



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2504

Admission authority: Bolton Metropolitan Borough Council for Mytham Primary School

Date of decision: 17 October 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 Bolton Metropolitan Borough Council for Mytham Primary School for September 2025.

I determine that the published admission number for 2025 shall be 30.

The referral

1. Bolton Metropolitan Borough Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2025 (the arrangements) for Mytham Primary School (the school) to the adjudicator. The school is a community school for children aged four to eleven in Bolton.
2. The proposed variation is that the published admission number (PAN) be reduced from 50 to 30.

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 also satisfied that the proposed variation is within my jurisdiction. In considering this matter 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 local authority received 27 September 2024, supporting documents and further information provided at my request;
- b. the determined arrangements for 2025 and the proposed variation to those arrangements;
- c. comments on the proposed variation from the governing body and further information provided at my request;
- d. maps showing the location of the school and other relevant schools in the local authority’s area; and
- e. information available on the websites of the local authority, the school and the Department for Education (DfE). The information provided on the website for the DfE includes ‘Get information about schools’ (GIAS) and ‘Compare school and college performance in England’ (the DfE website).

The proposed variation

5. The local authority said that the number of children in the area of the school had decreased and there were surplus places, which the school was finding particularly challenging with a PAN of 50. This was because the reduced numbers in applications were leading to smaller class sizes than were economically viable and the school was at risk of a financial deficit. The local authority, with the full support of the governing body, wishes to reduce the PAN to 30 for 2025 with the intention of consulting on setting the PAN at 30 for 2026.

6. 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

7. 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.

8. The PAN for 2026 has not yet been set. Therefore, if I agree that the PAN for 2025 shall be 30, then the PAN could be 30 for 2026 and following years without consultation. Although the local authority has said that it will consult on the 2026 arrangements, since this is not strictly a requirement, I have considered the evidence for the proposed PAN reduction for 2025 in detail.

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. I will begin by exploring the geographical context and the information available relating to the demand for places at the school. GIAS describes the school as being in an “urban major conurbation”. The DfE website shows over 60 primary schools within three miles of the school and five within one mile of the school. 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 (Area 4) in the south east corner of the local authority’s area. The school is in Little Lever, described by the local authority as “a distinct area situated on the border with Bury, that is somewhat detached from the other parts of Area 4.”

10. In Area 4, there are 20 primary schools with five in a subgroup called Little Lever, eleven in a subgroup called Farnworth and four in a subgroup called Kearsley. The Little Lever subgroup includes the school. The furthest of the other four schools in Little Lever is just over half a mile from the school, according to the DfE website, which measures distances in straight lines.

11. Also according to the DfE website, there are 18 primary schools within two miles of the school. There are the five within the Little Lever area, three within the Kearsley subgroup, eight within the Farnworth subgroup, six in other parts of Bolton and seven within the local authority area of Bury Council. Therefore, data provided on Area 4 cannot provide a comprehensive view of demand and supply for those children requiring a place in YR in 2025 and living in Little Lever. There is limited data on the potential for vacant places in schools in the area of Bury Council which borders Little Lever. The local authority said,

“These Bury schools have had vacancies in the last couple of years on primary school allocation day.”

12. I note that the DfE website states that the nearest primary school in Bury, at over a mile from the school, has 222 pupils and capacity for 410. This would support the local authority’s statement. Given the complexity of assessing the need for school places in the area, I have looked at the data in two ways initially. I have looked first at the data for Area 4 and then the data for the area of Little Lever. Table 1 provides a summary of the demand for places at the schools in Area 4 in recent years. The data for 2024 is as provided by the local authority on 27 September 2024. The position for the number of children admitted may be different to the number of children allocated places as the local authority will not yet have the census information for 2024 collected in October each year.

Table 1: numbers of school places and numbers of children admitted or allocated a place in YR in schools in Area 4 including Little Lever on 27 September 2024

	2022	2023	2024
Sum of PANs of schools in Area 4 for YR	735	735	735
Number of children admitted or allocated a place for 2024	653	636	684
Vacant places	82	99	51

13. Table 1 shows a reduction in the number of vacant places from previous years. The proportion of vacant places for the 2024 intake, based on available figures, is around seven per cent. Most local authorities seek to have around five per cent vacant places to give flexibility within the system, such as for children moving into the area.

Table 2: numbers of school places and numbers of children admitted or allocated a place in YR in schools in the area of Little Lever

	2022	2023	2024
Sum of PANs of schools in Little Lever for YR	150	150	150
Number of children admitted or allocated a place for 2024	117	132	126
Vacant places	33	18	24

14. Table 2, for Little Lever, provides a slightly different picture to table 1 as the existing proportions of vacant places are considerably above seven per cent, with 16 per cent vacant for 2024, but no clear pattern of reducing demand. I will now consider forecast

demand, which table 3 shows for Area 4 and the Little Lever area. I remain conscious that these forecasts do not include some of the nearest schools to Little Lever which are located in the local authority area of Bury Council.

Table 3: forecasts for the area

	Area 4 (including Little Lever)			Little Lever		
	Sum of PANs as set for 2025	Forecast demand	Forecast number of vacant places	Sum of PANs as set for 2025	Forecast demand	Forecast number of vacant places
2025	735	586	149	150	131	19
2026	735	577	158	150	119	31
2027	735	514	221	150	103	47

15. As there are 19 vacant places forecast for the Little Lever area for 2025, if I agree the PAN of 30 for 2025, which is a reduction of 20, there would be insufficient capacity forecast by one place. If the PAN for the school were to be at 30 for 2026, on which the local authority intends to consult, there would be 21 vacant places in Little Lever, or over nine per cent. My concern is for 2025.

16. There are 149 vacant places forecast for 2025 for Area 4 which is 20 per cent of the whole. Clearly if the PAN for the school were reduced by 20 places, making 715 places available in Area 4, then there would still be ample vacant places across the area. However, some of these schools are some distance from the school. The local authority said,

“The next nearest Bolton schools to Little Lever are in Farnworth and Great Lever and are within walking distance, as well as a number of schools that are a slightly further distance but easily accessible using public buses with a journey time of less than 30 minutes. Bolton operates a policy for reasonable school offers that would not expect a child of primary school age to travel more than 45 minutes to school, whether this be walking (up to 2 miles for reception aged pupils) or taking public transport (potentially over two miles – families are advised of transport support they can access) with the full journey from front door to school gate not taking more than 45 minutes.”

17. Parents prefer schools for all sorts of reasons, convenience, family links and reputation, for example. I note that the local authority said,

“The last child offered a place at Mytham Primary School for September 2024 was a Bury resident child who lived 3.436 miles from the school.”

18. Clearly some parents are willing to travel some distance but there must be good reasons to reduce the PAN for a school where this would mean that some local children cannot attend it when it is a very short distance from their home and have to travel further to another school. I therefore looked at the number of vacant places in 2024 for those schools for which the local authority has provided data and are within two miles of the school. There are 17 of these schools. The schools for which I do not have data are those schools outside of Area 4 or in the local authority area of Bury but I have decided that there is sufficient data to give an indication of whether there would be sufficient vacant places locally if the PAN were reduced to 30.

19. The sum of the PANs of the 17 schools is 585. The forecast for 2025 is that there is demand for 466 places which could lead to around 119 vacant places. If the PAN for the school were reduced to 30 from 50 then this figure would be reduced to 99. This would be about 18 per cent of the sum of the PANs and a generous margin. I therefore have some assurance that if the PAN were reduced to 30 for admissions in 2025 that there would be sufficient school places in the area within a reasonable distance.

20. I will now consider the demand for places at the school and the reasons why the governing body has supported the reduction in PAN. Table 4 summarises the admissions to the school and forecast demand.

Table 4 the number of children admitted to the school, allocated a place and forecast demand for the school

	2022	2023	2024	2025	2026
The PAN for the school	50	50	50	50	50
The number of first preferences	31	38	38	N/A	N/A
Number of children admitted to YR, and forecast demand for 2025 and 2026	31	42	45	38	35
Number of vacant places	19	8	5	12	15

21. Table 2 shows that the local authority anticipates that demand for the school will be over the proposed PAN of 30 in 2025 and 2026. In other words, if I agree the proposed variation then parental preference is likely to be frustrated.

22. My initial thoughts were that it would be more appropriate in these circumstances for the local authority to consult on the changes it sought for 2026. However, I asked the

governing body to provide its reasons for supporting the reduction in PAN and the implications if it did not.

23. A significant point raised was that the governing body would have asked the local authority to consult for the reduced PAN for 2025 except that the data provided forecast an increase in demand for 2025. This increase would not, apparently, have been unusual as in previous years children have been admitted above the PAN in order to meet demand and the school was prepared to do this again. It was therefore a shock to the school to be told recently that the local authority anticipated reduced demand, not increased demand. One result was that the opportunity to consult on the 2025 arrangements for a reduced PAN was missed.

24. A second factor is the school’s financial situation. The local authority said in its request that,

“The school had a deficit balance at 31.3.24 and is currently working on a repayment plan. The certainty of admission numbers for the future will significantly aid forward planning.”

25. The school provided information on its financial situation and explained that its plan to address the financial deficit was contingent on the PAN for 2025 being 30. This was set in the context of year groups of different sizes over the last few years. The current class structure and year numbers are set out in table 5 below.

Table 5: current class structure

	Number of children	Class structure
YR	45	2 classes YR: 22 & 23
Year 1	37	1 class Y1: 21
Year 2	30	1 class Y1&Y2 24 1 class Y2: 22
Year 3	40	1 class Y3 29
Year 4	50	1 class Y3&Y4: 31 1 class Y4: 30
Year 5	51	1 class Y5: 34
Year 6	49	1 class Y5&Y6: 33 1 class Y6: 33

26. Table 5 illustrates the balancing act being undertaken by the school with varying sized year groups, including managing in year admissions at times. 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. The infant class size regulations apply to YR, year 1 (Y1) and year 2 (Y2).

27. Key stage 2, years 3 to 6, are not affected in this way. This is why the school can combine years 5 and 6 to have three classes, all above 30 where the total number of pupils in the two year groups is 100. However, for years 1 and 2, where the total number of children is 67, the school has provided three classes in order to meet the infant class size regulations. Schools are largely funded by the number of children attending. This means that a class of around 30 children is financially beneficial but less so when there are classes of around 23, as seen for YR, Y1 and Y2.

28. Small classes can have educational benefits but the school explained that one implication is larger mixed year class sizes for the older year groups and few teaching assistants across the whole school. In addition, because the numbers vary year on year, the school said, "In order to respond to this unstable picture we have had to rearrange the class structure every year for the last 4 years." The school also said implications included,

- "Very complex timetabling arrangements. The afternoons in particular are structured around saving money.
- We have higher level teaching assistants delivering afternoon curriculum for foundation subjects
- Limited spending on training other than statutory
- No funding for major works e.g. the desperately needed re-surfacing and developing the playground
- Subject leader release time has been cut and some subjects have had no funding for resourcing this year
- Lack of educational resources
- We have a large and increasing number of special educational needs and disability pupils. Currently 11 have education, health and care plans and many more requiring 1-1 support. The large, complex classes are not conducive to meeting their needs- particularly for those with neuro diversity disabilities...

- We have difficult conversations every summer with parents who are disappointed that their child is in a mixed year group class. The simpler structure [with a PAN of 30 meaning one class per year group] will take away the challenges every summer when we have to make careful decisions about how to group children.”

29. The school had a deficit of £13,000 at the end of the 2023-24 financial year. This deficit is forecast to increase to £133,000 for the 2024-25 financial year if the PAN remains at 50 for 2025. If the PAN were to be reduced to 30 for 2025, then the deficit is forecast to be £51,000 for the 2024-25 financial year with the deficit addressed for the 2025-26 financial year.

30. I have weighed these matters carefully. The evidence shows that if the PAN were reduced to 30 for 2025 then the preferences of the parents of around eight children would be frustrated. There would be sufficient school places within two miles for those families who are unable to secure places at the school, but these places are likely to be further away, depending on where the children live. Against this is the balance of the school’s situation with an existing financial deficit and the potential effects on teaching and learning at the school if the PAN is not reduced. A further factor is that the governing body would have asked the local authority to consult on reducing the PAN for 2025 if the forecasts of demand had been more accurate. The school has taken many measures to make the best of its situation but there are risks to the quality of teaching and learning as well as a clear and significant increase to the school’s financial deficit if the PAN is not reduced.

31. I also note that if the PAN is reduced at this point, then parents can be informed so that the PAN of the school is known when parents make their preferences before 15 January 2025, which is the closing date for making applications for places in primary schools in September 2025.

32. Taking all these factors into account, I have decided that the variation is justified by the circumstances and approve the proposed variation to reduce the PAN for 2025 to 30.

Determination

33. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Bolton Metropolitan Borough Council for Mytham Primary School for September 2025.

34. I determine that the published admission number for 2025 shall be 30.

Dated: 17 October 2024

Signed:

Schools adjudicator: Deborah Pritchard