether all appropriate bodies in the relevant area had been notified. The school immediately notified some more admission authorities and the local authority then confirmed that all appropriate bodies had been notified.

5. 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.

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

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

- a. the referral from the governing board dated 4 July 2024, supporting documents and further information provided at my request;
- b. the determined arrangements for September 2024 and September 2025 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the local authority;
- d. a map showing the location of the school and other relevant schools; and
- e. information available on the website of the Department for Education (DfE).

8. The Diocese of Ely was invited to comment on this proposal, but did not do so.

The proposed variation

9. The proposed variation is to reduce the PAN from 20 to 15 for both September 2024 and September 2025.

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. 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 and so it is particularly important that the proposed variations are properly scrutinised.

12. In the application for this variation the governing board said “Pupil numbers have been gradually and steadily increasing over the last two years. Our maximum school pupil number is 120 based on a four-class structure. The composition of our four classes can vary each year based on individual cohort size. Unconventionally, our PAN for Reception admissions has been fixed at 20 for a number of years.” It continued “due to a marked increase in Reception and other in-year admissions application in 2023/24, for the first time the PAN of 20 will cause difficulties for the next two academic years.”

13. The number of children expected to be on roll at the school in September 2024 is:

Year	R	1	2	3	4	5	6	Total
	14 or 15	19	13 or 14	14	16	22	20	118 to 120

14. The governing board explained that the school is currently organised in four classes (I note the capacity of the school given on the DfE database is 120). It said that given the number of children expected to be attending the school in September 2024, a four-class organisation consistent with infant class size legislation (which limits infant classes to a maximum of 30 pupils with a single teacher) would require three year groups to be split and two classes to contain three year groups. This is shown in the following table.

Robin Class	Reception and part of Year 1
Kingfisher Class	Part of Year 1, all of Year 2 and part of Year 3
Swallow Class	Part of Year 3, all of Year 4 and part of Year 5
Owl Class	Part of Year 5 and all of Year 6

15. The governing board said that it considered, “this would have a negative impact on teaching and learning for our pupils, in particular those in the classes spanning three year groups. It would also have a negative impact on wellbeing for those staff asked to teach across three year groups. We are concerned that this class structure could lead to families seeking places in alternative schools, and to staff leaving, with a consequent impact on our small school sustainability.”

16. The governing board has consequently decided to fund and accommodate a fifth class for the school year beginning in September 2024. The classes will be organised as follows:

Robin Class	Reception and part of Year 1
Kingfisher Class	Part of Year 1 and Year 2
Swallow Class	Year 3 and Year 4
Skylark Class	Year 5
Owl Class	Year 6

17. The governing board went on to say that a five-class organisation will not be financially sustainable for more than one year and it would need to revert to a four class structure in September 2025 as shown below.

Robin Class	Reception and Year 1
Kingfisher Class	Year 2 and Year 3
Swallow Class	Year 4 and part of Year 5
Owl Class	Part of Year 5 and Year 6

18. This, the governing board says, would require the PANs for 2024 and 2025 to be reduced to 15 to allow Robin Class to contain all Reception and Year 1 within the infant class size limit of 30 children and not require classes to contain more than two year groups.

19. I have noted that the PAN for 2024 was set by the governing board on 14 September 2022, while that for 2025 was set on 13 September 2023. Therefore, the governing board would not have been aware of the “marked increase in Reception and other in-year admissions application in 2023/24” which it says is the major change requiring the proposed change to the PANs when it set the PAN for 2024. However, it would have been aware of the intake for 2023 being higher than in the last three years when it set the PAN for 2025. There would have been sufficient time for the governing board to assess the impact of this intake, consult on and determine a more suitable PAN for 2025 before 28 February 2024 which is the date by which admission authorities were required determine their arrangements for 2025.

20. I have looked at the expected number of children on roll in each year group over the next two years. This is based on information provided by the school.

Year	2023/24	2024/25	2025/26
R	19	14 or 15	Forecast to be 14
1	13	19	14 or 15
2	13	13 or 14	19
3	15	14	13 or 14
4	21	16	14
5	19	22	16
6	15	20	22
Totals	115	Between 118 and 120	Between 112 and 114

21. It is a fact that small schools in rural settings do require classes with mixed age groups. Some schools in this situation have no choice but to accommodate more than two age groups in one class and do so successfully. My first consideration is whether the proposed variations are necessary.

22. Admission to schools may be only refused on the grounds of prejudice to the provision of efficient education or efficient use of resources. Parents may appeal against any decision to refuse admission and an appeal would be upheld if the independent appeal panel found there would be no prejudice arising from the admission. As explained in

paragraphs 1.2 and 1.4 of the Code, the PAN only applies to the “relevant year group” which is, for this school, the Reception year group. It is the point at which the admission authority, in this case the governing board, has decided that prejudice would occur if more children were admitted to the Reception year group. While the PAN remains at 20, admission to Reception cannot be refused until that figure is reached. Admission to other year groups will depend solely on the prejudice argument.

23. The organisation of classes proposed by the school for September 2024 has between 46 and 48 children in two infant classes and 72 older children in three classes. Unless there are physical constraints on the size of the classrooms which the two infant classes are using (and I have not been told of any), a further 12 to 14 infants could be admitted before the class size limit was reached. There are many ways in which the 46 or 48 infants could be spread across two classes. As an example taking the higher figure there could be 24 children in each class with nine Year 1 children together with 15 Reception children in Robin Class leaving 10 Year 1 children with 14 Year 2 children in Kingfisher Class. Reducing the PAN would only affect the infant class containing the Reception year group, that is Robin Class. If the PAN remained at 20, up to five more reception aged children could be admitted without the size of Robin Class reaching the statutory limit and there would be scope for seven more older infants to be admitted within the same limit.

24. While there may be, to quote the governing board, “an anecdotally-observed demographic shift” leading to more families wanting places at the school, a 25 per cent increase in the number of Key Stage One children from 48 to 60 over the course of a year is in my experience very unlikely. I do not find that it is necessary to reduce the PAN from 20 to 15 to allow the school to organise classes as described from September 2024. However, admitting no more than 15 children to Reception in September 2024 may be necessary for the school to revert to a four class structure in September 2025.

25. The structure proposed for September 2025 places Reception and Year 1 together in Robin Class. To be consistent with the requirements of the School Admissions (Infant Class Sizes) Regulations 2012 (the Regulations), Robin Class cannot exceed 30 pupils with a single teacher. The children who will be in Year 1 in September 2025 will be the children in the Reception year in the 2024/25 school year. Currently, 14 or 15 children are expected to be in this year group and the school is expecting 14 places to be needed in the Reception year in September 2025. To do anything other than reduce the PAN for both 2024 and 2025 from 20 to 15 risks Robin Class exceeding 30 pupils in September 2025. This would require either an additional teacher in Robin Class, or for some Year 1 pupils to be taught in another class.

26. I have looked at the scope for some Year 1 pupils to be put in the next class up, Kingfisher Class. The governors intend this class to contain Year 2 and Year 3 pupils, of whom there are expected to be in total 33. Infant classes are defined as where the majority of pupils are aged 5, 6 or 7 (that is in Reception, Year 1 or Year 2). As planned by the governing board, Kingfisher class would contain 19 Year 2 children and 14 Year 3 children,

it would be an infant class and measures would need to be taken to meet the requirements of the Regulations.

27. I asked the school how it intended to address this matter. The response was “We are aware of the infant class size rule as it affects classes containing pupils within Year 2. School cohorts are of course fluid, so it may be that in September 2025 there is not a majority of Year 2 pupils across Years 2 and 3 in which case Kingfisher Class can be formed as planned. However if the combined cohorts meet the definition of an infant class at that time, we will of course take necessary steps to ensure we are in compliance with the rule.”

28. I find this response perplexing. The stated reason for the proposed variation is an increased demand for school places, yet the governing board appears to be relying on numbers falling in order to ensure it is able to comply with the requirements of the Regulations in September 2025. Furthermore, if children did not leave from Year 2 or Year 3, the steps required to comply with the Regulations would be to either appoint another teacher, or move children into other classes increasing the number of year groups in a class which is one of the things which the proposed variation is intended to avoid.

29. If the PANs for both 2024 and 2025 remained at 20 and filled at that number, in September 2025 the school would have the following roll.

R	1	2	3	4	5	6	Total
20	20	19	14	14	16	22	121

30. It is possible to conceive of four class organisations for this distribution of children which comply with the Regulations and have no more than two year groups in a class. For example, Years R, 1 and 2 split across two classes, one class of Year 3 and 4 and one (albeit large) class of Year 5 and 6.

31. I am not convinced that reducing the PAN for September 2024 and September 2025 will address all of the issues which the governing board intends the proposal to do. Equally, I do not think that having a PAN of 20 helps the school to develop a sustainable and consistent pattern of organisation. Not only is a PAN of 20 inconsistent with the capacity of the school, it creates the possibility of the current situation arising where there are year groups of between 14 and 22 pupils which are difficult to pair up if two adjacent year groups contain more than 30 pupils.

32. I have, therefore, considered what issues might arise across the local area if the school’s PANs for 2024 and 2025 were reduced. For September 2024 14 places have been offered and one further enquiry about a place has been received. A PAN of 15 would meet all current demand for this year group. Data provided with the application shows that with this reduced PAN, there would 308 places available in Reception classes at schools in the

area and 230 of these places have been offered. Any family moving into the area would be able to find a place at a nearby school if the PAN for September 2024 was reduced to 15. The school has an expected intake for September 2025 of 14 and across the area there are expected to be 284 places needed with 308 places available after the proposed PAN reduction. The local authority has not raised any concerns about the supply of places in the area.

33. The governing board has said it intends to consult on a PAN of 17 for September 2026. It is not for me to comment on this proposed PAN for 2026. However, the governors should note that if I approve the reduction in the PAN for 2025 to 15, then that is the PAN for 2025. Paragraph 1.3 of the Code says, “admission authorities are not required to consult on their PAN where they propose either to increase or keep the same PAN”.

34. In conclusion, I do not think that reducing the PANs for 2024 and 2025 is necessary for the school to be organised in the number of classes proposed by the governing board for the next two years. Nor do I think that reducing these PANs will avoid all the issues identified by the governors. However, the current PAN has led to fluctuations in year group sizes which makes organising the school more difficult and is unsustainable as it could lead to the school exceeding capacity. There are sufficient places in the local area and the governing board has declared an intention to move to a lower PAN in the future. In this context I have decided to approve the proposed reduction in both PANs because the proposed PANs of 15 are consistent with the school’s capacity and give the governors a stable position from which they can plan without leading to a shortage of place in the local area.

Consideration of the arrangements

35. Having considered the arrangements as a whole it appeared to me that the following matters may not conform with requirements of the Code and so I brought them to the attention of the governing board. I have listed these matters below setting out the relevant paragraphs of the Code and where the arrangements did not conform to requirements.

- i. Paragraph 2.17b of the Code says “The authority must make it clear in their arrangements that where they have offered a child a place at a school: ... the child’s parents can defer the date their child is admitted to the school until later in the school year but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year for which it was made”. The section in the arrangements headed “Admission of children below compulsory school age”, did not appear to make the last part of this requirement clear.
- ii. Paragraph 14 of the Code requires that admission arrangements must be clear. The final paragraph of the arrangements suggests that a place may be refused in an infant class “because of the requirement to limit class size to 30 children”. The only ground on which an admission authority can refuse a place is prejudice to the provision of efficient education or efficient use of resources. Such prejudice could

arise due to the need to take measures to comply with the requirements of the Regulations. The arrangements do not make clear that the grounds for refusal of a place are in fact prejudice which may (or may not) be caused by the necessity to take the required measures. Section 4 of the School Admission Appeals Code (the Appeals Code) explains the process of appealing against a refusal to admit in such cases. The arrangements use the term “Infant Class Size Review”. The Appeals Code makes no reference to such terminology, it consistently uses the term “appeal”, which is the correct terminology and is the terminology which must be referred to in the arrangements.

- iii. The fourth and fifth oversubscription criteria require “monthly” attendance at public worship. The supplementary information form (SIF) asks whether attendance is weekly, fortnightly or monthly. Paragraph 2.4 of the Code says SIFs should only request additional information when it has a direct bearing on decisions about oversubscription criteria. Attendance that is more frequent than monthly appears to have no bearing on decisions about the oversubscription criteria.

36. The governing board has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the governing board has accepted that changes are required, I will not discuss them further other than to make clear that the Code requires that the arrangements be amended to address the points set out here.

Determination

37. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by the governing board for Barton Church of England Voluntary Aided School for September 2024 and September 2025.

38. I determine that for September 2024 and September 2025 the published admission number will be reduced from 20 to 15.

39. 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.

40. 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: 25/07/2024

Signed:

Schools adjudicator: Phil Whiffing