



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2410

**Admission authority:** The governing body for St John the Evangelist Church of England Primary School, Macclesfield

**Date of decision:** 15 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 the governing body for St John the Evangelist Church of England Primary School for September 2025.

I determine that the published admission number shall be 30.

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 body for St John the Evangelist Church of England Primary School (the school) has referred a proposal for a variation to the admission arrangements for September 2025 (the arrangements) to the adjudicator. The school is a voluntary aided school for children aged four to eleven years in Macclesfield. The school is in the local authority area of Cheshire East Council (the local authority). The school has a Church of England religious character and the faith body is the Diocese of Chester (the faith body).

2. The proposed variation is that the published admission number (PAN) for the school is reduced from 45 to 30 for admissions to reception year (YR) in 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 body told me 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. The information I have considered in reaching my decision includes:

- a. the referral from the governing body received 18 April 2024, supporting documents and further information provided at my request;
- b. the determined arrangements for 2025 and the proposed variation to those arrangements;
- c. further information provided at my request by the local authority;
- d. comments from the faith body on the proposed variation;
- e. a map showing the location of the school and other relevant schools; and
- f. information available on the websites of the local authority, the school and the Department for Education (DfE).

## The proposed variation

6. The PAN for the school was set for 2025 at 45, as it had been for previous years. The governing body wish to reduce the PAN to 30 on the grounds that financial problems have arisen due to a drop in demand for the school and that a PAN of 30 would allow the school to take steps to address this.

7. 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

8. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Once the PAN has been set for a particular year then no body, except the governing body of a community or voluntary controlled school, can object if that PAN remains the same in subsequent years. 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. In other words, if I agree that the PAN can be 30 for 2025 then it can remain so for 2026 and so on, with no consultation required and no objections being possible.

9. My first consideration is whether there would be sufficient school places in the area if the PAN were to be reduced to 30 for 2025. Local authorities have a duty to make sure that there are sufficient school places for the children in their area. Normally they assess need and provision on the basis of geographical areas known as planning areas. The school is in a local authority planning area of eight schools which admit children to reception year (YR). I looked at the relevant data on the planning area, including trends over time. Table 1 provides a summary of the demand for places at the schools in the planning area in recent years and the anticipated number of admissions for 2024.

Table 1: numbers of school places and numbers of children admitted or offered a place in YR in schools in the planning area

	<b>2022</b>	<b>2023</b>	<b>2024</b>
<b>Sum of PANs of schools in the planning area for YR</b>	315	315	315
<b>Number of children admitted or allocated a place for 2024</b>	258	258	254
<b>Vacant places</b>	57	57	61

10. Table 1 shows that around 18 per cent of the places available were vacant in YR in 2022 and 2023. This has increased for 2024 to around 20 per cent based on the allocations

made by 9 July 2024. Therefore, around a fifth of all places are likely to be vacant, which is a high proportion.

11. The forecast demand for places in YR in the planning area in 2025 is 258, 260 for 2026 and 264 for 2027. These are similar figures to those for children admitted or offered a place in 2024 and previous years. If I agree the PAN of 30 for 2025 then there will be 300 places in the planning area and therefore there would be 34 vacant places forecast, which is not a high number but it would be around 11 per cent which is still a high proportion.

12. Parents may prefer schools for many different reasons, many look for a school very near their home, particularly for YR when the child will be either four or five years old. The school is situated near the centre of Macclesfield and there are other schools, which are forecast to have spaces in YR in 2025, within two miles of the school. Overall, I am assured that there would be sufficient school places in the area if I were to agree the variation.

13. I will now consider the demand for places at the school and the reasons why the governing body has proposed the reduction in PAN. Table 2 summarises the admissions to the school.

Table 2: the number of children admitted to the school, offered a place and forecast demand

	2022	2023	2024	2025	2026
<b>The PAN for the school</b>	45	45	45	45	45
<b>The number of first preferences</b>	45	33	23	N/A	N/A
<b>Number of children admitted to YR, offered a place for 2024 or forecast demand for 2025 and 2026</b>	45	33	26	35	32
<b>Number of vacant places</b>	0	12	19	10	13

14. Table 2 shows that the number of children admitted has reduced from 2022. The school, and the other primary schools in the area, are 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. The infant class size regulations apply to YR, year 1 (Y1) and year 2 (Y2). As schools are largely funded based on the number of pupils on their rolls, it is more efficient financially for primary schools to have classes of 30 or near to 30. Classes that are significantly smaller than 30 can create economic strain upon a school.

15. The school's PAN of 45 means that it has mixed aged classes, that is where classes have children from more than one year group. This approach provides a more flexible approach to class organisation. However, if the school has numbers of children that are

significantly below 45 but just over 30, as occurred in 2023, then even this model becomes harder to sustain financially. If the PAN were 30 and this figure was admitted then the school is likely to develop, over time, classes with single year groups. For example, the 26 children anticipated to be admitted for 2024 will probably be in a single class of YR children.

16. The school said that it planned to provide ten classes in September 2024. This is one fewer than the eleven classes provided from September 2023 and is possible as fewer than 30 children are expected in YR in September 2024. The 36 children admitted in September 2023 were arranged in two classes of 18 which is an expensive model and will be partially addressed in September 2024 by mixing children from years 1 and 2 into three classes of around 26 pupils each.

17. The forecast demand for 2025 is 35. If this number were to be admitted then the school could run two small classes for YR children with 17 or 18 each. This would be an expensive model. When the classes became Y1 in 2026 then, following previous practice the school could combine Y1 and Y2 making around 61 children. This could lead to three classes of around 20 children each being need in order to comply with the infant class size regulations. If, however, the PAN for 2025 were to be 30 then the school could provide just one class for this year group.

18. The forecast of 35 is above the PAN requested and so if I agree this variation, then parental preference may be frustrated. I raised this matter with the local authority and the school. The local authority provided information but did not comment on the proposed variation. The local authority did, however, highlight the places available in the vicinity of the school including at other schools with a Church of England character.

19. I asked the school for further information on its budget forecasts as the request for a variation had emphasised financial challenges if the PAN were maintained at 45. The school appears to set great store at using the classroom which would become available as a pre-school to be run by the school. The school sees this as an opportunity to increase its income and to fund repairs to the roof and heating systems. I asked the local authority and the school to comment on the tension between the school being willing to take more children if there were to be sufficient demand and using one of the classrooms for a pre-school provision thus reducing the number of classrooms available for children being admitted to YR. The local authority did not comment. The school said,

“The benefits of being able to bring pre-school provision ‘in house’ are large. We would be in a more stable financial position and more able to meet the growing need of the area. As a voluntary aided school we need to find 10% of any building costs which is currently impossible. To make the school fit for education (including roof repair) would need a significantly more stable financial position. The school’s ongoing admissions for reception would also benefit from having a stable intake of pre-school children. The present pre-school will need to move from their building and, if they were to move away, would mean that our numbers could drop even further.”

20. The school also said,

“We are aware that [using classrooms for pre-school provision] could create some tension in future years should demand increase but information from the local authority suggests that this is unlikely. Furthermore, it could be met from the local area. In addition, we have extensive grounds and should demand increase again in the future we could make use of support from the diocese to provide additional classrooms on site.”

21. I studied the financial figures provided to me and the class organisation. The school has not said that YR must be taught as a single year group but its request does appear to make this assumption as it says,

“if we are not able to change our P.A.N. for this year (for the September 25 cohort) and we end up with more than 30 pupils and therefore two classes in reception we will not be able to bring the pre-school into the building as there will be no capacity. This will delay the project another year in which time the deficit will increase significantly.”

22. It is unusual for a governing body to seek to balance its budget by increasing income rather than looking to the reductions in staffing which can come with a lower PAN. Based on the proposals for the ten classes for September 2024, where no class is smaller than 24 and most are nearer 30, this looks like a sustainable model as the school is not yet in deficit. The school, however, has provided figures which show that in the 2024 academic year there will be an in-year shortfall of £215,225 and an overall deficit by the year end of £182,919. For the academic year starting 2025, the school forecasts an overall deficit of over half a million pounds.

23. I have found the financial figures provided opaque, even though I requested clarification. I can see, however, that admitting just over 30 children makes class organisation challenging and financially difficult. I have also taken into consideration that this request is for admissions in 2025. This means that parents would know the PAN for 2025 long before they need to make their application. On balance therefore I find that the variation is justified by the circumstances and approve the proposed variation.

## Consideration of the arrangements

24. 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 body. Paragraph 14 of the Code requires that the practices and the criteria used to decide the allocation of school places are clear and paragraph 1.8 of the Code requires that oversubscription criteria are clear.

### Lack of clarity in sixth oversubscription criterion

25. The sixth oversubscription criterion is, “Other children with preference to those attending St John’s pre-school.” It is not clear what the term, ‘with preference’ means. The criterion is therefore unclear and does not meet the requirements of paragraph 1.8 of the Code.

## Where parents have shared responsibility for a child

26. Paragraph 1.13 of the Code says,

“Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the ‘home’ address will be determined and the point(s) in the school or nodal points from which all distances will be measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.”

27. The arrangements say, “Where the parents live at different addresses, the current-at-the-time-of-application, normal address of the child will be the one used. This will normally be the one where the child wakes up for the majority of Monday to Friday mornings.” This does not make it clear what address will be used when parents share care of the child equally. This part of the arrangements therefore does not meet the requirements of paragraphs 14 and 1.13 of the Code.

## Information on admission and reaching compulsory school age

28. Paragraph 2.17 of the Code says:

“Admission authorities **must** provide for the admission of all children in the September following their fourth birthday. The authority **must** make it clear in their arrangements that where they have offered a child a place at a school:

a) that child is entitled to a full-time place in the September following their fourth birthday;

b) 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; and

c) where the parents wish, children may attend part-time until later in the school year but not beyond the point at which they reach compulsory school age.”

29. The arrangements say,

“Children are eligible for a reception place from the beginning of the school year in which they become 5 years old. However, they do not become of compulsory school age until the start of the term after their fifth birthday. After a place has been allocated and accepted parents can request that the school place be deferred until later in the school year and if they do this the place will be held for the child. They cannot however defer entry beyond the beginning of the term after the child’s fifth birthday, nor beyond the school year for which the original application was accepted. Parents can also request that their child attends on a part time basis until the child reaches compulsory school age.” I have added underlining for emphasis.

30. The use of the term ‘request’ implies that deferred admission is something that has to be asked for and may therefore be refused. Deferred admission is a right. It is, of course, helpful if the matter is discussed with the school so all can plan how it will work in practice. Arrangements must not, however, imply that the school can refuse what is a parent’s right to defer attendance until the child attains compulsory school age or refuse for the child to attend part time until he or she reaches compulsory school age. This part of the arrangements does not comply with paragraphs 14 and 2.17.

### **Admission of summer born children**

31. Paragraph 2.18 of the Code says

“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 their admission arrangements the process for requesting admission out of the normal age group.”

32. The arrangements say, “*Parents of summer born children (those born between 1st April and 31st August) who wish to delay entry until the following year must speak to the school and Local Authority as soon as possible.*” This part of the arrangements does not “make clear in their admission arrangements the process for requesting admission out of the normal age group” as required by the Code, and therefore does not comply with paragraph 2.28 of the Code.

### **Supplementary information form**

33. Paragraph 2.4 of the Code says,

“In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they **must** only use supplementary forms that request additional information when it has a direct bearing



on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability.”

34. The supplementary information form for the school asks for the gender of the child. It is not necessary to have this personal information in order to apply the oversubscription criteria. The form also asks for the child’s Christian name; the child may not have a Christian name so this is inappropriate. I know the school has a Church of England religious character, which is Christian. However, parents of children of every faith or none may apply for a place. This part of the arrangements asks for unnecessary personal information and therefore does not comply with paragraph 2.4 of the Code.

### **Governing body action**

35. The governing body has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the governing body 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**

36. 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 body for St John the Evangelist Church of England Primary School for September 2025.

37. I determine that the published admission number be 30.

38. 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.

39. 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: 15 August 2024

Signed:

Schools adjudicator: Deborah Pritchard