



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2534

Admission authority: The London Borough of Merton for Malmesbury Primary School

Date of decision: 13 March 2025

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 London Borough of Merton for Malmesbury Primary School for September 2025.

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

The referral

1. The London Borough of Merton (the local authority) has referred a proposal for a variation to the admission arrangements for September 2025 (the arrangements) for Malmesbury Primary School (the School) to the adjudicator. The School is a community school for children aged three to eleven. The proposed variation is that the published admission number (PAN) be reduced from 60 to 30 for admissions in September 2025.

Jurisdiction and procedure

2. 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”.

3. 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 and supports it. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.
4. 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 dated 6 February 2025, 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 for the School and further information provided at my request;
 - d. a map showing the location of the School and other relevant schools; and
 - e. information available on the websites of the local authority and the Department for Education (the DfE) including ‘Get information about schools (GIAS) and ‘Find and compare schools and colleges in England’ (the DfE website).

The proposed variation

5. The local authority explained in its referral that the School has surplus places in most years and that the number of children joining reception year (YR) is reducing both in the School and across the local authority’s area. The local authority has proposed that the PAN for the School is reduced from 60 to 30.
6. The local authority has made similar requests for variations for other community schools in its area and I am the adjudicator appointed to consider those requests. Each case is determined upon its specific situation and no case sets a precedent for another. In this instance, however, I am conscious that reducing the number of places in one area can have an effect on another and I will take this into consideration.
7. 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

8. 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. I note that the local authority has consulted on reducing the PAN to 30 for admissions in 2026 and has set the PAN for that year at 30. My decision will therefore only affect admissions in 2025.

9. I will first consider if there would be sufficient school places in the area if I were to agree the variation, then the demand for places at the school and then the reasons for the variation request. 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 that there are around 90 primary schools within three miles of the School which admit children to YR, and six within one mile.

10. Some of these schools will be in neighbouring local authority areas as the School is very close to the local authority boundary. The local authority contacted the London Borough of Sutton (Sutton), the border of which is very close to the School. Sutton expressed no concerns on meeting demand for the children from its area if the PAN for the School were to be reduced to 30.

11. The local authority also provided data on demand for places in YR for its whole area. These showed similar demand for admissions to YR for 2024 and 2025 and demand then reducing year on year for at least three years.

12. 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 planning area with three other schools which admit children to YR. Table 1 shows the sum of the PANs for the schools in the planning area which admit children to YR, the number of first preferences and the number of vacant places. A first preference is the school a parent most wants their child to attend and the number of first preferences across an area is a good indicator (though not the only indicator) of demand for places.

Table 1: demand for places in YR in the planning area

	2022	2023	2024	2025
Sum of PANs of schools in the relevant planning area for YR	210	210	210	210
Number of first preferences	198	170	153	139
Number of children admitted	204	170	168	N/A
Vacant places	6	40	42	N/A

13. Table 1 illustrates that there was not a significant difference between the number of first preferences and the number admitted across the planning area in 2022 and 2023. However, there was a larger difference in 2024 when the number of admissions was 15 higher than the number of first preferences. If, in 2025, there were to be a similar difference to 2024, then the number of admissions would be 154 and the number of vacant places would be 56. Therefore, if the PAN for the School were reduced by 30, the number of vacant places would be 26. Twenty-six vacant places would be over 14 per cent of the whole number of places in the planning area, a generous proportion. If the PAN for the School were to remain at 60, the proportion of vacant places would be around 27 per cent, over a quarter of all places.

14. The local authority also helpfully provided data on schools that are in other planning areas but near to the School (nearby schools). The evidence is that there is capacity within these schools to admit additional children as the sum of their PANs was 300 in 2024 and the number of children admitted was 228. One of these schools is Poplar Primary School (Poplar) and Poplar is also the subject of a proposed variation for 2025. I note that if I agree for the PAN for Poplar to be reduced by 30 (as per the variation request for Poplar) there would still be spare capacity in these nearby schools, based on the data for 2024. The number of first preferences for these nearby schools for 2025 is also 90 fewer than the 210 places available based on the sum of the PANs. I am therefore assured that if the PAN for the School were to be reduced to 30, and that the PAN for Poplar were also to be reduced by 30, there would still be sufficient capacity in the local area to meet the demand for places.

15. However, parents have already made their applications for 2025 in the knowledge that the PAN for the School was 60 and they could have some confidence about their child being admitted if they so wished. No child has been refused admission to the School in recent years. This is significant as families have made their preferences in the reasonable expectation that the PAN was 60 and that their child could secure a place if they so desired. There would need to be very good reasons to justify reducing the PAN at this juncture, after the closing date for applications. It is not good enough to say that there are sufficient places in other local schools as parental preference is important.

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	2025
The PAN for the school	60	60	60	60
The number of first preferences	53	39	43	32
Number of children in YR for the October census	58	38	43	N/A
Number of vacant places	2	22	17	N/A

17. Table 2 illustrates that the numbers in YR at the School have reduced since 2022 when the number of children admitted was close to the PAN of 60. The number of first preferences has remained over the proposed PAN of 30. It is therefore possible that if the PAN were to be reduced to 30, then there would be some frustration of parental preference. The local authority has provided an analysis of the preferences for 2025 in order to provide an indication of the effect of reducing the PAN, which the local authority describes as an impact assessment.

18. This impact assessment shows that any child who had a sibling at the School would be admitted if the PAN were reduced to 30. Four children whose parents put the School as a first preference would not be admitted and these children would be offered a place in a school nearer to their homes than the School. One child, whose parents put the School as a second preference, would be offered their fourth preference, again closer to their home. Parents make their preferences for schools for all sorts of reasons and their nearest school is not always the most convenient or desirable. In addition, a child for whom the School was a second or lower preference may have priority over a child for whom the school was a first preference. This is why the impact assessment indicates that about five families would be offered a place for their child at a lower preference school if I agree the variation.

19. The local authority also provided information on changes after offers had been made for 2024. This shows that five children for whom the School was a first preference in 2024 and who were offered a place, did not take up that place. The number of first preferences for 2025 was 32. This might mean, if the pattern for 2024 were repeated in 2025, and I agree the variation, that there may not be any frustration of parental preference for those for whom the School was their first preference. I recognise that other preferences are important and that parents would want their child to attend the highest preference that could be achieved but in my view the evidence produced by the local authority suggests that the impact of lowering the PAN to 30 may not affect many, if any, families.

20. The School provided information on its class organisation in response to my enquiries and this is summarised in table 3 below. All classes are single year groups except one class which combines pupils from YR and year 1(Y1). There are therefore three classes for YR and Y1 in total.

Table 3: number of children in classes by year group currently

	Number in year group	Number of children in classes	
YR	43	26	23 (17 YR and 8 Y1)
Year 1	35	27	
Year 2	57	27	30
Year 3	49	24	25
Year 4	59	29	30
Year 5	51	27	24
Year 6	52	26	26

21. The School is one subject to 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. It is more economical to provide classes that have 30 or close to 30 pupils. If the class size is significantly smaller, then the costs of providing the class can be higher than the income derived from the pupils. In other words, if a class has around 23 pupils, for example, then the costs of providing the class are higher than the income derived from the pupils within it. This can lead to financial deficit if not addressed.

22. The School has taken steps to reduce the risk of worsening its financial situation by having one class with both YR and Y1 children (a mixed aged class) and this has allowed it to create more economically sized classes. An alternative could have been two classes for the 35 pupils in Y1 and two classes for the 43 pupils in YR; this would have been a very expensive option. Mixed aged classes are used by many successful schools and have many merits. However, this could become complicated to manage year on year when the number of children joining the School varies considerably, creating challenges for organising the curriculum and staffing. I asked the governing body whether the School could use mixed aged classes to manage its numbers going forward and was told,

The “school does currently have a mixed R / Yr1 class. This arrangement was put in place due to small number of children at the end of their R year in July 24 needing ongoing early years foundation stage provision over this academic year and low numbers of R children starting school. There were also three children at the end of their R year in July 24 awaiting specialist provision places (all will be leaving July 25) which will create spaces for the small number of current Yr 1 children in the mixed R / Yr 1 class to be partially integrated with their peers across year 2 and fully reintegrated when they start Yr 3 (and classes of 30+ are permitted) thus ending the mixed class.

Teaching a mixed class (particularly across two curriculums) is extremely difficult, not favoured by staff or parents, and in most cases, not ideal for the children concerned. Consequently, and particularly as there are no similar circumstances to those outlined above in the current R cohort, a mixed Yr1 /R class has deemed to be unsuitable.”

23. These are educational decisions that a school must make. A school must also work within its resources. I asked for further information on the School’s financial situation. In summary the School told me that:

- a. for the end of the 2024 – 2025 financial year an in-year deficit of around £110,000 is forecast;
- b. for the end of the 2025 – 2026 financial year an in-year deficit of around £225,000 is forecast if the PAN remains the same. This is on the basis of providing two YR classes as might be necessary if the PAN remains at 60; and
- c. a carry forward currently exists which would mean that the overall deficit would be £135,000 if the PAN reduction is not agreed.

24. The School described a variety of steps it had to take to address its financial challenges. As teaching staff are the main cost to any school there are limited opportunities to reduce costs, and it appears that these have all been attempted. The School told me that it had commissioned a school resource management adviser from the DfE. Such advisers are trained to look at the resources available to schools and recommend more efficient ways to deliver the best possible educational outcomes for pupils. The School said that there were no additional substantial changes recommended that could be made to address its difficulties.

25. I am aware that it is very difficult for the School to plan efficiently as the number of children forecast is at the cusp of 30 and just over. An increasing financial deficit is not sustainable and can affect the quality of teaching and learning in a school. I understand that the only way that the School can address the financial deficit is to reduce the number of classes, as it did for those admitted in 2025. I am also very aware that parents have made their applications for September 2025 in the knowledge that the PAN was 60 and that their

child would be likely to secure a place at the School if the School was put as a first or high preference.

26. I have considered the options. I could refuse this variation request but suggest that the local authority ask again when offers have been made. However, once offers have been made they cannot be withdrawn except in specific circumstances not likely to apply here. It would be possible for just over 30 children, say 32 children, to be offered places and so the School would have to arrange its classes and staffing on this basis thus creating the deficit as described above.

27. If the PAN remains at 60 for 2025 then it is possible for more children continue to join the School until the end of the summer term in July 2026. In other words, 30 or fewer children might start in September 2025 and the School organise one class for YR but more children could join the School and an additional class or some other form of class re-structure would be required, potentially causing disruption to the children's education and additional costs.

28. There is good evidence to suggest that, based on previous patterns of admissions in September compared to preferences made by the closing date, there are likely to be fewer than 30 children joining YR in September 2025. However, to wait until that date to agree a variation would leave the School in continuing uncertainty and unable to plan efficiently. This would risk serious adverse financial effects for the School which could negatively affect children joining the School, staff and children already attending the School.

29. In conclusion, the data shows that there would be sufficient places at alternative schools close by to accommodate all of the children needing YR places if the PAN for the School were reduced from 60 to 30. There is a low possibility that parental preference would be frustrated if the PAN were reduced to 30. I have balanced this against the financial difficulties for the School. If a School has financial problems, there is limited room for manoeuvre and a risk that budget restraints will adversely affect the teaching and learning within the School. On balance therefore, I find that the variation is rational and reasonable in the circumstances and therefore justified. I approve the proposed variation.

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 the London Borough of Merton for Malmesbury Primary School for September 2025.

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

Dated: 13 March 2025

Signed:

Schools adjudicator: Deborah Pritchard