



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2455

Admission authority: The governing body of St Mary's C of E Primary School, Sale

Date of decision: 04 September 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 body for St Mary's C of E Primary School in Sale for September 2025.

I determine that the published admission number (PAN) shall be 30. I also determine that the oversubscription criteria will be revised as set out in this determination.

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 Mary's C of E Primary School, Sale (the school) has referred a proposal for variations to the admission arrangements for September 2025 (the arrangements) for the school to the adjudicator. The school is a voluntary aided school for children aged 3 to 11 in Sale. The local authority for the school is Trafford. The school has a Church of England character and the Diocese of Chester is the faith body for the school.

2. The proposed variations are:

a) that the PAN be reduced from 35 to 30 for September 2025; and

- b) that the oversubscription criteria be amended to give higher priority to those children living closest to the school.

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 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 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.

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

- a. the referral from the governing body dated 24 July 2024, supporting documents and further information provided at my request;
- b. the determined arrangements for 2025 and the proposed variations to those arrangements;
- c. comments on the proposed variations from the school, local authority and faith body;
- d. a map showing the location of the school and other relevant schools; and

- e. information available on the websites of the school, local authority and the Department for Education including 'Get Information About Schools' (GIAS).

The proposed variation

7. The governing body of the school has requested:
 - a) that the PAN for September 2025 be reduced from 35 to 30; and
 - b) that there be a “change to the oversubscription criteria to emphasise distance from the school. The Diocese and Church of England would consider this better aligns with the school’s mission to serve the parish.”
8. 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

9. 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 and other types of variation 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 variation is properly scrutinised. I note here that the arrangements for September 2026 have not yet been determined, and so if the proposed variation for 2025/26 were to be approved, the PAN for 2026/27 could be set at 30 by the governing body without objection.
10. The major change in circumstances relied upon by the governing body is set out in the referral, which states:

“A reduction in provision of school places in several schools in Trafford will be consulted on in the autumn term as part of the determination of the admission arrangements for 2026, across different types of schools in the area. The local authority is working collaboratively with governing bodies, diocese [s] and academy trusts in its area to codesign the approach. The required reduction is driven by the reducing birth rate and changes in levels of inbound migration which has always been a significant factor in pupil place planning in this area. In recent months, Trafford has started to see a significant reduction of inbound migration, linked to cost of living factors, with outbound migration between birth and age four seen in some areas for the first time. This same issue is being experienced in other local authorities in the region who share similar demographics, with cost-of-living factors driving out-migration from more affluent boroughs.

Due to the accelerated rate of change, there is now an overprovision of school places in reception year which is impacting school budgets and the future demand for places in our planning area is expected to decrease further.

Changes to central funding to support schools with unusual PANs is being reduced/removed.”

11. I have accordingly given careful consideration to the latest available data in order to form a view about the sufficiency of school places in the local area if the PAN is reduced from 35 to 30 for 2025/26 and beyond. I have also considered the demand for places at the school, the reasons given for the change in demand, the potential effect on parental preference and whether the proposed variation is justified taking into account all relevant circumstances.

12. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical areas each containing a number of schools, for this purpose. The school is one of eight schools admitting children to YR in the Sale West Planning Area, and the governing body has provided me with data to show the numbers of pupils admitted to these schools over the last three years, together with forecasts for 2025/26 and 2026/27.

13. Table 1: Number of children admitted to schools in the planning area

	2022/23	2023/24	2024/25 (allocated)	2025/26 (forecast)	2026/27 (forecast)
All Saints Catholic Primary School	27	28	18	17	17
Firs Primary School	50	48	60	56	58 (planning to reduce PAN from 90 to 60 for 2026)
Park Primary School, Sale	60	60	60	56	58
St Margaret Ward RC Primary School	22	30	24	22	23
St Mary's CE Primary School, Sale	34	35	26	24	25

Tyntesfield Primary School	60	58	57	53	55
Wellfield Infant School	62	59	53	49	51
Woodheys Primary School	50	53	41	38	40
TOTAL number of children admitted to YR	365	371	339	315	327
Sum of PANs for YR	425	425	425	425	425
Vacant places	60	54	86	110	98
if proposed variation is approved (and the PAN for the Firs is also reduced) and PAN is also set at 30 for 2026/27					
Sum of PANs for YR				390	390
Vacant places				75	63
Vacant places as a percentage				19.2	16.2

14. From the above data I am satisfied that a PAN of 30 for 2025/26 will still leave sufficient places in the planning area for those seeking a place in YR. If the proposed variation is agreed, it will be possible for the governing body to determine a PAN of 30 for the following year without consultation. I am also satisfied that a PAN of 30 for 2026 would not lead to a shortage of places in 2026/27, even taking into account the proposed reduction in PAN at the Firs Primary School for 2026 from 90 to 60.

15. I now turn to the number of children at the school and the reasons given by the school in support of the variation request. While the school was oversubscribed for first preferences in 2023, there were only 20 first preferences for 2024 with a total of 26 places allocated. The forecasts for 2025 and 2026 indicate that this lower number is likely to be replicated and this is consistent with the argument put forward by the governing body in its variation request. I, therefore, conclude that there is no clear evidence that a PAN of 30 will lead to any significant frustration of parental preference for the school in either 2025 or 2026.

16. The request for the variation refers to the governing body's wish to align its staffing and budget to the reducing number of children by creating a single form of entry as opposed to its current unusual vertical grouping of children across reception (YR), Year 1 (Y1) and Year 2 (Y2). The provisions of the School Admissions (Infant Class Size)

(England) Regulations 2012 (the infant class size regulations) apply to the school, and they 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.

17. The governing body says in its request:

“St Mary’s School has traditionally had a PAN of 35. Our school is currently vertically grouped in Reception, Year 1 and Year 2. The class structure and numbers are currently:

Class Reception – 27Rs

Class Reception/Year 1 – 8xRs, 14xYear1s

Class 1/2 – 10xYear 1s, 18xYear2s

Class 1/2 – 11xYear 1s, 17xYear2s

The school has in the past received additional funding via the LA’s local formula to support the additional staff to operate this unusual PAN. This funding is being significantly reduced from the financial year 24/25. When the National Funding Formula arrives this funding will disappear completely.

The request is being made in order that we can change our school organisation to a single form of entry to protect our financial viability. The PAN of 35 is no longer financially viable, especially when the demand for places is less than 30 and we are no longer receiving sufficient central funding to support our unusual PAN.

The school is facing a perfect storm of reduced admissions and decreased additional funding. This situation could not have been foreseen, otherwise the school would have used the usual consultation period. The quicker the changes can be made to the staffing structure, the less the negative financial impact on the school. This is why we are asking for these changes for 2025 rather than waiting for a consultation period.”

18. It is clear to me that the proposed reduction in PAN and proposed restructuring of classes to form a single form of entry at the school will address the financial problems that the school will otherwise face as a result of its unusual vertical structure and the reduction in funding to facilitate that structure. The change will enable the school to reduce the number of early years and key stage one classes from four to three and similarly to reduce the number of qualified teachers and support staff required.

19. After consideration of the factors above, and taking into account the relevant circumstances, I find that the variation is justified, and I approve it. The PAN for 2025/26 will be 30.

20. I will now consider the second element of the variation request, which is to change the school's oversubscription criteria for 2025 in order to give higher priority to those children living closest to the school.

21. The current oversubscription criteria are, in summary:

- Looked after and previously looked after children
- Siblings
- Church Association
- Open places determined by distance of the home address from the school

22. The proposed new order of oversubscription criteria is as follows:

- Looked after and previously looked after children
- Siblings
- Distance from the school
- Faith places

23. In its variation request, in relation to the proposal to change the oversubscription criteria, the governing body has stated that "the Diocese and Church of England would consider this better aligns with the school's mission to serve the parish."

24. The current oversubscription criterion 3, which gives priority for those with Church Association, is divided into four subsections. Initial priority is given under this criterion to those who worship regularly at St Mary Magdalene, Ashton-upon-Mersey, the local parish church and who live in the parish. The second priority is given to those worshippers at the parish church who live in neighbouring parishes and then expands further to include those worshipping at churches in adjacent parishes and finally to those living in adjacent parishes and worshipping at any church that is a member of 'Churches Together in Britain and Ireland.'

25. As the Church Association criterion is currently higher than the 'Open' criterion (criterion 4), which is essentially any other applicant based on distance, those living close to the school but not qualifying for consideration under the Church Association criterion, will be ranked lower than those who do qualify under this criterion. This is permitted by the Code under paragraph 1.36 which says that "Schools designated by the Secretary of State as having a religious character (commonly known as faith schools) may use faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed." Under the current oversubscription criteria, children living close to the school but not satisfying criterion 3, will have a lower chance of getting a place at their local, parish school.

26. Paragraph 1.38 of the Code states that “Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based admission arrangements, to the extent that the guidance complies with the mandatory provisions and guidelines of this Code.”

27. The governing body has stated in its request that the diocese and Church of England consider that the school’s arrangements would better align with the school’s mission to serve the parish if the proximity of the child’s home address to the school were to be a higher priority than the faith-based criterion. This will give those children living close to the school priority over those who may live further away but qualify for a place through the faith-based criterion.

28. As the proposed change to the oversubscription criteria is in line with the Code and the view of the faith body, I approve this element of the variation request.

Consideration of the arrangements

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

29.1. The arrangements refer on pages one and four to the requirement for applications to be submitted “by the date published in the Local Authority co-ordinated scheme” and by “the last date” respectively, without actually including that date (15 January in the year of admission). Paragraph 14 of the Code requires “that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.” To make this clear for parents, the arrangements should provide the date so that parents do not need to look elsewhere.

29.2. The arrangements do not contain a tie breaker as required by the Code at paragraph 1.8 which says that arrangements “**must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.”

29.3. The section titled ‘delayed entry for summer born children’ says:

“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 as this would involve either an in-year application for year 1 or a new application for reception in the following year. An application form should be filled in for the current admission process

at the same time as any request to defer entry. Parents will be informed of the outcome before primary national offer day.

If the request is agreed, the application for the normal age group may be withdrawn before a place is offered. If the request is refused, the parent must decide whether to accept the offer of a place for the normal age group, or to refuse it and make an in-year application for admission to year one for the September following the child's fifth birthday.

Parents should be aware that agreement by the school to allow a child to enter reception the following year does **not** guarantee a place in the class. Parents must apply to the school again the following year and the application will be considered in the normal manner following the oversubscription criteria."

The Code says at paragraphs 2.18:

"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."

The school's arrangements do not make any provision for admission outside the normal age group for any children except summer born children due to start in the September following their fourth birthday. This is not compliant with paragraph 2.18 of the Code above and must be revised.

Nor do the arrangements make clear whether the conversation with the school or local authority is actually the application process and what the application process is, including what information needs to be submitted to whom and by which date. This also fails to comply with paragraph 2.18 of the Code and must be addressed.

30. At the time of making this determination, I have not received any comment from the governing body in relation to the 881 matters that I raised with them previously. The arrangements will need to be revised, as permitted under paragraph 3.6 of the Code, within two months of the date of this determination.

Determination

31. 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 body for St Mary's C of E Primary School in Sale for September 2025.

32. I determine that the published admission number (PAN) shall be 30. I also determine that the oversubscription criteria will be revised as set out in this determination.

33. 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.

34. 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: 04/09/2024

Signed:

Schools adjudicator: Mrs Tess Gale