



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR2525 Wateringbury Church of England Primary School, Maidstone, Kent

**Admission authority:** The Governing Body for the School

**Date of decision:** 12 March 2025

## 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 Governing Body for Wateringbury Church of England VA Primary School for September 2025.

I determine that the Year R PAN for admissions in 2025 shall remain at 30.

## The referral

1. The governing body for Wateringbury Church of England Primary School (Wateringbury, the school) has referred a proposal for a variation 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 4 to 11 in Maidstone, Kent. The school's religious character is Church of England, and its faith body is the Diocese of Rochester.

2. The proposed variation is that the PAN for Year R admissions in 2025 be reduced from 30 to 15.

## 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. Although it did not do so initially, the governing body has now provided me with confirmation that the appropriate bodies have been notified. I find that the appropriate procedures were followed, and I am also 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 governing body dated 13 January 2025, supporting documents and further information provided at my request;
- b. the determined arrangements for 2025 and the proposed variation to those arrangements;
- c. evidence of the determination of the arrangements for 2025 on 2 October 2023;
- d. comments on the proposed variation from the local authority and the school’s faith body;
- e. information available on the websites of the local authority, the school and the Department for Education.

## The proposed variation

7. The school’s governing body have proposed that the PAN for Year R for 2025 be reduced from the figure of 30, which was set when then arrangements were determined, to 15. The school’s faith body has expressed its support for the proposed variation, referring to the decline in admissions at the school and its financial consequences.

8. Paragraph 3.6 of the Code (quoted 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.

## 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. 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.

10. I was informed on 24 February 2025 that the governing body had determined the admission arrangements for the school for 2026 and I was given evidence of that determination in the form of draft minutes of a meeting of the governing body which had taken place on that same day. A PAN of 15 has been determined for 2026 following a consultation which had been undertaken and concerning which the school has provided me with the details. I am not concerned here with the 2026 arrangements other than to note that the PAN has been set at 15 and that this appears to have taken place in accordance with the relevant requirements. This does mean however that my consideration of the requested variation for 2025 need only have regard to the immediate circumstances which are relevant to it, and need not have regard to the impact in future years since that matter is settled.

11. When the school informed me of the determination of the arrangements for 2026 it said:

“Because we will only have 15 in 2026, it is even more important to have 15 in September 2025 so they can be a class of 30 Year1/2s”.

It said that because infant classes are not permitted to contain more than 30 pupils with a single school teacher (as stated in paragraph 2.16 of the Code), if a number of children greater than 15 were to be admitted to the school’s Year R in September 2025, “we would have to carry small classes that wouldn’t be financially viable, or mix several year groups which wouldn’t work academically.” The school also provided me with its plan for reducing the number of classes over the next few years, which shows it moving from six classes currently to a final position of four classes in September 2029. I shall describe this in more detail below.

12. The school is part of the LA’s “Kings Hill” planning group of schools for the purpose of forecasting the need for pupil places. This consists of five primary schools for which the combined current Year R PAN is 240. The variation request form gave details of the numbers of the pupils which have been admitted to these schools in Year R in recent years and the current forecast of this figure for 2025 and 2026. The recent total Year R admissions and the relevant admission figures for the school have been:

<b>Year R admissions</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Planning group total PAN =240	219	216	215
School PAN=30	22	18	13 (now 14)

13. The forecast number of Year R admissions for the years 2025 and 2026 which was set out in the request form was:

<b>Forecast Year R admissions</b>	<b>2025</b>	<b>2026</b>
Planning group total PAN= 240 (225 if the variation is approved)	202	215
School PAN and proposed PAN = 15	21	20

14. As I have said, a PAN of 15 has been set for the school for 2026, and my concern here is the proposed variation to the PAN which has been determined for 2025.

15. Surprisingly, given that the above forecast of admissions in 2025 is higher than the school's requested PAN, it was necessary for me to ask both the LA and the school for the details of the children not likely to be offered a place if the variation were approved. This information had been requested via the request form but had not been provided.

16. I am grateful to the school for the careful response which it made, which said that a maximum of five children may not be offered a place were the 2025 PAN to be set at 15, and that there had been a total of 26 preferences expressed for a Year R place in 2025, of which 11 were first preferences and nine second preferences. The school also expressed the view that the figure of five pupils may ultimately not materialise, but that there were sufficient places at other schools in the planning group for any pupils who would be "displaced" as a result of its own lower PAN. The school gave me the distances from its own buildings to the other schools in the planning group. These range from 1.5 to 2.3 miles.

The school made the point that any “displaced” children may live nearer to an alternative school than the distances between the schools.

17. The forecast of Year R admissions for 2025 shows that there are likely to be 16 available Year R places at the other schools in the planning group, 11 of which would be at one school. This school is 1.5 miles from Wateringbury and, like it, is very near the geographical edge of the planning area. That being the case, it seems to me to be just as likely that any “displaced” children would live further from the alternative school than the 1.5 miles between the two schools, and therefore not necessarily nearer to it as the school suggested might be the case.

18. In view of the school’s response described above, and the fact that it had stated in correspondence that the LA was supportive of its requested variation, I asked the LA for its comments, and in particular its view concerning the expectation that up to five children who might otherwise secure a place at the school in 2025 would not be able to do so were the variation to be approved. Although this request was made on 10 February, unfortunately I did not receive the LA’s reply until 28 February.

19. The LA told me that it continued to support the requested variation but confirmed that its forecast “suggest (sic) that around 5 pupils may be displaced by the proposed reduction”. It said that school level forecasts “may have variability when compared to a planning group level forecast. Should 5 pupils be displaced, there will be sufficient places at other schools within the planning group and neighbouring planning groups.” It seems to me to be a matter of no more than simple logic that if a forecast has “variability” attached to it, then it is not possible to say whether a forecast figure will not be reached, or whether it will be exceeded. The assumption made by the LA is only that the figure might be lower than the forecast.

20. I had also asked the LA for its view about the effect of the proposed variation on the adequacy of Year R places in the King’s Hill planning group in future years, since the forecast of this which had been provided to me in the form submitted by the school showed no data beyond the 2026/27 school year. The LA did this, in the form of projected surplus Year R places at each of the five schools, as opposed to projected Year R admissions. Had it set out the forecasts in terms of the latter, these would have shown that the projected Year R admissions at the school remained at 20 for each year throughout the period 2027 to 2033. In other words, the long term forecast, with whatever level of uncertainty is attached to it, does not support there being no need for more than 15 places at the school going forward.

21. The LA also told me in this most recent correspondence that the latest forecast, which shows a lower level of total demand than that given in the form requesting the variation, “indicates that a surplus greater than 15 places is anticipated throughout the Plan period”. I understand this statement to be a reference to the difference between the school’s determined PAN for 2025 of 30 and the requested variation which would make it 15. The figures given to me showed that, across the planning group, there would be 40, or

slightly fewer, available Year R places throughout the period, but this was based on the existing, and not the requested PAN for the school.

22. Using the latter figure, there are forecast to be about 25 more places than the most recently predicted level of demand across the planning group. This equates to about 11 percent of the reduced total PAN of 225 if I approve the variation for 2025, and this will continue to be the position going forward given that the school has set a PAN of 15 for admissions in September 2026. That percentage would be a reasonable level of surplus local capacity in the area. The LA's forecasts are based on a static, or slightly reducing birthrate in the area, and so support the longer term picture it has provided.

23. Nevertheless, my concern here is the requested variation for September 2025. The school's plan (referred to above) for moving ultimately to having four classes shows that there are currently six classes, which is at odds with the statement made on the request form that there are currently seven classes. However, the plan is extremely clear and I understand that the reference to seven classes was as a result of a mistake when the school submitted the request form. The plan shows the school's intention to reduce the number of teaching groups as follows:

<b>School Year</b>	<b>Number of classes</b>	<b>YR class size included in plan</b>
<b>2024/5 (current)</b>	6	15
<b>2025/6</b>	5	30
<b>2026/7 to 2028/9</b>	5	15
<b>2029/30</b>	4	15

24. The plan uses the current (2024/2025) year group numbers which have resulted from previous admissions. These are:

Y6-31; Y5-17; Y4-19; Y3-21; Y2-30; Y1-19; YR-15.

The plan shows mixed-age group teaching currently involving the children in Years 5, 4 and 3 (who are taught in two classes). The school's intention, assuming that there are no more than 15 YR admissions in 2025, is to form a single class of 30 children for Year 1 and the new Year R, and so to reduce the number of taught classes in the school to five from September 2025. In future years, a single teaching group of 15 would be formed for the Year R intake, and 5 classes would be maintained until September 2029, at which point four classes would be needed.

25. The question I must address is whether, in the light of all the information about the school, the need for places locally and the expressed preferences for places at the school,

the requested variation should be approved. There is one further piece of information that I must bear in mind, and that is the issue of the school's finances. The school and the LA have said that there is a financial imperative which requires the school to be able to reduce the number of teaching classes from September 2025. As I said earlier, the school's view is that, if there were more than 15 Year R admissions in September 2025, this "would mean that we would have to carry small classes that wouldn't be financially viable or mix several year groups which wouldn't work academically."

26. While I am sure that the school would prefer to begin the process of reducing classes as soon as possible, I know of no requirement that classes have individually to be financially viable, which is what the school has said to me is part of its thinking. A school's finances must be considered as a whole, and in the context of more than one set of accounts, as this is how they are designed in order to enable them to be managed to the best benefit of the children the school is serving. As to academic considerations, it is without doubt possible for all children of primary school age (not just some, as the school has intimated) to be successfully taught in a mixed-age class, this being the norm in many parts of the country. The school itself, according to its plan, will be moving to such an arrangement (other than for year R) in due course, as I have said.

27. The school was informed that the adjudicator may take into account information about the school which is available on websites such as those maintained by the Department for Education. One such website is the GOV.UK "Schools Financial Benchmarking and Insights Tool" website, which shows the most recently available financial information for schools, that for 2023-2024. The school shows for that year an in-year revenue balance of £8,847 and a revenue reserve of £56,996. It also shows that the school's current per pupil expenditure on teaching staff is less than that of over 83 percent of similar schools, and not greater than the average. None of this argues for the necessity of immediate action concerning the number of teaching groups at the school.

28. If the variation is approved, there is a real possibility that a number of children who might otherwise be admitted and whose parents have expressed a preference for a place at the school will have that preference denied and might need to travel some distance to find an alternative, as I have set out above. If I do not approve a PAN of 15 for 2025, then by the same token more than this number may be admitted to the school. My own reading of the school's restructuring plan is that it would in this case still be possible to operate five classes in 2025/6 if, as the school has said, more mixed-age teaching is introduced at this point. Alternatively, since the school has made the decision to admit no more than 15 children to Year R in 2026, a revised restructuring could be started at that time. As far as I am able to tell, the school would be able to withstand the financial consequences of such a delay.

29. It has been a mainstay of education legislation for some time that parental preference as to where their child is education should be satisfied wherever possible, and the Code clearly supports that principle, for instance in paragraph 15 e) which says that local authorities must offer parents a place "at the highest preference school which is

available". Schools may also admit over their PAN (Code, paragraph 1.4), and no objection may be brought concerning an admission authority's decision to increase its PAN (Code, paragraph 3.3 b). I take all these provisions to be intended to support the principle of the need to satisfy parental preference wherever this is possible.

30. As far as the school is concerned, I have come to the view that it is able to continue to offer more than 15 Year R places in September 2025, and therefore to satisfy a number of expressed parental preferences that otherwise are likely to be denied if the PAN is reduced. As a result, I do not approve the requested variation.

## **Determination**

31. 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 Governing Body for Wateringbury Church of England VA Primary School for September 2025.

32. I determine that the Year R PAN for admissions in 2025 shall remain at 30.

Dated: 12 March 2025

Signed:

Schools adjudicator: Dr Bryan Slater