



Office of  
the Schools  
Adjudicator

## Determination

### Case references:

**VAR971: Hove Park School and Sixth Form Centre, Brighton and Hove**

**VAR972: West Hove Infant School, Brighton and Hove**

**VAR973: Mile Oak Primary School, Brighton and Hove**

**Admission authority: Brighton and Hove City Council**

**Date of decision: 8 September 2020**

## Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Brighton and Hove City Council for Hove Park School and Sixth Form Centre, West Hove Infant School and Mile Oak Primary School for September 2020.

I determine that the published admission number (PAN) for admissions to Year 7 at Hove Park School and Sixth Form Centre shall be 180, for admissions to Year R at West Hove Infant School shall be 180 and at Mile Oak Primary School shall be 60.

I have also considered the arrangements 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 within two months of the date of the determination.

## The referral

1. Brighton and Hove City Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2020 for Hove Park School and Sixth Form Centre, for West Hove Infant School and for Mile Oak Primary School (the schools) to the Office of the Schools Adjudicator. All are community schools in the area of Brighton and Hove City Council.

2. The variations proposed are in each case that the published admission number (PAN) for admission to the relevant age group be reduced. The age-ranges served by the schools and the proposed PAN reductions are as follows:

School	Age range	Relevant age group	Proposed PAN reduction
Hove Park School and Sixth Form Centre, Hove	11-18	Year 7	300 to 180
West Hove Infant School, Hove	4-7	Year R	210 to 180
Mile Oak Primary School, Brighton	4-11	Year R	90 to 60

## Jurisdiction

3. The referrals were made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that:

“where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a case where the authority’s proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations”.

4. I am satisfied that the proposed variations are within my jurisdiction.

5. 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.

## Procedure

6. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).

7. The documents I have considered in reaching my decision include:
- a the referrals from the local authority dated 14 July 2020 and supporting documents;
  - b the determined arrangements for September 2020 and the proposed variations to those arrangements;
  - c a copy of the local authority's booklet for parents seeking admission to schools in the area in September 2020;
  - d evidence that the governing board for each of the schools has been consulted;
  - e maps showing the locations of the schools and other relevant schools; and
  - f copies of the emails notifying the appropriate bodies about the proposed variations.

## Consideration of the arrangements

8. When it made the variation requests, the local authority provided a link to the minutes of the meeting on 14 January 2019 at which the arrangements were determined. When I looked at the report which had been considered and approved by members of the Council on that date, it seemed to me that the admission arrangements set out there did not, or may not, conform with the requirements relating to admissions in the following ways:

- (i) there was no statement that children whose statement special educational needs (SEN) or Education, Health and Care (EHC) plan names the school will be admitted, as required by paragraph 1.6 of the Code;
- (ii) the priority given to children who have "compelling medical or exceptional requirements" may have been unclear in contravention of paragraphs 14 and 1.8 of the Code, as these terms were not explained;
- (iii) the priority given to children with "a sibling link" at a school may have been unclear in contravention of the requirements set out in paragraphs 14, 1.8 and 1.11 of the Code, as the term "sibling" was not defined;
- (iv) there was no statement making clear the arrangements which apply to the admission of children below compulsory school age (where this is relevant), which is a requirement of paragraph 2.16 of the Code, and
- (v) there was no statement making clear the process for parents to request that their child be admitted outside the normal age group, which is a requirement of paragraph 2.17 of the Code.

9. I therefore sought the comments of the local authority concerning these matters, and it informed me that it understood that “the admission arrangements determined in January 2019 did not comply with many of the requirements of the code [sic] and the local authority has in the past relied on the published composite prospectus...to provide clear information on the council’s admission arrangements.”

10. When I looked at the composite prospectus for admissions to schools in September 2020 which the council has published, the matters listed in (i) to (iii) above had been addressed in what was stated there, but those in (iv) and (v) had not. It is nevertheless the case, irrespective of what may be published in a composite prospectus, that the admission arrangements are those which have been determined by the admission authority and cannot be something else. It is pleasing to have been given the council’s assurance, and to have been able to verify for myself, that these same defects do not attach to the admission arrangements which have been determined by the council for admissions to those schools for which it is the admission authority for September 2021. However, those for September 2020 do not comply with the requirements concerning admission arrangements in the way set out above.

## **The proposed variations**

11. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance or in certain other limited and specified circumstances. I will consider below whether the variations requested are justified by the changes in circumstances.

12. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The local authority has provided me with a copy of its notifications of the proposed variations and the list of schools and other bodies to which each was sent. I have seen confirmation from the schools’ governing boards that, in each case, they support the request for the variation. I am satisfied that all relevant bodies have been notified and that views expressed have been taken into consideration. I find that the appropriate procedures were followed.

## **Consideration of proposed variations**

### **Hove Park School and Sixth Form Centre**

13. When the local authority submitted its request to vary the arrangements for the school, it told me that the relocation of King’s School, which is a Free School which has a PAN of 150 for September 2020 and 165 for September 2021, into the same part of Hove in September 2019 had constituted a major change in circumstances because of its impact on the number of children going to Hove Park School.

14. The forecast of the need for places at the school which the local authority also provided to accompany this request was in the form of a combined forecast for Hove Park and for another school, Blatchington Mill School. This forecast, which said that it was adjusted for the effects of King's School and for the nearby Cardinal Newman Catholic School, appeared to me to show a need for more places at Hove Park in September 2021 and subsequent years than the figure of 180 being requested for the school's revised PAN. I therefore asked the local authority to clarify this matter.

15. The local authority replied by informing me that on national offer day, which was 1 March 2020 and therefore well before the variation request was submitted, fewer places than were shown in the forecast referred to above had been filled at Blatchington Mill School and Hove Park School (combined) for September 2020, and that in fact there were only 150 pupils expected to be admitted to the school. It went on to say that, with the most recent information it had about the number of children from the area who were likely to be admitted at King's School taken into account, it could revise its forecast for the number of places which would be needed at the school in future years. This revised forecast does still show a need for 215 places in September 2021, but beyond that date the figures are fewer than 180, until 2025.

16. I have noted that the admission arrangements which the local authority has determined for its schools for September 2021 show a PAN for Year 7 for the school of 300, and I have therefore asked it what its intentions are concerning the school's PAN at that time in view of this present request and the latest revised forecast of the need for places at the school. It has told me that it may request a variation to reduce the PAN for September 2021, but that it will await the outcome of the allocation of places on national offer day in 2021. No doubt the local authority will be able to make any such request in a timely fashion and be able to provide the latest information available to it at that time, if it does so.

17. As far as the present request is concerned, the local authority has assured me that, notwithstanding the fact that it had told me at an earlier stage of the correspondence concerning its request that there had originally been an allocation of 196 pupils to the school for September 2020 of whom 42 had been "directed to this school as the parents' preferences for other schools could not be met", it is now confident that its view about the need for Year 7 places across the authority means that there will not be a need for more than 180 places in Year 7 at the school during the school year 2020-21. On that basis, I approve the requested variation that the PAN be reduced from 300 to 180. I add only that, of course, the academic year has now started and the number of children in Year 7 at the school will be what it is. The reduction in PAN has no effect on children already admitted – no child can be removed from the school or have his or her place in Year 7 withdrawn. Rather, it means that there is no need automatically to admit above 180 should other children seek places at the school.

18. When I looked at the forecast of pupil numbers which the local authority provided to accompany this request, I was unable to use it to ascertain a meaningful forecast for the school, and I asked it to clarify how the data I had been sent was to be used. The local authority explained that its forecast methodology operates on defined planning areas and does not give forecasts for individual schools. Available places at schools are aggregated according to postcode areas and these are combined for the planning area. The school operates on two sites which are in different postcode areas. One site (Portland Road) consistently fills the four classes which are based there while the other, which has up to three classes given the total PAN of 210 for the school originally determined for admissions in 2020, is not fully subscribed. The request is, in effect, that only two classes operate in future at the second site (Connaught Road).

19. The local authority also told me that 54 pupils who have been allocated a place at the school will attend at the Connaught Road site in September 2020. It has helpfully provided me with an annotated version of its planning area forecast, which was also updated from the version which it had sent to me originally. Using the latest information given I could see that the latest version of the forecast shows a surplus of available places for the planning area for the school year 2020-21 based on the existing PAN for the school, but a shortfall overall of 7 for the planning area as a whole with the requested variation in place. However, this shortfall does not occur in the postcode that relates to Connaught Road, and the local authority has assured me, in terms, that it is confident that for 2020-21 as well as for 2021-22 (for which the requested variation for the school has already been implemented in the local authority's determined arrangements) there are sufficient places available. Beyond that date, the revised area forecast shows a clear surplus of available places.

20. The local authority has also stated that the pattern of parental preference across the City, although evidently not factored in to the latest forecast, means that the area in which the school is situated will in fact have a surplus of 8 Reception places for 2020-21 if the requested variation is agreed. It is the case, as the local authority has pointed out, that the size of the school's intake in September 2020 places it at risk of being required to open a third Reception class on the Connaught Road site should the PAN remain, as determined, at 210 for 2020-21. A PAN of 180 will allow the school to refuse admission to any child beyond this number. Any additional child admitted (who was not an excepted child) would mean that an extra class would have to be formed and/or an additional teacher employed to teach the class in order for the school to comply with infant class size regulations. On that basis, I approve the requested variation that the PAN be reduced from 210 to 180.

## Mile Oak Primary School

21. The request for the variation stated that the school had an allocation of 54 pupils for September 2020, and that the determined arrangements for September 2021 included a PAN of 60 for the school. There had previously been an approved variation (VAR861) to the determined admission arrangements for the school for September 2019 in which a reduction in the PAN of 90, which had originally been determined, to 60 was then agreed

22. It is evident from the local authority's forecast that there is so significant a surplus of available Year R places for the foreseeable future in the planning area which includes the school that this cannot represent a new phenomenon. However that may be, and although it is clear that there is no pressure on Year R places in the locality, it is the case, as the local authority has pointed out, that the size of the school's intake in September 2020 places it at risk of being required to open a third Reception class and/or employ a further qualified teacher in order to comply with infant class size regulations should the PAN remain, as determined, at 90 for 2020-21 and the school receive more than six in-year admissions. A PAN of 60 will remove this risk, and I approve the requested variation.

## **Determination**

23. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variations to the admission arrangements determined by Brighton and Hove City Council for Hove Park School and Sixth Form Centre, West Hove Infant School and Mile Oak Primary School for September 2020.

24. I determine that the published admission number (PAN) for admissions to Year 7 at Hove Park School and Sixth Form Centre shall be 180, for admissions to Year R at West Hove Infant School shall be 180 and at Mile Oak Primary School shall be 60.

25. I have also considered the arrangements 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.

26. 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 within two months of the date of the determination.

Dated: 8 September 2020

Signed:

Schools Adjudicator: