



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2328

Admission authority: Brighton and Hove City Council for Hertford Infant School in Brighton

Date of decision: 07 June 2023

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 Brighton and Hove City Council for Hertford Infant School for 2023.

I determine that the published admission number will be 30.

The referral

1. Brighton and Hove City Council (the local authority) has referred a proposal for a variation to the admission arrangements for September 2023 (the arrangements) for Hertford Infant School (the school) to the adjudicator. The school is a community school for children aged four to seven in Brighton.
2. The proposed variation is that the published admission number (PAN) be reduced 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 board 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.
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 local authority dated 17 May 2023 and supporting documents;
 - b. the determined arrangements for 2023 and the proposed variation to those arrangements;
 - c. comments on the proposed variation from the governing board;
 - 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).

The proposed variation

7. The local authority explained in its referral that there is a year on year decrease in the number of children requiring a place in reception year (YR) in the local authority’s area. One implication has been that there have been only 22 offers made for the 60 places at the school for 2023. The local authority explained, “The school is at risk of being required to open and maintain a second class and employ a further teacher should any additional applications be received to take them above 30 pupils. This is likely to put a significant strain upon the school’s budget in the coming year and for future years.”
8. The local authority further explained that the school and its linked junior school (Hertford Junior School) work together in a federation with one governing board. It is the intention that these two schools should, following due process, become one school for children aged four to eleven with a PAN of 30. I am also considering proposed variations to

reduce the PANs of other schools in the local authority’s area including the linked junior school. Each case is considered on its merit and no case sets a precedent for another.

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. 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. The local authority has already set the PAN for 2024 at 30 so my decision only affects the admissions to YR in 2023.

11. The school is located in an urban area and there are, according to the DfE website ‘Find and compare schools in England’, nine schools which admit children to YR within one mile of the school. The local authority has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the local authority assesses the likely future number of places to be needed and plans to meet that need. The local authority uses planning areas, which are geographical groups of schools, for this purpose. There are 11 schools in the planning area which admit children to YR, these are not all the nearest schools to the school. Table 1 below summarises the number of children admitted to the schools in the planning area in recent years and offered places for 2023.

Table 1: numbers of school places and numbers of children admitted to YR in schools in the planning area

	2020	2021	2022	2023
Sum of PANs of schools in the planning area for YR	630	630	570	600
Number of children admitted or offered a place	567	536	480	462 offered as at 17 May
Vacant places	63	94	90	Potentially 138

12. The information provided by the local authority shows that there has been a significant decrease in demand since 2020. If there were to be 138 vacancies in September 2023, as indicated by the information in table 1, this would be nearly a quarter of all the

school places in the planning area. Therefore I am satisfied that if the PAN for the school were to reduce by 30 to 30 there would still be sufficient capacity in the area to meet demand. Table 2 shows the numbers of children admitted to the school in recent years and those offered a place for September 2023.

Table 2: the number of children admitted to the school in recent years or offered a place for 2023

	2020	2021	2022	2023
The PAN for the school	60	60	30	60
Number of children admitted or offered a place	49	36	26	22 offered as at 17 May
Vacant places	11	24	4	Potentially 38

13. Table 2 shows that demand for the school has reduced. The PAN for 2022 was reduced to 30, following a variation agreed by me on 20 May 2022 (case reference VAR2260). The governing board supports the proposed PAN reduction for 2023. It and the local authority are conscious that 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 YR and I understand that the school wishes to teach with single year groups to a class.

14. If the PAN were to remain at 60 then more children could join YR at any point up to July 2024. If the school had established one class for YR and over 30 were admitted during that period, then the school would have to reorganise its classes so that no infant class had more than 30 children to a single qualified teacher.

15. The governing board wishes to avoid this disruption and potential cost. Schools are largely funded by the number of children on roll, and one of the highest costs is staffing. If the number of children in YR were over 30, even by one child then the school may decide for educational reasons that it needs to establish a second class for YR with the costs that this would entail. By the PAN being changed so that it is set at 30, then the governing board can plan on the basis of maintaining one class, which is why it supports the proposed variation.

16. The evidence indicates parental preference will not be frustrated if I agree that the PAN is reduced to 30 as all applications have been considered and only 22 offers have been made. If the PAN were reduced to 30 then the governing board can plan ahead and

organise on that basis. I therefore have decided that the variation is justified by the change in circumstances and approve the variation.

Determination

17. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Brighton and Hove City Council for Hertford Infant School for 2023.

18. I determine that the published admission number will be 30.

Dated: 07 June 2023

Signed:

Schools adjudicator: Deborah Pritchard