



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2463

**Admission authority:** The London Borough of Lewisham for Forster Park Primary School

**Date of decision:** 22 October 2024

## Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lewisham for Forster Park Primary School for September 2024.

## The referral

1. The London Borough of Lewisham (the local authority) has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) for Forster Park Primary School (the school) to the adjudicator. The school is a community school for children aged 4 to 11 in Lewisham.
2. The proposed variation is to reduce the published admission number (PAN) from 60 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.
5. On the application form the local authority also requested the same variation to the admission arrangements for September 2023. The arrangements for September 2023, became defunct when the arrangements for September 2024 came into operation. The PAN set for September 2023 no longer has any bearing on the admission of children to the school.
6. In considering this matter 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 local authority dated 18 June 2024, supporting documents and further information provided at my request;
  - b. the determined arrangements for 2024 and the proposed variation to those arrangements;
  - c. comments on the proposed variation from the school;
  - 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).

## The proposed variation

8. The proposed variation is to reduce the PAN from 60 to 30. At the same time as submitting the application for this variation, the local authority submitted an application to reduce the PAN for 2024 from 60 to 30 of another school, Rangefield Primary School, which is just over one mile away and in the same school place planning area. The two schools are federated and share a head teacher and 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. Once the PAN has been set for a particular year then no body, except the governing board 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.

11. In the application, the local authority said that the major change in circumstances requiring this variation was “Falling rolls in and around the London Borough of Lewisham that are impacting a few less popular schools very hard resulting in difficulties to plan and deliver high quality education to small intakes of pupils. We will also be seeking to make permanent this requested reduction via our Determined Admissions Arrangements consultation and decision over the coming months.” I have noted that determined admission arrangements for 2025 are published on the local authority’s website and these include a PAN of 60 for the school. If I approve the proposed reduction in PAN for 2024, it does not alter the PAN determined by the local authority for 2025, nor does it change the local authority’s duty to set a PAN for the school for 2026 which if lower than that for 2025 would require prior consultation as explained in paragraph 1.3 of the Code.

12. The problems which the local authority say have been caused by this change in circumstances are “Reduced funding resulting in reduced resource and a deficit position of the school – which will then impact on teaching and learning and could result in further pressure on school sustainability.”

13. The local authority said that the proposed variation “will provide surety in terms of numbers and allow for the school to effectively re-organise to enable prudent financial planning. It will also reduce the churn in pupils at the school and will allow neighbouring schools with vacancies to potentially be more full.”

14. The school is one of 14 primary schools in a planning area. The total number of places available across the planning area in the reception year group established in September 2024 is 960, the same as in the previous three years. The number of children offered places in these years is shown in the following table.

Year	2021	2022	2023	2024
Number of children admitted	835	873	821	826

15. There have clearly been more places available in the planning area than required for some time and the number of places offered for September 2024 is similar to previous years. It is, therefore, difficult to see a major change in circumstances since the PAN was set at 60 in February 2023. In the 14 schools in the planning area, places remained available at 11 when places were initially offered for September 2024.

16. I asked the school for information about the number of children currently on roll and how they are organised into classes. I was told that on 1 September 2024 there were 303 children on roll as shown in the following table. The school has a capacity of 420.

Year Group	R	1	2	3	4	5	6
Number on roll	41	28	47	54	36	48	49

17. These children are currently organised into 11 classes as follows.

Year groups in class	Number in class	Distribution of year groups within class
Reception	28	All Reception
Reception and Year 1	28	13 Reception and 15 Year 1
Year 1 and Year 2	30	13 Year 1 and 17 Year 2
Year 2	30	All Year 2
Year 3	27	All Year 3
Year 3	27	All Year 3
Year 4	27	All Year 4
Year 4 and Year 5	28	9 Year 4 and 19 Year 5
Year 5	29	All Year 5
Year 6	26	All Year 6
Year 6	23	All Year 6

18. This gives an average class size of 27.5, slightly above the national average for primary schools of 26.6 (Schools, pupils and their characteristics, DfE 2024). The local authority said that the proposed variation was to allow the school to reorganise to address financial difficulties that it was facing. Staffing costs form the largest proportion of school

spending and so I was surprised to see that a school with class sizes larger than average had financial problems. I looked at the most recent financial benchmarking data published by the DfE and, in 2022-2023, total expenditure at the school per pupil was £12,200 of which staff costs were £8,961. This was the highest on the list of similar schools; the total expenditure for the next school on the list of similar schools was £8,342 per pupil. It may be that in the 2022-23 year, class sizes were smaller than they are today, or there may have been other factors which led to such high spending in that particular year. Historical figures in the benchmarking data show that the 2022-23 expenditure figure on staffing was nearly 40 per cent larger than it was the previous year. A full analysis of the school's financial position is not for me to undertake, but I must consider whether the proposed reduction in PAN is necessary for the school to organise its classes in an affordable way as claimed by the local authority.

18. I also asked the school how the organisation of the school would change if I approved the reduction in the PAN and when that change would take place. In response, the school said that it experiences fluctuations in its population as children leave for other schools both locally and farther afield. It said "In Forster Park last year, we had 30 children enter our Reception and we now have 28 in Year 1, we actually lost 4 children from this cohort last year for the same reasons as above [children leaving to attend schools farther away]. Although we have a local cap on our Year 1 and Reception year groups for the current year, as it is a local cap, parental preference goes above the cap within the local authority admission criteria." The school continued "if the PAN is changed for our Current Reception and Year 1 children, as we lose children, we will not be replacing them. It was our intention to have a one form entry in Reception this academic year. At the end of the admissions round for 24/25, we had 33 children registered for Forster Park. We now have 41 and this was with a local cap in place and not being able to send children to a neighbouring school as Forster Park was their preference on their admissions forms."

19. The school did not set out any change to the organisation to its classes which this proposed reduction in PAN would allow. Nor when it might bring into effect any such change which would assist its financial position. Financial difficulties were the basis for the application to reduce the PAN for 2024 put forward by the local authority. The school appears to be relying on children leaving and not being replaced to solve its financial problems. It seems counter intuitive to me that when the current organisation of classes could accommodate a few additional children in reception, who would bring additional funding with them, the school wishes to have the ability to refuse admission to those children, reducing its potential funding, without plans to reduce the number of classes and consequently costs.

20. I find the school's statement concerning because it appears to display a misunderstanding of the law which governs school admissions. Section 86 of the Act deals with parental preferences saying that "the admission authority for a maintained school shall comply with any preference expressed". It continues to say that this duty does not apply "if compliance with the preference would prejudice the provision of efficient education or the

efficient use of resources.” The next relevant provision is “prejudice of the kind referred to ... may arise by reason of measures required to be taken in order to ensure compliance with the duty imposed ... to comply with limit on infant class sizes.” However, section 86 then says, “No prejudice shall be taken to arise ... from the admission to a maintained school in a school year of a number of pupils in a relevant age group which does not exceed the number determined ... as the number of pupils in that age group that it is intended to admit to the school in that year.” There are some exceptions for selective and boarding schools which are not relevant here.

21. In summary, the only ground for refusing to admit a child to the school is prejudice to the provision of efficient education or the efficient use of resources. Such prejudice could be because admitting the child would require measures to be taken to comply with infant class size limits, but no prejudice can be claimed if the application is for a place in reception and the PAN has not been reached.

22. The normal admission round for 2024 is over and so any admission to existing year groups in the school between now and August 2024 will be in-year admissions as defined in footnote 54 to paragraph 2.23 of the Code. Applications for places in the reception year cannot be refused until the PAN is reached, there can be no “local cap” as described by the school for this year group. PANs do not exist for other year groups, but admission authorities can decide how many children it would be possible to admit into year groups which are not the relevant age group (reception year) before the admission creates prejudice. These limits could be referred to as a “local cap”. In all cases, parents can still challenge the decision to refuse admission on the grounds of prejudice through the independent admission appeal process. This is the case even if for the relevant age group the PAN has been reached. The admission authority must be able to explain how prejudice occurs.

23. Reducing the PAN to 30 would allow the admission authority to refuse admission to the reception year at the school. However, a parent could still appeal such a decision. With the current organisation of classes, it would be difficult for the admission authority to argue that admitting one, two, three or even four (depending on any admissions to Year 1) children into the reception year would create any prejudice, even though the year group was above the proposed PAN of 30, as they could be placed in classes containing reception aged children without breaching the class size limit.

24. Even if it was possible to produce an argument to defend a PAN of 30 at an independent appeal hearing, with 41 children on roll in the reception year group, it is unlikely that 11 children will leave during the remainder of the school year. The school told me that the total number of children who left the school in the last school year was 43, just over six per year group with a range of four to nine.

25. In the absence of any indication from the school or local authority as to how reducing the PAN for 2024 to 30 would allow financial savings to be made through reorganising classes, I have tried to think of alternative patterns of organisation myself. I cannot see any

way in which reducing the PAN to 30 at this time would allow a different organisation of classes for the current school year.

26. I can conceive of ways in which a reduced PAN for 2024 now, not necessarily to 30, could be part of a long-term transition for the school. For example, a PAN of 45 supports a long-term organisation of 11 classes and if the intake in 2025 was similar to that in 2024 just 10 classes may be needed next year. However, no such strategy has been put before me and the lack of any proposal to change the PAN set for 2025 suggests no such thinking has taken place.

27. Had I been presented with a strategy which justified a reduced PAN for 2024 on financial grounds, I would have continued to look at the effect of reducing the PAN on the number of parental preferences that could be met. In doing so I would have balanced this with the advantages to children in the school of a different organisation arising from the reduced PAN. However, I do not need to undertake this exercise because I have not been presented with any proposed course of action to address financial difficulties at the school which is dependent on reducing the PAN for 2024 from 60 to 30. I therefore do not find the proposed reduction of the PAN from 60 to 30 is justified.

## Determination

28. In accordance with section 88E of the School Standards and Framework Act 1998, I do not approve the proposed variation to the admission arrangements determined by the London Borough of Lewisham for Forster Park Primary School for September 2024.

Dated: 22 October 2024

Signed:

Schools adjudicator: Phil Whiffing