



Office of  
the Schools  
Adjudicator

## Determination

**Case references:** VAR2458

**Admission authority:** Isle of Wight Council for The Bay Church of England School, Sandown

**Date of decision:** 04 September 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 Isle of Wight Council for The Bay Church of England School for September 2024.

I determine that the published admission number for admissions to reception year in September 2024 shall be 30.

## The referral

1. The Isle of Wight Council (the local authority) has referred a proposal for a variation to the admission arrangements (the arrangements) for September 2024 for The Bay School (the school) to the adjudicator. The school is a voluntary controlled school for children aged four to sixteen in Sandown, Isle of Wight and the local authority is the admission authority for the school. The school has a Church of England religious character and the faith body is the Diocese of Portsmouth. The school's principal admission years are Reception (YR) and Year 7 (Y7). This variation request concerns admission into YR only.
2. The proposed variation is that the published admission number (PAN) be reduced from 60 to 30 for admissions to YR in September 2024.

## Jurisdiction and procedure

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

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

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

4. The local authority has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school’s governing body has been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am satisfied that the proposed variation is within my jurisdiction.
5. In considering this matter I have had regard to all relevant legislation, and the Code.
6. The information I have considered in reaching my decision includes:
  - a. the referral from the local authority dated 27 July 2024, supporting documents and subsequent correspondence;
  - b. the determined arrangements for 2024 and the proposed variation to those arrangements;
  - c. a response from the Diocese of Portsmouth; and
  - d. information available on the websites of the local authority, the school and the Department for Education (the DfE).

## **The proposed variation**

7. It is proposed to reduce the PAN from 60 to 30 for entry to YR in 2024.
8. The proposed variation has the support of the governing body.
9. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or varied, if there is a major change of circumstance or certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

## Consideration of proposed variation

10. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Clearly it is desirable that PAN reductions are made 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.

11. The response I received from the Diocese confirms that the Diocese is supportive of the proposed variation.

12. The major change in circumstances relied upon by the local authority is set out in the referral which states: “For the September 2024 admissions round the school offered 31 places for Year R children on the national notification day. The planning area of Sandown and Shanklin made a total of 166 offers, however there are 235 places available within that planning area currently. Based on these figures, there are sufficient places to accommodate the demand in the area. Admissions to Year R on the Isle of Wight have seen a significant decline in numbers during the last 4 years. Whilst at The Bay, we have seen intake above 50, however most primary schools have seen a steady decline in numbers allocated to each school. In totality, the number of children starting primary school across the Island has dropped from over 1300 in 2018 to a figure close to 920 in September 2024. We anticipate there will be further reductions, evidenced by data from the Health Authority (NHS Data 22 – 31st Aug 2022). The reduction in demand is leading to surplus Primary school places across most school place planning areas including the Bay area and South Wight. Currently the school has 31 children assigned to start the school in September, excluding any potential Educational Health Care Plan pupils. Our ‘planned’ financial modelling worked on the premise of 50 pupils joining at this time. We have identified an appropriate staffing model in order to manage the predicted number joining the school and the associated loss of funding in April 2025. The Published Admissions Number at The Bay CE School for September 2024 is currently 60. The school, supported by the Local Authority and Diocese, wish to reduce the PAN to 30 for September 2024 admissions into Year R. The reduction of the PAN to 30 will allow the school to operate a 13 class structure across the school for the academic year 2024-2025 This will protect the school from financial difficulties and will enable them to plan their staffing with certainty for the next academic year.”

13. The local authority has a duty to make sure that there are sufficient places for the children in its area. School place planning for the Isle of Wight is based on geographical planning areas. There are seven schools which admit pupils to YR in the planning area for the school. Over the last four years the total YR PAN for the planning area has remained at 235.

14. In September 2023, 200 of these 235 places were filled, resulting in a surplus of 35 places. 166 pupils have been offered places across the seven schools for 2024, showing an increased surplus of 69 places. Projections from the local authority for the 2025 and 2026

intakes show that it is expected that 164 and 160 places will be required respectively. (See table 1 below)

15. I have 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 for the school is reduced from 60 to 30 for 2024. 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 change is justified taking into account all relevant circumstances.

16. The local authority has provided me with data to show the numbers allocated to the seven schools following national offer day (16 April 2024) and the projected numbers for 2025 and 2026. These are shown in table 1.

**Table 1: School places in the planning area, allocations to YR for September 2022 to 2024, and projections for 2025 and 2026**

	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>
<b>Sum of PANs of schools in the planning area</b>	235	235	235	235	235 (assumed)
<b>Number of children admitted or projected to be offered a place</b>	200	200	171	164(projected)	160 (projected)
<b>Vacant places</b>	35	35	64	71	75
<b>Vacant places as a percentage</b>	14.9	14.9	27.2	30.2	31.9
<b>Sum of PANs if variation approved</b>			205		
<b>Vacant places if 2024</b>			34		

<b>variation approved</b>					
<b>Vacant places as a percentage if 2024 variation approved</b>			16.6		

17. From these figures it is clear that if the PAN reduction is agreed the percentage of surplus places in the planning area (16.6 per cent in 2024) is in excess of the DfE recommended limits. This variation covers the 2024 admissions only and the admission arrangements for 2025 have been determined and published and the PANs for that year set at a total of 235.

18. The local authority also provided admission data for the school. Close scrutiny of the figures shows that admission numbers at the school began to decline in 2022. I also note that the projected entry numbers for 2024 were significantly greater than the actual allocated places; the local authority predicted an intake at YR to the school in September 2024 of 46 and only 31 children have been offered a place.

19. I now turn to the number of children at the school and the reasons given by the school in support of the variation request. I note at this point that the allocation numbers for September 2024 are such that if I agree the variation, there should be no frustration of parental preference as long as the school admits all those allocated – currently reported as 31.

20. I am satisfied that the decline in numbers at the school justifies a request to vary the PAN. I remain concerned however about the actual numbers in the YR class for September 2024 in relation to the number of classes/teachers.

21. The request for the variation refers to the local authority's wish to align the school's staffing and budget to the reducing number of children. 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 schoolteacher, except in specific exceptional circumstances.

22. The school would like to organise YR into one class in September 2024 on the basis that this would facilitate staffing and financial planning for that year which would, in turn, support the significant budget deficit which is recorded by the local authority as £1.2million. With a PAN of 30 and if the number of non-excepted children admitted is 30 or fewer, then the school can make these arrangements but I must stress that although the school is permitted to admit numbers over the PAN and indeed must admit all those children who

have already been offered a place, the Infant Class Size Regulations do not permit over 30 non-excepted children to be taught by only one qualified teacher.

23. I asked the local authority how more than 30 children would be accommodated into the YR class and I received the following reply “The School has confirmed they have deployed an HLTA to support our Early Years Leader and Class LSA.” The local authority has confirmed that 31 children have been allocated places and this does not include the excepted children who have an Education Health Care Plan (EHCP) which names the school. The infant class size regulations specifically require that no infant class may contain more than 30 pupils while an ordinary teaching session is conducted by a single school teacher. A Higher Level Teaching Assistant (HTLA) and a Learning Support Assistant (LSA) do not constitute a qualified teacher. There must be a qualified teacher for each infant class and no infant class may contain more than 30 children unless the number over 30 are excepted children. This means that irrespective of the agreed variation if there are more than 30 non-excepted children admitted to YR in September 2024 then a second qualified teacher must be employed if those children are taught as a single class. The school will need to organise itself accordingly and employ a temporary teacher if necessary.

24. After consideration of all the factors above, I find that the variation is justified by the change in circumstances and I approve it. The PAN for 2024 will be 30.

## **Determination**

25. 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 Isle of Wight Council for The Bay School for September 2024.

26. I determine that the published admission number for admissions to reception year in September 2024 shall be 30.

Dated: 04/09/2024

Signed:

Schools adjudicator: Ann Talboys