



Office of
the Schools
Adjudicator

Determination

Case references: VAR2325 and VAR2326

Admission authority: Brighton and Hove City Council for Brunswick Primary School in Hove

Date of decision: 07 June 2023

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 Brunswick Primary School for 2023 and 2024.

I determine that the published admission number will be 90 for 2023 and 90 for 2024.

The referral

1. Brighton and Hove City Council (the local authority) has referred proposals for variations to the admission arrangements for September 2023 and September 2024 (the 2023 arrangements and the 2024 arrangements) for Brunswick Primary School (the school) to the adjudicator. The school is a community school for children aged four to eleven in Hove.
2. The proposed variations are that the published admission number (PAN) be reduced from 120 to 90 for 2023 and 2024.

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 variations and supports them. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variations are within my jurisdiction.

5. In considering these matters 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 2024 and the proposed variations 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 87 offers made for the 120 places at the school for 2023. The local authority explained, “The school is at risk of being required to open and maintain a fourth class and employ an additional teacher should a further 4 additional applications be received. This is likely to put a significant strain upon the school’s budget in the coming year and for future years.” The local authority has therefore proposed that the PANs for 2023 and 2024 are reduced to 90. The local authority said that it intends to consult on reducing the PAN for 2025.

8. 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 variations requested are justified by the change in circumstances.

9. I note that the governing board referred an objection to the adjudicator regarding the PAN set for it for 2022. The local authority had set the PAN at 90 and this was lower than the governing board wished. I considered that referral (case reference REF3889) and upheld the objection made by the governing board. As a result, the PAN set for 2022 was 120.

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. If I agree the variation for the 2024 arrangements so that the PAN is 90, then this sets a baseline and the local authority would not have to consult if it wished to set the PAN at 90 for 2025. I welcome the local authority's expressed intention to consult on the arrangements for 2025.

11. The school is located in an urban area and there are, according to the DfE website 'Find and compare schools in England', seven 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 eight schools in the planning area which admit children to YR, these are not all the nearest schools to the school. I note that for one of the schools in the planning area, the main oversubscription criterion is random allocation and this will lessen the effectiveness of planning places on the basis of planning areas. However, 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 or offered a place

	2020	2021	2022	2023
Sum of PANs of schools in the planning area for YR	690	690	690	690

	2020	2021	2022	2023
Number of children admitted or offered a place	658	657	635	619 offered as at 17 May
Vacant places	32	33	55	Potentially 71

12. The information provided by the local authority shows that there has been a decrease in demand since 2020 of 39 children and since 2022 of 16 children. If the PAN for the school were to be reduced by 30 places for 2023, as requested, there would still be 41 vacant places in the planning area. I am therefore satisfied that there would be sufficient capacity in the area to meet demand if the PAN for the school were to be reduced to 90 for September 2023.

13. The local authority's forecasts are that the demand for school places in the area for 2024 is likely to be around 560. This is a significant decrease in demand from 2023 and while it can only be an estimate, it gives me assurance that if the PAN for the school for 2024 were to be reduced to 90, that there would be sufficient school places to meet demand. Table 2 shows the numbers of children admitted to the school or offered a place at the school.

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	120	120	120	120
Number of children admitted or offered a place	114	111	96	87 offered as at 17 May
Vacant places	6	9	24	Potentially 33

14. Table 2 shows that demand for the school has reduced in line with the reduced demand for school places in the area. The governing board supports the proposed PAN reductions. 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.

15. Schools are largely funded by the number of children and one of the highest costs is staffing. If the school were to establish three classes for YR for 2023 there would be three classes of nearly 30, a cost effective model. If more than 90 children were to be admitted to YR, which is possible if the PAN remained at 120, then the school would have to reorganise its classes so that no infant class had more than 30 children to a single qualified teacher. If, for example, 91 children were admitted, the school might provide four classes of around 23 children each. This is a less financially efficient model. I note that if the PAN were not to be reduced, the risk of additional children joining the school and these implications being realised would continue until July 2024 when the year of entry to YR ends.

16. The governing board wishes to avoid this potential disruption and cost. By the PAN being changed so that it is 90 then the governing board can plan on the basis of three classes which is why it supports the proposed variations.

17. The evidence indicates parental preference will not be frustrated if I agree that the PAN for 2023 is reduced to 90 as all applications have been considered and 87 offers have been made. If the PAN for 2023 were reduced to 90 then the governing board can plan ahead and organise on that basis. I therefore have decided that the variation to the 2023 arrangements is justified by the change in circumstances and I approve the proposed variation.

18. The evidence of reducing demand for school places and the forecast of an increased reduction in demand for 2024 leads me to believe that there is sufficient evidence for me to also agree the proposed variation to the 2024 arrangements. I see little likelihood that parental preference would be unduly frustrated by reducing the PAN to 90 for 2024 and it would allow the school and the governing board to plan ahead. I therefore have decided that the variation to the 2024 arrangements is justified by the change in circumstances and I approve the proposed variation.

Determination

19. 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 Brunswick Primary School for 2023 and 2024.

20. I determine that the published admission number will be 90 for 2023 and 90 for 2024.

Dated: 07 June 2023

Signed:

Schools adjudicator: Deborah Pritchard