

# Determination

<b>Case reference:</b>	<b>REF4226</b>
<b>Referrer:</b>	<b>A parent</b>
<b>Admission authority:</b>	<b>The governing board of the Blackdown Education Partnership for Isambard Kingdom Brunel Primary School, Wellington, Somerset.</b>
<b>Date of decision:</b>	<b>06 December 2023</b>

## Determination

**I have considered the admission arrangements for September 2024 for the Isambard Kingdom Brunel Primary School in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the change in the school's catchment area, the arrangements conform with the requirements.**

**I have also found that there are other matters which do not conform with the 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. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by a parent (the referrer), about the admission arrangements (the arrangements) for Isambard Kingdom Brunel Primary School (the school and IKBPS), for September 2024. The school is a primary free school (academy) for 2 to 11 year olds located in Wellington in Somerset.

2. The school was part of The Castle Partnership Trust. On 1 September 2023, The Castle Partnership Trust merged with the Uffculme Academy Trust to form the Blackdown Education Partnership (the trust). The trust is a multi-academy trust which runs 10 schools located in Somerset and Devon. Five of the schools in the trust are secondary (Uffculme School, Holyrood Academy, The Castle School, Court Fields School, and Axe Valley Academy) and five are primary (IKBPS, Wellesley Park Primary School, Uffculme Primary School, Neroche Primary School and Orchard Grove Primary School). The Orchard Grove

Primary School opened in September 2023, initially on the site of IKBPS. It will move to its own site when the new school building, currently under construction, is completed.

3. The objection is dated 24 July 2023. It was, therefore, submitted after the 15 May 2023 deadline for submissions for objections to arrangements for 2024 (as set out in paragraph 15 c) of the School Admissions Code (the Code)) and so cannot be treated as an objection. However, having had sight of the school's arrangements, it appeared to me that the matter raised may not conform with the requirements relating to admissions. Accordingly, I have considered the arrangements for the school, as determined by the governing board, in accordance with my jurisdiction under section 88I(5) of the Act. As this is being considered under section 88I of the Act, the objection is 'the referral' and the objector is referred to as 'the referrer'.

4. The referrer raises a concern in respect of the change to the catchment area in 2024/25. It is asserted that this change will cause unfairness to families who live in the current catchment area and already have children at the school.

## **Jurisdiction**

5. The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined under section 88C of the Act by the governing board of the trust, which is the admission authority for the school, on 7 February 2023 on that basis.

6. I have used my power under section 88I of the Act to consider the arrangements as a whole, because they have come to my attention by way of the referral, to determine whether they conform to the requirements relating to admissions and if not in what ways they do not so conform. When I considered the arrangements, I identified some matters, including but not limited to the matter raised by the referrer, which appeared not to meet the requirements. I set out my findings in regard to those matters not raised by the referrer in the sections in this determination which are entitled 'Other Matters'.

7. The referrer brought to my attention his concerns in respect of the consultation process which proposed a change to the catchment area. As I am considering this referral under section 88I of the Act, I only have the power to decide whether the arrangements conform with the requirements relating to admissions arrangements and, if not, in what respect they do not. Under section 88I, jurisdiction is limited to the content of the determined admission arrangements, rather than the process by which they were determined. I am, therefore, not able to consider the matters that have troubled the referrer about the consultation process.

8. The parties to the case are the trust, the school, Somerset Council (the local authority (LA)) and the referrer.

## Procedure

9. In considering this matter I have had regard to all relevant legislation and the Code.
10. The documents and information I have considered in reaching my decision include:
  - a) the referrer's form of objection dated 24 July 2023;
  - b) copies of the minutes of the meeting of trust's governing board at which the arrangements were determined;
  - c) copies of the determined arrangements for 2023/24 and 2024/25;
  - d) comments from the trust and LA on the matters raised;
  - e) the LA's composite prospectus for parents seeking admission to schools in the area in September 2024;
  - f) the Free School Application Form for IKBPS, dated July 2016;
  - g) Google Maps; and
  - h) information available on the websites of the trust, school, LA, the Department for Education (DfE) (including the 'Get Information About Schools (GIAS) website) and Ofsted.

## The Referral

11. Following a consultation, which took place between 5 December 2022 and 23 January 2023, the admission authority determined its arrangements on 7 February 2023 to include a revised catchment area.

12. The referrer raised a concern in respect of the change made to the school's catchment area and the unfairness it will cause to families who live in the current catchment area and already have children at the school. The referrer asserts the unfairness will be that when the catchment area changes it will mean that siblings of children already in the school are less likely to be admitted than under the current arrangements when, as a result of the change, their addresses are outside of the new catchment area.

13. The referrer did not indicate the parts of the Code that he believes the arrangements contravene in respect of the matter he raises. I have determined that the following parts of the Code are applicable in this case:

- 13.1. Paragraph 14 (part): "In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair [...]."

- 13.2. Paragraph 1.10 (part): “It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances.”
- 13.3. Paragraph 1.14 (part): “Catchment areas **must** be designed so that they are reasonable [...].”
- 13.4. Paragraph 1.8 (part): “Oversubscription criteria **must** be reasonable [...].”

14. The tests for me to employ in this determination are whether the arrangements, in respect of the matter raised by the referrer, are reasonable and fair.

## Other Matters

15. The aspects of the arrangements which I identified as not or possibly not conforming with the requirements relating to admissions have been identified in detail towards the end of this determination. Broadly, I raised four matters with the school: where definitions of ‘looked after children’ are included twice and are slightly different; an issue with the expectation that parents must ‘request’ to be added to the school’s waiting list; the purpose of the inclusion of information in the arrangements which is not related to admissions; and why the school might request to see evidence that the person making an application is legally entitled to do so and evidence of the identity of a child after a place has been offered.

## Background

16. The school is a non-selective, co-educational primary free school for 2 to 11 year olds in Somerset. Ofsted judged the school to be ‘Good’ in May 2023. The Published Admission Number (PAN) of the school is 30.

17. The GIAS website shows that there are four primary schools within two miles of IKBPS. They are as follows (with miles in brackets after the name of each school): St John's Church of England Primary School (0.28); Beech Grove Primary School (0.42); Wellesley Park Primary School (0.86); and Rockwell Green Church of England Primary School (0.97). All four schools have been rated as ‘Good’ by Ofsted.

18. The LA has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the LA assesses the likely future number of places to be needed and plans to meet that need. The LA uses planning areas, which are geographical areas and the schools within those areas, for this purpose. As well as IKBPS and the four primary schools listed in the previous paragraph as being within two miles of the school, there are three other primary schools which make up the ‘Wellington planning area’ (the planning area) (with distance in miles from IKBPS in brackets): Langford Budville Church of England Primary School (2.08); West Buckland Primary School (2.33); and Sampford Arundel Community Primary School (2.4). All three of those schools have been rated as ‘Good’ by Ofsted.

19. The school provided data, which I have put in Table 1, which show 119 children were on roll in September 2023. The school opened in 2020 with the first Reception year group (YR). It will take six years from the opening date for the school to grow to capacity.

Table 1: Number of children in each year group (as of September 2023)

<b>Year Group</b>	<b>Number of children</b>
YR	30
1	30
2	29
3	30
4	0
5	0
6	0
<b>Total</b>	<b>119</b>

20. The oversubscription criteria in the arrangements can be summarised as follows:

1. Looked after and previously looked after children.
2. Children living in the designated catchment area with a sibling attending the school at the time of application.
3. Children of members of staff.
4. Children living in the catchment area.
5. Children living outside of the catchment area with a sibling attending the school at the time of application.
6. Children not satisfying a higher criterion.

21. As the referral concerns the change in the arrangements, the oversubscription criteria from the 2023 arrangements are summarised here for the sake of later comparison:

1. Looked after and previously looked after children.
2. Children living within half a mile (straight line distance) of the school with a sibling attending the school at the time of application.
3. Children of members of staff.
4. Children living within half a mile (straight line distance) of the school.
5. Children living more than half a mile (straight line distance) from the school with a sibling attending the school at the time of application.
6. Children not satisfying a higher criterion.

Under both sets of arrangements the following applies: if, under 1-6 above, a tie-break is necessary to determine which child is admitted, the child living closest to the school will be given priority for admission. Distance is measured in a straight line by a Geographic Information System (GIS) method from the geocoded point of the school site to the geocoded point of the child's home. If those measurements mean that the home addresses of two applications are the same distance, then random allocation (by drawing lots supervised by someone independent of the school) will be used to determine priority for admission.

22. I note here that the LA undertakes the admission process on behalf of the admission authority.

## Consideration of Case

23. In the referral, the referrer stated:

"A new catchment area has been introduced, where previously a radius of 0.5 miles had applied. When we applied for admission for our eldest son, we were within the 0.5 mile radius and within the catchment area map on the Somerset Council website. Our son got into the school under the 4th over subscription criterion, as most children without siblings did. When we applied to [IKBPS] for our eldest, naturally we did so with the intention of sending both of our children to the school. We had no reason to think that the catchment area and policy would change in the interim, we applied in good faith. We expected him to meet the 2nd oversubscription criterion when the time came, as he had a sibling at the school.

We have not changed address, however, the changes made to the admissions arrangements now mean that we are outside of the new catchment area. Under the new arrangements our youngest son will now only meet the 5th oversubscription criterion and will be significantly less likely to be offered a place at the school. If we had known the catchment area was going to change, we would not have applied, knowing the devastating impact having two children in two different schools would have both from a logistical and emotional perspective.

The new policy and catchment area prioritises children who live on the Longforth Farm estate (a 'newbuild' estate built over the last few years). Applicants who live on the the [sic] new estate are prioritised over those who do not, even if they have siblings at the school who were admitted from within the original catchment area (0.5 mile radius).

We believe that the policy revision is unfair on the families the school has already admitted. We believe that the impact of denying a child from attending the same school as their sibling is much more damaging than someone within the amended catchment, without siblings having to attend a different school. [...]

We are not the only family that will likely be affected by the amended policy, over the next few years this admissions policy revision will likely have a devastating impact on a small group of IKB families who now find themselves outside of the catchment when they previously were within 0.5 miles when their first child joined the school. As the children get older and the likelihood of siblings reduces, the issue will 'age out'.  
[...]

We understand that schools sometimes need to change their admissions arrangements and amend catchment areas. Good policy should make provision for people negatively impacted by its revision. We simply want to be treated fairly during the transition period between these changes.”

24. The Code defines a catchment area as: “A geographical area, from which children may be afforded priority for admission to a particular school”. From the school’s opening in 2020/21 to 2023/24, its arrangements employed a catchment area in the oversubscription criteria (specifically criteria 2 and 4) by virtue of it specifying a distance from the school (0.5 miles) within which children would be given priority admission. The resulting catchment area was a circle with a radius of 0.5 miles with the school at the centre. I will refer to this as the ‘current circular catchment area’.

25. During the consultation, the trust proposed a catchment area (which I will refer to as the ‘new catchment area’) which was subsequently adopted. That new catchment area covers the Longforth Farm housing estate development to the north of Wellington. IKBPS is situated on the southern boundary of the catchment area near Parklands Road and Thomas Place. From the school towards the east, the catchment boundary follows Taunton Road until its junction with Nynehead Road. After following that road north for a short distance, the boundary then follows the site of the remains of the old Grand Western Canal (now a footpath) to the west-north-west, passing Stedham’s Covert, until reaching the Townmoor Industrial Estate in Tonedale. Back towards the school to the south-west, the boundary follows the edge of the housing on Richards Close then, avoiding the large factory area in Wellington, follows Lillebonne Way passing Longforth Farm itself and Stedham’s Close until reaching the school.

26. When considering the disadvantage that the referrer asserts is caused by the change to the catchment area, I will consider the reasonableness and fairness of this aspect of the school’s arrangements. I will adopt a two stage approach: first, I will assess whether the change to the catchment area is reasonable. If I find that it is unreasonable, it would be non-compliant with the Code and I would not need to proceed to the second stage. If the change to the catchment area is found to be reasonable, I will go on to look whether the effect of the change is fair.

27. The Code uses the term ‘reasonable’ but does not define it. An everyday definition is of having sound judgement; being sensible and rational. It is the requirement of public bodies, including admission authorities, that they must act reasonably in adopting any policy or making any decision. The test I will apply to reach a conclusion on this aspect of the objection, therefore, is whether the change to the catchment area is one which a

reasonable admission authority acting rationally and taking into account all relevant factors and no irrelevant factors would choose (the 'reasonableness test'). This is an objective test. It will be necessary to consider the rationale for adopting it (Part 1 of the test) and the effect of its practical operation (Part 2). Part 1 follows.

28. I looked first at the trust's rationale for introducing the new catchment area into the school's arrangements in 2024. The trust told me that:

"Previously there was not a catchment area for IKB. Admission arrangements were decided in collaboration with the LA and intending that neighbouring schools would not lose pupils through IKB opening. It was intended to serve the new estate. This is why places were allocated on distance. The school was planned and built to provide places for the Longforth Estate. A catchment area was put in place as parents who lived on the estate but who lived closer to another school had not been successful in their applications. An agreement for a catchment area was reached with the Local Authority and other local schools because [...] the catchment area covers land that previously was not built on, therefore, other local primary schools would not be disadvantaged."

29. Additionally, the LA told me that:

"When IKB school opened a catchment area was not included as part of the admission arrangements. The first year it opened IKB was under-subscribed (2020) but has been over-subscribed every year since. This school is very popular and under the previous admission arrangements some pupils living outside the new estate that the school was built to serve (Longforth Farm Estate in Wellington) are prioritised more highly than pupils living in this estate. This was due to the half mile straight line distance criteria (2 and 4) and pupils from within the new estate living further away than half a mile. This is because the location of the school is on the edge of the development rather than in the middle. It became apparent that the over-subscription criteria was not fit for purpose in terms of prioritising the children living in the Longforth Farm Estate and indeed the pupils who were not allocated a place were having to travel past the school in order to reach the school they were allocated. This situation will only be compounded when phase 2 of the development comes forward. (An outline planning application for a further 220 dwellings was submitted in June 2023). Therefore, the decision was taken by the Trust in collaboration with the LA and supported by neighbouring schools to consult on introducing a catchment area to the IKB 2024/25 admission arrangements. The proposed catchment area includes all future phases of the housing development known as Longforth Farm."

30. I note here that I do not agree with the statements from both the trust and LA that there has not been a catchment area in place for admission to IKBPS until 2024/25. It appears that the LA and trust have not understood that the way that the arrangements for IKBPS have expressed prioritising admission by distance has created a circular catchment area of 0.5 miles around the school. Whilst this has not been referred to as a 'catchment

area' in the arrangements or considered to be such by the trust and LA, it nevertheless meets the definition of a catchment area as set out in the Code. I note that the current circular catchment area covers a significant proportion of what is the new catchment area. I will refer to this as the 'catchment overlap area'. The area of the new catchment area not within the catchment overlap area is to the north-west near Tonedale.

31. The LA and trust say that the school was opened with the intention of serving the new Longforth Farm Estate. I looked at the original Free School Application Form for IKBPS, which confirmed that:

“There has been significant growth in Wellington with 2 large housing developments underway (Cades (700 dwellings) and Longforth Farm (500 dwellings) and a 3<sup>rd</sup> with outline approval (Jurston Farm 650 dwellings). Longford [sic] Farm has a primary school site identified within its development. The proposal is that we build a single primary school that has the capacity for all of the children in this area.”

32. The original purpose of applying to open the school was clearly to serve the area that it has made its catchment area from 2024/25. The planned housing to be built on the Longforth Farm Estate is not completed. It is being built in stages as a result of successive planning applications. The new catchment area encompasses the area that is planned for new housing, but which is largely not yet built. When the school opened, there was less housing in the area that will be the new catchment area. Although the current catchment area does incorporate a significant proportion of that which will make up the new catchment area, it is, therefore, likely that the current circular catchment area had the advantage of ensuring that the school could draw admissions from an area to the south where there was housing at that time. I will not be looking any further at the reasons why the trust introduced its current circular catchment area in 2020; the referrer is not concerned by the current catchment area and, indeed, considers it to have been advantageous to him in any event.

33. The LA says that the current arrangements are no longer fit for purpose. The current circular catchment area incorporates within it two primary schools (St John's Church of England Primary School (0.28 miles from IKBPS) and Beech Grove Primary School (0.42 miles from IKBPS)). This means that IKBPS has been drawing admissions from areas in which those two schools are located and which may be affecting their admissions. Additionally, I see from the LA's submission that there have been cases where some pupils (in what would be the new catchment area for the school but who are not in the catchment overlap area) have been unable to get into IKBPS and have had to travel beyond the school to get to their allocated school. This is likely to get worse as more housing is built. This appears to undermine the original purpose for the trust's application to build a free school in this area and which was approved by the DfE on that basis.

34. I find that the trust has been transparent about the rationale for the purpose of the setting up of the school since the original application was submitted to the DfE in 2016. As the area covered by the new catchment area is subject to more building, there has been and will be a demand for school places from the area that the school was originally set up

to serve. In my view, the information provided by the trust and LA provides compelling, rational, and therefore reasonable, justification for the change it has made.

35. I pause here to note that paragraph 15 b) of the Code requires that: “Admission authorities **must** set (‘determine’) admission arrangements annually.” This means that a school could, if it consults appropriately and meets the requirements as set out in the Code, change its arrangements every year. In my view, and also in the context of there having been a long standing purpose for the opening of IKBPS (as a free school) being approved by the DfE, parents whose children were admitted to the school could not have legitimately expected that the school’s arrangements would stay as they were when the school first opened or the same from one year to the next.

36. Turning now to Part 2 of the test of reasonableness, I intend to look at the effect of the practical operation of the arrangements in respect of those concerns raised by the referrer and in the context of my findings in Part 1 of the test. As the change has not yet been implemented, I will use current and projected data and information already available to me and which has been provided by the trust and LA insofar as that is relevant and which indicates how this change might practically operate from September 2024.

37. The LA provided me with forecast data for the number on roll up to 2027 when compared to school net capacity (as of June 2023) for schools in the planning area. I have put that data into Table 2.

Table 2: Forecast data for the number on roll up to 2027 when compared to school net capacity (as of June 2023) for schools in the planning area

<b>Schools</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>Total</b>
<b>Net capacity as of June 2023</b>	90	180	300	392	210	60	110	60	<b>1402</b>

**Forecast number on roll**

<b>2024</b>	147	214	262	270	197	33	96	35	<b>1254</b>
<b>2025</b>	179	212	256	249	195	33	95	36	<b>1255</b>
<b>2026</b>	211	184	248	224	187	32	93	34	<b>1213</b>
<b>2027</b>	210	185	241	222	178	30	97	35	<b>1198</b>

**Surplus / deficit compared to 2023 net capacity**

<b>2024</b>	-57	-34	38	122	13	27	14	25	<b>148</b>
<b>2025</b>	-89	-32	44	143	15	27	15	24	<b>147</b>
<b>2026</b>	-121	-4	52	168	23	28	17	26	<b>189</b>
<b>2027</b>	-120	-5	59	170	32	30	13	25	<b>204</b>

Key:

1 - IKBPS

2 - St John's Church of England Primary School

- 3 - Beech Grove Primary School
- 4 - Wellesley Park Primary School
- 5 - Rockwell Green Church of England Primary School
- 6 - Langford Budville Church of England Primary School
- 7 - West Buckland Primary School
- 8 - Sampford Arundel Community Primary School.

38. The figures in Table 2 for IKBPS do not take into account that the school will not grow to its full capacity until 2026 and that there will be an additional 120 places in the school by that point compared to the 90 there were in June 2023. I have accounted for that in Table 3.

Table 3: Forecast data for IKBPS taking into account increasing capacity until 2026

<b>Years</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
<b>Net capacity</b>	150	180	210	210
<b>Number of classes in the school</b>	5	6	7	7
<b>Forecast number on roll</b>	147	179	211	210
<b>Surplus / deficit compared to net capacity</b>	3	1	-1	0

39. Table 4 shows how the relevant part of Table 2 looks when figures for IKBPS from Table 3 are included.

Table 4: Adjusted surplus / deficit figures compared to net capacity

<b>Schools</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>Total</b>
<b>2024</b>	-3	-34	38	122	13	27	14	25	<b>202</b>
<b>2025</b>	-1	-32	44	143	15	27	15	24	<b>235</b>
<b>2026</b>	-1	-4	52	168	23	28	17	26	<b>309</b>
<b>2027</b>	0	-5	59	170	32	30	13	25	<b>324</b>

40. It appears to me that the LA, having taken into account the change to the school's arrangements for 2024, has shown through the data provided that there will not be any significant issues with the school not being able to meet the projected need for places at the school for the next four years. The data in Table 3 and 4 show that only a very small proportion of the forecast number on roll will not get places at the school. However, I have noted that the trust told me it would like the school to be able to increase the capacity to take more children, and I deal with that matter later in this determination.

41. In concluding the 'reasonableness test', I have taken account of the fact that the opening of the school was agreed by the DfE on the basis of the school serving the Longforth Farm Estate development. The agreement for funding this free school was sought in 2016 and would have had to have included significant community engagement to provide evidence that there was a need for the school as part of the original application.

The DfE agreed to the funding for IKBPS in 2017. It has therefore been long apparent that the school will be serving the increasing housing in the area delimited by its new catchment area. Additionally, I do not see evidence in the data presented by the school and the LA that the concern raised by the referrer will manifest itself in the practical operation of the arrangements. The LA has provided evidence of the demand for places over time. Whilst it will have ensured that the projections to take into account the move of the catchment area, the LA will have also taken into account demand for admissions under all oversubscription criteria. Despite this I have had to adjust that data to reflect the increasing capacity of the school up to 2026. This results in the data showing a deficit of between 1-3 places for the three years between 2024 and 2026 and no deficit for 2027. After considering the rationale and future practical operation of the arrangements, I conclude that the introduction of the new catchment area meets the reasonableness test and therefore conforms to those parts of paragraphs 1.8 and 1.14 of the Code which require the relevant parts of the arrangements to be reasonable.

42. I have found the arrangements, by way of the introduction of the new catchment area, to be reasonable, and therefore now go on to consider the second stage – the fairness of this part of the arrangements. Fairness is a concept that is used in the Code but is not defined. Fairness can be described as a ‘protean concept’, in that it cannot be defined in universal terms, but its requirements will depend on the circumstances. Fairness is focussed on the effect of the arrangements on any relevant group. Paragraph 1.10 of the Code allows an admission authority to, “decide which criteria would be most suitable to the school according to the local circumstances”, as long as that criteria is fair. I stress here that all oversubscription criteria create advantage for some applicants and disadvantage to others; indeed, that is their purpose. In relation to admission arrangements, fairness is often best evaluated by undertaking a balancing exercise, weighing the advantage said to accrue to children who would be offered places (or afforded a high priority for places) at the school in consequence of the arrangements, against any disadvantage caused to any other relevant group of children who would not be offered places (or would not be afforded a high priority for places). Unfairness can be found when the disadvantage is considered to outweigh the advantage. In this context, the disadvantage to assess is to those applicants who have siblings of children already in the school living in the current circular catchment area who the referrer asserts are less likely to be admitted when, as a result of the change, their addresses are outside of the new catchment area. I will assess fairness in terms of the scale of the disadvantage to those applicants, including looking at the options – in terms of other schools – available for parents of children in the area and whether the change affects the LA’s ability to fulfil its duty to provide a sufficiency of school places in the area.

43. The trust provided me with data which show the numbers admitted with EHCPs naming the school and the numbers admitted under each of the oversubscription criteria for the last four years.

Table 5:

<b>Numbers admitted</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>
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<b>EHCP</b>	1	2	0	0
Oversubscription Criterion 1	0	0	0	2
Oversubscription Criterion 2	0	0	7	11
Oversubscription Criterion 3	0	0	0	0
Oversubscription Criterion 4	16	25	23	17
Oversubscription Criterion 5	0	0	0	0
Oversubscription Criterion 6	7	5	0	0
<b>Total admitted</b>	24	32 *	30	30
<b>PAN</b>	30	30	30	30
Furthest distance of the last child admitted from the school's catchment area (miles)	1.008	0.898	0.348	0.4320

\* Although infant class size regulations limit class sizes to 30, more than 30 can be admitted to any one class under exceptional circumstances. These exceptional circumstances are set out in paragraph 2.16 of the Code.

44. I can see the following from the data in Table 5:

- 44.1. Most children have been admitted under oversubscription criterion 4, though in the current academic year this was at the lowest level since the school opened.
- 44.2. The number of children admitted under oversubscription criterion 2 has risen as increasing numbers of parents have applied for places for siblings of those already admitted under oversubscription criterion 4.
- 44.3. The furthest distance from which the last child was admitted has reduced to less than half of what it was when the school opened. The furthest distances recorded for 2022/23 and 2023/24 show that not everyone who would have applied from within the current circular catchment area was admitted.

45. The referrer would doubtless argue that this data shows that those in the current circular catchment area with children already in the school could have confidence, if the arrangements had stayed as they were, that any sibling applying to the school would be admitted. However, I find that, given there is considerably less housing in the new catchment area at the point the new catchment area will be introduced, that that area will not generate anywhere near as many applications as would be generated from the current circular catchment area in which there is already considerable housing. Consequently, the number of applicants meeting criterion 2 or 4 with the new catchment area will be significantly lower than the number meeting criterion 2 or 4 with the current circular catchment area. The highest priority after looked after and previously looked after children and children of staff (both of which have seen low, if any, numbers of admissions) and children in the new catchment area, is siblings of children already in the school but not in the new catchment area. There is, therefore, an increased likelihood that until considerably more housing is built on the Longforth Farm Estate, more children will be admitted under

oversubscription criteria 5 and 6 after the new catchment area has been introduced. This is likely to reduce over time as more housing is built. Indeed, the referrer concedes that the number of families affected by the change in catchment area would 'age out' in any event. It is clear that the scale of the disadvantage to those living in the current circular catchment area with children already at the school and who wish to apply for places for siblings is not as great as has been made out by the referrer.

46. The data used to test for reasonableness can also be employed in the test for fairness. I note from Table 4 that the number of surplus places increases from 202 to 324 in the planning area from 2024 to 2027. It is the case, therefore, that there are plenty of places in the planning area for children at the point of the new catchment area being introduced. It is the case that the following schools in the planning area are undersubscribed in 2023/24: Beech Grove Primary School; Wellesley Park Primary School; Rockwell Green Church of England Primary School; Langford Budville Church of England Primary School; West Buckland Primary School; and Sampford Arundel Community Primary School. The only school that was oversubscribed in the planning area (other than IKBPS) was St John's Church of England Primary School. Looking at the LA's website allocation table for this school, the furthest distance of the last child admitted was 0.8180 miles. As this school is only 0.28 miles from IKBPS, the circle drawn by that distance easily exceeds that of the current circular catchment area of IKBPS. It was therefore possible for any parent to have had their child admitted to schools in the planning area. Table 3 also shows that there are projected to be very few children affected by the introduction of the new catchment area at IKBPS for the next four years, as the deficit is only between -3 and 0. It is clearly the case that the revision of the arrangements to give a greater chance of admission to those living in the new catchment area who are those for whom the school was established will not prevent any other child from securing a place at a school within a reasonable distance of his or her home.

47. The referrer argues that it would be 'damaging' for siblings to be denied the opportunity to attend the same school. He also uses the word 'devastating' to describe the change. I do not agree. I can see how it would be convenient / preferable for families to have children at the same school. However, at some point, it will be the case that siblings of different ages would have to attend different schools (as one goes to secondary for example). I, therefore, do not believe that the argument that it is 'damaging' for siblings not to be in the same school holds significant weight in the consideration of the matters the referrer has raised. I point out here that the Code does not mandate that siblings must or should be admitted to the same school. Indeed, it does not make any requirement for admission authorities to prioritise sibling admission. This is left to individual schools to determine what is right for local circumstances. Consequently, the trust does not have to include a priority for sibling admission in the school's arrangements at all. It is also the case that if parents feel that siblings attending the same school is a priority for their families, the option is open to them to move both children into another local primary school which has places for both. As is shown in Tables 2 and 4, there are a number of schools in the planning area with spaces to admit siblings to the same school, and all have been judged to be 'Good' by Ofsted.

48. According to the GIAS website, IKBPS has a capacity for 472 children. About this, the trust told me that:

“Since opening we have wanted to open two classes per cohort (for 60 children rather than 30) as set out in the original free school plan and we have tried to gain permission from the local authority to do this. There has been increased popularity for the school within the Wellington area, however there are still spaces in local maintained schools which have been prioritised by the local authority to be filled first. IKB and the Trust would gladly open 60 school places per year group, however currently this is beyond our control.

The local authority only wants one class to open as otherwise it will affect neighbouring schools. If we have more than 30 pupils in the catchment, we would like to open 2 classes and take more children. This is not the Trust but the local authority restricting our admissions.”

49. The referrer would no doubt argue that increasing the number of classes would increase the chance of siblings of children already in the school but who would not be admitted under oversubscription criterion 2 as a result of the change in catchment area being admitted. I have looked at the effect of increasing the school to a two-form entry school from 2024 by recalculating the data in Table 3. I have then put the results into Table 6.

Table 6: Forecast data for IKBPS taking into account increasing capacity until 2026 and increasing to two form entry from 2024

<b>Years</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>
<b>Net capacity (increasing to two form entry from 2024)</b>	180	240	300	330
<b>Number of classes in the school</b>	6	8	10	11
<b>Forecast number on roll</b>	147	179	211	210
<b>Surplus / deficit compared to net capacity</b>	33	61	89	120

50. The data in Table 6 show that increasing the number of classes would have the effect of increasing the surplus of places at the school considerably between 2024 and 2027. Whilst this would increase the chance of the group identified by the referrer being admitted, it is the case that the numbers affected by the matter raised in the referral will decrease over the period covered by the data in Table 6, at the same time as the number of surplus places would be increasing. This would have a detrimental financial effect on the school of having to run small classes (and would likely have an adverse impact on the intake of other schools in the area). It is not the case that the trust has to seek the permission of the LA to increase the PAN of the school, as it is an academy. Paragraph 1.3 of the Code makes clear that own admission authorities can increase their PAN without consultation, though paragraph 1.4 requires admission authorities doing so to let the LA know. However, it is to the trust’s credit that it has been working closely with the LA to ensure the LA is able to manage places at a time when a new school has been built in the

planning area and in the context of declining birth rates across the county which is having the impact of reducing primary rolls.

51. I asked the LA if the introduction of the new catchment area in the school's arrangements for 2024 will frustrate its ability to fulfil its duty to ensure a sufficiency of places in the area. The LA told me that it would not, stating:

"The LA does not foresee any issues with the availability of school places in the foreseeable future. The forecasts shows sufficient capacity across the schools and in addition there are a total of 420 places available at IKB[PS], with 120 places currently in use and 30 places being added each year as the school grows from the bottom up."

52. The balancing exercise shows that there is very little potential for any unfair disadvantage by the introduction of the new catchment area evident in the data provided by the school and the LA. The effect of the move of catchment is likely to result in an effect on admission patterns such that there will be a reduction in those admitted under oversubscription criteria 2 and 4 and this will increase the likelihood of the group affected by the matter raised by the referrer being admitted under oversubscription criteria 5 and 6. There will be a significant number of places available in other schools in the planning area. Should it remain a priority for families that their children are educated at the same school, then it is open to those parents to move children to schools which have spaces for children to be admitted to one school. The effect on admissions of the change in catchment area is likely to be very small, as set out in Table 3, in that there will be very few children not being allocated places at IKBPS in any event.

53. I have found that the arrangements for 2024 are reasonable and will not cause unfairness. For these reasons, I do not find the effect of the introduction of the new catchment area, in the way the referrer asserts, to be unfair. I, therefore, do not uphold the matter raised by the referrer.

54. Before moving onto other matters, I note here that the referrer wishes for the school to put in place transitional arrangements for those affected by the change in the manner set out by the referrer. I have not found the change to be unreasonable or unfair and so I do not believe it to be necessary for the school to effect such arrangements. I also note here that the Code does not mandate such arrangements be put in place when arrangements are changed.

## Other Matters

55. Having considered the arrangements as a whole it appeared to me that the following matters do not conform with the requirements of the Code and so I brought them to the attention of the trust. These matters are (paragraphs of the Code are indicated where relevant):

55.1. In respect of sub-section 2.1 entitled 'Over Subscription Criteria', both oversubscription criterion 1 'Looked After Children and previously Looked After Children' and the 'Important notes' section (underneath the criteria) provide definitions. Both are slightly different and this will cause confusion for parents. (Paragraph 14)

55.2. In respect of part of sub-section 6.15, it is not made clear for parents (paragraph 14):

55.2.1 why the school would need to request to see evidence of the child's identity once a place has been offered; and

55.2.2 under what circumstances the school would require an applicant to provide evidence to prove they are 'legally permitted to make an application'.

55.3. It was not clear why sub-sections 6.12 to 6.16 are included in the arrangements as they have nothing to do with the admissions process. It will not be clear to parents why this material is relevant to the admission process. (Paragraph 14)

56. In respect of the last two matters, the trust told me that Devon County Council had been contracted to write the school's admission arrangements and they had been included during that process. The trust told me that it will address all the matters raised, which is welcomed.

57. There are other matters I raised with the school which require more detailed attention:

57.1. In respect of sub-section 2.1 entitled 'Over Subscription Criteria', both oversubscription criteria 2 and 4 state that siblings must be enrolled 'at the time of application'. It would not be clear to parents whether this would still include siblings that have left by the time the applicant joins the school (such as a sibling being in Year 6 at the time of application). (Paragraph 14)

The trust responded:

"Yes, this does mean that a sibling might have left the school (if in Year 6 for example) by the time a sibling starts".

This must be made clear to parents in the arrangements.

25.2 In sub-section 6.1 'Waiting Lists', it is stated that: "[...] parents may request that his/her child's name is placed on the appropriate waiting list." Parents are not expected to request to be placed on a school's waiting list.

The trust responded:

“The Trust asks parents to request for their child to be added to the waiting list for in-year admissions. Children starting school in the normal allocations process for Reception entry, are automatically added to the waiting list and this is maintained until the end of the autumn term.”

There are no circumstances where a parent is expected to request to be added to the waiting list. If a parent has made an application ‘in-year’, then it is expected that if there are no places then they will be added to the waiting list.

It is permissible, however, for the school to ask parents to confirm if they wish their child(ren) to stay on the waiting list. (Paragraphs 2.15 and 14)

I draw to the trust’s attention the requirement under paragraph 2.15 that: “Each admission authority **must** maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission [...]”. It is not sufficient therefore to say ‘until the end of the autumn term’ which, of course, parents are likely to interpret as the last day before the Christmas holidays.

58. The Code requires that the arrangements be amended to address the points I have raised within the timescale set out in this determination.

## Summary of Findings

59. The referrer raised a concern in respect of the change made to the school’s catchment area and the unfairness it will cause to families who live in the current catchment area and already have children at the school. The referrer asserted that the unfairness will be that when the catchment area changes it will mean that siblings of children already in the school are less likely to be admitted than under the current arrangements when, as a result of the change, their addresses are outside of the new catchment area.

60. I have found that the impact on the group identified by the referrer will be minimal, mitigated as it will be by the effect that the new catchment area will have on ‘resetting’ the admissions under different criterion. This will mean that although admitted under oversubscription criteria lower on the list than would be expected currently, admission is not affected in the manner the referrer asserts. I have found that the change in the catchment area has been made on reasonable grounds and is fair.

61. I have found other matters in respect of the school’s arrangements which I have detailed in the ‘Other Matters’ section. The school has said it will address them and it must do so in the timescale set out in this determination.

## Determination

62. I have considered the admission arrangements for September 2020 for the Isambard Kingdom Brunel Primary School in accordance with section 881(5) of the School Standards

and Framework Act 1998 and find that in relation to the change in the school's catchment area, the arrangements conform with the requirements.

63. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

64. 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: 06 December 2023

Signed:

Schools Adjudicator: Dr Robert Cawley