



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2510

Admission authority: Buckinghamshire Council for Marsh School, High Wycombe

Date of decision: 4 December 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 Buckinghamshire Council for Marsh School for September 2025.

I determine that the published admission number shall be 30.

I have also considered the arrangements for the community and voluntary schools 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 for all community and voluntary controlled schools within two months of the date of the determination.

The referral

- 1. Buckinghamshire Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2025 (the arrangements) for Marsh School (the school) to the adjudicator. The school is a community school for children aged three to seven in High Wycombe.**
- 2. The proposed variation is that the published admission number (PAN) be reduced from 60 to 30 for admissions 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 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. 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 local authority dated 1 November 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 by the governing body for the school and further information provided at my request including budgetary figures;
- d. a map showing the location of the school and other relevant schools; and
- e. information available on the websites of the local authority, the school and the Department for Education (the DfE) including information available on the DfE websites, ‘Get information about schools’ (GIAS) and ‘Compare school and college performance in England’ (the DfE website).

The proposed variation

6. The local authority wishes to reduce the PAN to 30, a reduction supported by the governing body, for 2025, in order to address a financial deficit. The local authority quoted the school in its request for the variation, which said,

“Marsh has had a significant drop in admissions to reception, with too many pupils for one class and not enough to make two classes financially viable. Despite the school making structural changes and not replacing staff who leave, the spaces in classes has (sic) led to financial difficulty. We have a budget deficit of £95,718 with a further deficit forecast. Operating an unfulfilled PAN of 60 has meant we have small classes, and our staffing costs are inefficient.”

7. 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 reception year (YR), year 1 (Y1) and year 2 (Y2). Therefore, as an infant school, every class in the school is affected by the infant class size regulations.

8. As schools are largely funded based on the number of pupils on their rolls, it is more attractive 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.

9. GIAS describes the school as “Urban city and town”. The DfE website says that there are two other schools within one mile of the school, which admit children to YR. There are an additional 12 schools which admit children to YR within two miles of the school.

10. 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

11. 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. In this case the local authority has indicated that it intends to consult on reducing the PAN to 30 for 2026.

12. 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 use planning areas, geographical areas, in order to forecast the demand for school places against the provision of school places so that the local authority can meet its duty to make sure that there are sufficient school places for the children in its area. The school is in a planning area known as the High Wycombe Primary Planning Area (the planning area). There are 26 schools in the planning area and table 1 provides a summary of information on admissions in the planning area.

Table 1: demand for school places in the planning area

	2022	2023	2024
Sum of PANs of schools in the planning area for YR	1340	1310	1310
Number of children admitted	1208	1228	1126
Vacant places	132	82	184
Number of vacant places as a percentage	10%	6%	14%

13. If the PAN for the school had been 30 for admissions in 2024, there would have been 30 fewer places and the number of vacant places reduced to 154. This still would have been 12 per cent as a proportion of all available places which is high. The forecast demand for YR in 2025 for the planning area is for 1196 children, a higher figure than for 2024. If I agree the proposed variation there would be 1280 YR places for 2025 and so, taking the forecast for 2025 into account, 84 vacant places. This would mean there would be approaching seven per cent of all YR places vacant which is a reasonable proportion.

14. I am conscious that the planning area is a large one and that while there may be vacant places across the planning area, this does not necessarily make them local to the school. The school is located to the south east of High Wycombe. The local authority said,

“typically only 20-30% of children living in the Marsh catchment attend Marsh school (through parental choice) so we are only expecting 20--25 children from the catchment to attend the school in the next 3 years. The fall in population across High Wycombe means there will be surplus places in local schools to accommodate any children from out of catchment displaced from the school.”

15. I have looked at the map of schools and the data on admissions for schools in the area; this information supports the view that there are surplus places available at schools local to the school. I am therefore assured that if the PAN were to be reduced that there would be sufficient places to meet demand for children living locally.

16. I will now look at the situation for the school and why the governing body supports a reduction in PAN. Table 2 below shows the demand for the school and admissions in recent years.

Table 2: demand for the school and admissions

	2022	2023	2024
The PAN for the school	60	60	60
The number of first preferences	38	35	30
Number of children in YR for the October census or allocated for 2024	48	51	41
Number of vacant places	12	9	19

17. A first preference is the school a parent most wants their child to attend. The comparison of first preferences to admissions would appear to indicate that for admissions in 2022 and 2024, the school was the highest preference that could be met (in this area, parents can make up to six preferences), which is probably why the number of children at the school is higher than the number of first preferences. Previous patterns, including for 2024, indicate that parental preference will be frustrated if the PAN is reduced to 30 as more than 30 children have been admitted. I will consider if the potential frustration of parental preference is justified by the circumstances.

18. As described above, the school is one that is subject to the infant class size regulations in all years. The governing body explained that there are 146 pupils in the school and 23 children in the nursery. The current class structure is to combine all these children across six classes as follows:

- 10 YR pupils and 23 nursery children
- 30 YR pupils
- 24 Y1 pupils
- 25 Y1 pupils
- 28 Y2 pupils
- 29 Y2 pupils.

19. The classes are not very small compared to some schools, but the school has a financial deficit which must be addressed. This stood at around £96,000 at the end of the 2023 – 2024 financial year and is forecast to rise to around £171,000 by the end of the 2024 – 2025 financial year unless radical changes are made. There will be a variety of factors affecting the school. However, the shortfall is at least partly the result of the income from the number of pupils being less than the cost of providing their teaching staff.

20. In this situation, when the financial situation is at this point, it is important to take steps to address the financial deficit even though the steps potentially include some frustration of parental preference. I therefore find that proposed variation to the arrangements is justified by the circumstances and approve the variation so that the PAN for 2025 is 30.

Consideration of the arrangements

21. 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 local authority.

Looked after children

22. The arrangements correctly give looked after and previously looked after children first priority in the oversubscription criteria. Note 1 provides definitions and says,

“For admissions purposes a 'looked after child' or a child who was previously looked after but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order including those who appear [to the admission authority] to have been in state care outside of England and ceased to be in state care as a result of being adopted.”

23. This does not make sense as it confuses the definition of a looked after child with the definition of a previously looked after child and is therefore unclear. Paragraph 14 of the Code requires that the practices and the criteria used to decide the allocation of school places are clear. Paragraph 1.7 of the Code has footnotes which give clear definitions and parts of these are reflected in the arrangements but not as a coherent whole. Paragraph 1.8 of the Code requires that oversubscription criteria are clear. The arrangements are not clear and do not meet the requirements of paragraphs 14, 1.7 and 1.8 in this respect.

Oversubscription criteria

24. The arrangements say, “Once children with an EHCP (education, health and care plan) are admitted then the following rules are used” and the oversubscription criteria are then listed. Paragraph 1.6 of the Code says,

“The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied...”

25. The arrangements do not make these matters clear as it does not explain that these are oversubscription criteria which give priority in the order provided. Referring to ‘rules’ is not clear and does not meet the requirements of paragraphs 14 and 1.8 in this respect.

Children of school staff

26. On the published admission arrangements on the local authority’s website as provided to me by the local authority, note 3 says, “School staff includes” and no further text to complete this introductory phrase. There is then a separate paragraph defining “Demonstrable skill shortage.” The first paragraph of three words does not make sense and the local authority explained that a technical error had led to the paragraph being incomplete. Paragraph 1.39 of the Code defines when an admission authority may give

priority to children of staff at the school and paragraph 1.40 requires that admission authorities specify how this priority will be applied. The technical error means that the arrangements do not comply with paragraphs 14, 1.8 and 1.40 of the Code.

Use of 'proposed'

27. The arrangements refer to “proposed admission numbers” when these numbers have been determined and so are no longer proposed. This makes the arrangements unclear and not meet the requirement of paragraph 14 of the Code to be clear.

Abbreviations not explained

28. The section providing the admission numbers have initials by each school (I, J and C) with no definitions and so the meanings of the initials are unclear.

29. The local authority has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the local authority 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 and that these points apply to the admission arrangements for all schools for which the local authority is the admission authority.

Determination

30. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Buckinghamshire Council for Marsh School for September 2025.

31. I determine that the published admission number shall be 30.

32. I have also considered the arrangements for the community and voluntary schools 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.

33. 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 for all community and voluntary controlled schools within two months of the date of the determination.

Dated: 4 December 2024

Signed:

Schools adjudicator: Deborah Pritchard