



Office of
the Schools
Adjudicator

Determination

Case references:	ADA4423, ADA4452 to ADA4454, ADA4456 and ADA4458
Objectors:	Multiple objectors
Admission authority:	Brighton and Hove City Council
Date of decision:	20 October 2025

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2026 determined by Brighton and Hove City Council.

I determine that the PANs at both Blatchington Mill and Dorothy Stringer Schools will be 330 in 2026/27. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised as quickly as possible and, in any event, by 31 October 2025, which is the closing date for secondary school place applications for 2026 admissions.

The Referrals and Jurisdiction

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), multiple objections have been referred to the adjudicator by multiple objectors (the Objectors). The objections are about the admission arrangements (the Arrangements) for 2026/27 determined for community secondary schools in the Brighton and Hove City Council area (the Local Authority (LA), BHCC or the city).

2. Table 1 sets out the case reference numbers, the reference for each Objector / objection, a description of the Objectors, the date each objection was submitted and whether anonymity has been requested.

Table 1: Information about the objections

Case reference number	Reference in determination	Description of Objectors	Date objection submitted ¹	Anonymity requested?
ADA4423	Objector / objection 1	One objector acting on behalf of 500 parents, 14 of which (including Objector 1) are signatories to the objection (parents, carers or other parental responsibility)	20 March 2025	Yes ^{2/3}
ADA4452	Objector / objection 2 ⁴	Representative of Queen's Park Primary School Governing Body	7 May 2025	No
ADA4453	Objector / objection 3	Representative of Blatchington Mill School Governing Body	12 May 2025	No
ADA4454	Objector / objection 4	Parent, carer or other parental responsibility	12 May 2025	Yes ²
ADA4456	Objector / objection 5	Other (future parent)	12 May 2025	Yes ³
ADA4458	Objector / objection 7	Parent, carer or other parental responsibility	15 May 2025	Yes ²

Note: the sixth Objector (originally case reference number ADA4457) withdrew their objection on 5 June 2025 and so it has not been considered.

Key:

¹ I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

² These Objectors have asked to have their identity kept from the other parties and have met the requirement of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of their names and addresses to me.

³ Those parents with children due to start secondary school in 2026/27 are automatically granted anonymity. Those with children due to start secondary school from 2027/28 onwards (as is the case for Objector 5 and a number of the 13 others who are represented by the primary objector under Objection 1) are not automatically granted anonymity. The Chief Adjudicator has considered the requests for anonymity and has determined to grant such to Objector 5 and the relevant signatories under Objection 1.

⁴ In addition to raising concerns about the changes to the Admission Arrangements for the secondary schools in question, Objector 2 also raised concerns about the resulting effects on Queen's Park Primary School.

3. The Arrangements were determined under section 88C of the Act on 27 February 2025 by the LA, which is the Admission Authority for the schools that are the subject of the objections.

4. The LA is a party to this objection. Other parties to the objection are the Objectors.

5. The Objectors are concerned that the Arrangements do not conform to the School Admissions Code (the Code). The objections concern: the way the consultation process was conducted; and the alleged unreasonable, unfair and indirectly discriminatory impacts the changes to the Arrangements will have on a variety of social and racial groups. Some Objectors are concerned that the LA is trying to promote greater advantage for the socially disadvantaged over those who are more affluent and others are concerned that the Arrangements will have the effect of further disadvantaging the socially disadvantaged.

6. After the 15 May 2025 deadline, a group from the BHCC area called 'Class Divide' submitted information in support of the LA's determined arrangements for 2026/27, dated 23 May and 10 July 2025. I note from the 'Class Divide' website, that the group describes itself as follows:

"We are a grassroots campaign that has been fighting hard to highlight the persistent and deeply damaging educational inequalities that exist in Brighton & Hove, especially as they affect the East Brighton communities of Whitehawk, Manor Farm and Bristol Estate.

Our mission is to create a socially inclusive education system in our city by challenging unjust stereotypes, building a broad movement for change, and changing the policies and structures that prop up the status quo."

7. Given the opposing views expressed by 'Class Divide', I made the decision for information from this group to be submitted for comment by parties during my consideration of these cases. However, 'Class Divide' did not raise any formal objection in its two submissions (if the group had, their submissions were made too late to be considered as such in any event) and so 'Class Divide' was not made a party to the cases.

8. Additional contributions were received which included commentary on three contributors' views on the effect of the changes made to the Arrangements. Again, they were submitted after the 15 May 2025 and were too late to be considered as objections. Two of the three contributions were distributed to parties with the 'Class Divide' submissions at the point the Jurisdiction and Further Information Paper (JFIP) for this case was issued, and responses were invited on one of those contributions at the request of that contributor. The permission of the third contributor could not be secured in time to distribute this with the JFIP, and I have therefore put that contribution out of my mind in making a determination in this case.

9. Objector 1 made reference to previous adjudicators' findings in case reference numbers REF3348 (Blatchington Mill School) from 2017 and ADA4349-50 from 2024. As well as that case, I have also looked at cases dealing with objections previously raised in the BHCC area (specifically ADA3758, ADA3765, ADA3813, ADA3838, ADA3879, and ADA3814) for context. I note here that all of these decisions were made under the 2014 Code, save for ADA4349-50 which was under the current Code. In addition, the LA made reference to findings by the Local Government and Social Care Ombudsman (LGASCO) (case numbers: 24 021 113; 24 019 397; 24 019 244; 24 018 769; 24 018 895; and 24 018 723). These relate to complaints made about the handling of the consultation process, in respect of the changes to the Arrangements, by the LA. In each of the LGASCO cases, it was found that the LA's consultation process conformed to the requirements relating to the consultation processes as set out in the Code and that there was not enough evidence of fault for an investigation to be initiated in any of the cases. Of course, previous determinations by other schools adjudicators or the LGASCO do not set precedents; I have considered the Arrangements and the consultation process on their merits against the requirements set out in legislation and the Code and in the light of the facts and circumstances as they are now.

10. Given the wide reach of the objections and the time it has inevitably taken to make a determination on them, I have not considered the Arrangements as a whole under section 88I of the Act. The Admission Authority should not take the fact that I have not raised any other matters about the Arrangements as an endorsement of their compliance with the Code.

11. I would like to take the opportunity to give my thanks to all parties for the way in which they presented their views, responded respectfully to each other's submissions, and for their prompt responses to my requests for further information / data.

Procedure

12. In considering this matter I have had regard to all relevant legislation and the Code.

13. The documents I have considered in reaching my decision include:

- a. the Objectors' forms of objection and accompanying documentation and data;
- b. a copy of the documentation and minutes from meetings of the LA's Cabinet at which the consultation for the Arrangements was decided and the Arrangements were finally determined;
- c. a copy of the determined arrangements;
- d. information provided by 'Class Divide' in support of the changes encompassed in the Arrangements;
- e. the additional contributions from two contributors;
- f. the response of the LA to the objections, information from 'Class Divide', the two

additional contributions and the responses of the Objectors throughout the information gathering stage, along with supporting documents;

- g. the response of the Objectors to the information from 'Class Divide', the two additional contributions and LA throughout the information gathering stage, along with supporting documents;
- h. copies of previous determinations by the OSA and the Local Government and Social Care Ombudsman;
- i. the LA's online composite prospectus for admissions to secondary schools;
- j. Google Maps and Open Street Maps;
- k. information available on the websites of the LA, relevant schools in the BHCC area, Ofsted, the Local Government Association (LGA), and the gov.uk website, including the Department for Education (DfE – particularly the 'Get Information About Schools' (GIAS) and the Financial Benchmarking and Insights Tool (FBIT) sites); and
- l. data available on the websites of the IoD 2019 (indices of deprivation in 2019) Interactive Dashboard (from the former Ministry of Housing, Communities and Local Government), and Office of National Statistics (ONS).

14. The LA also provided relevant data in a format that I was able to use in a geographic information system called ArcGIS.

15. I have been provided with a substantial amount of information / data by parties and other contributors which I have considered. I refer only to that which has a bearing on my decision.

The objections

16. Table 2 sets out a summary of the matters that the Objectors have raised and in which objection they were raised. It also sets out the structure I will follow in the 'Consideration of Case' section.

Table 2: Summary of the objections in this case

Determination section ⁵	Objections summary ⁶	Objection numbers
Part 1		
A	The consultation process	1, 5
	i. The consultation process did not meet the four Gunning Principles ⁷ :	

Determination section⁵	Objections summary⁶	Objection numbers
	a. consultation must take place when the proposal is still at a formative stage; b. sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response; c. adequate time must be given for consideration and response; and d. the results of consultation must be conscientiously taken into account.	
Part 2		
B	Leading matters i. The use of the FSM indicator to prioritise admission. ii. Giving priority to out of catchment children before in-catchment children. iii. The reasonable expectation that distance should be a consideration. iv. Priority for admission is afforded to children according to the financial status of parents. v. The use of random allocation as a tie breaker.	1, 5
Part 3		
C	Blatchington Mill School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as Special Educational Needs and Disability (SEND) without an Education and Health Care Plan (EHCP) who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school. ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas.	1, 2, 3, 5, 7

Determination section ⁵	Objections summary ⁶	Objection numbers
	iii. The reduction in the school's PAN will: a. frustrate parental preference; b. impact detrimentally on the school's finances; and c. impact detrimentally on educational achievement.	
D	Hove Park School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school. ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas.	1, 4, 5, 7
E	Patcham High School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school.	1, 4, 5, 7
F	Varndean School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly:	1, 2, 4, 5, 7

Determination section⁵	Objections summary⁶	Objection numbers
	a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school. ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas. iii. The LA has not given enough consideration to the legacy sibling link in the potential for oversubscription in schools in this catchment area. iv. The concerns are further exacerbated by the change to the school's catchment area boundary which will increase the number of children seeking a place at the school.	
G	Dorothy Stringer School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school. ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas. iii. The reduction in the school's PAN will: a. frustrate parental preference; and	1, 2, 4, 5, 7

Determination section⁵	Objections summary⁶	Objection numbers
	b. result in the unreasonable and unfair displacement of children who would otherwise have been admitted into the school. This is further exacerbated by the change to the school's catchment area boundary which will increase the number of children seeking a place at the school. iv. The LA has not given enough consideration to the legacy sibling link in the potential for oversubscription in schools in this catchment area.	
H	Longhill High School i. Those living in the Kemptown area will be disadvantaged by being in the catchment area of the worst performing school in the LA. ii. Children from the least affluent families in the areas affected by the boundary change will be disadvantaged unreasonably and unfairly. iii. The changes to the school's catchment area boundary will affect Queen's Park Primary School by detrimentally affecting admission.	2, 4
Part 4		
I	Indirect discrimination i. Indirect discrimination is caused to: a. female parents; and b. disabled children by being offered a school place much further than their local school. ii. Indirect discrimination is caused to specific racial groups by the change to the boundary of CA-D and CA-F.	2, 5

Key:

⁵ I have structured the 'Consideration of Case' section into four parts covering sections A to I:

- Part 1 – Concerns relating to the consultation process, which is discreet from the other concerns raised (section A).

- Part 2 – Concerns raised as to whether the changes to the Arrangements are permitted by provisions in the Code and whether they can be considered ‘reasonable’ in principle (section B).
- Part 3 – Concerns raised in respect of the practical operation of the arrangements for the six community secondary schools in the BHCC area (sections C to H). The schools are listed in catchment area order:
 - CA-B: Blatchington Mill and Hove Park Schools
 - CA-C: Patcham High School
 - CA-D: Dorothy Stringer and Varndean Schools
 - CA-F: Longhill High School
- Part 4 – Those concerns related to indirect discrimination (section I).

⁶ Determination section B (‘Leading matters’) deals with those aspects of the concerns raised that relate to what is permitted under the Code. Details about the LA area and schools can be found in the ‘Background’ section below.

⁷ *R v London Borough of Brent ex parte Gunning* (1985) 84 LGR 168

17. I offered parties the opportunity early in the process to suggest any amendments to the way I had set out the objections in Table 2. The LA told me it was content with the structure as it was at that point, though amendments were requested by some Objectors. In response, I added determination section B and I and have incorporated some but not all of the amendments suggested by the Objectors. Those I have not incorporated are covered by the points as set out in Table 2 and will, therefore, be covered in the relevant section of the determination.

18. The following paragraphs of the Code were cited by Objectors as being breached by the Arrangements:

- 14. “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, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated”.
- 1.3 (part): “[...] All admission authorities **must** consult in accordance with paragraph 1.45 below where they propose a decrease to the PAN. Community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.”

- 1.8 (part): “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, [...]. Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.”

- 1.9 (part): “It is for admission authorities to formulate their admission arrangements, but they **must not**: [...]

- f) give priority to children according to the occupational, marital, financial, or educational status of parents applying. The exceptions to this are children of staff at the school and those eligible for the early years pupil premium, the pupil premium and the service premium who may be prioritised in the arrangements in accordance with paragraphs 1.39 – 1.42; [...]

- h) discriminate against or disadvantage disabled children, those with special educational needs, or those applying for admission outside their normal age group where an admission authority has agreed to this under paragraphs 2.18 to 2.20; [...]

- 1.14 (part): “Catchment areas **must** be designed so that they are reasonable and clearly defined. [...]”.

- 1.34 (part): “Local authorities **must not** use random allocation as the principal oversubscription criterion for allocating places at all the schools in the area for which they are the admission authority”.

- 1.35 (part): “The random allocation process **must** be supervised by someone independent of the school [...]”.

- 1.41 (part): “Admission authorities may give priority in their oversubscription criteria to children eligible for the early years pupil premium, the pupil premium and also children eligible for the service premium. [...]”.

- 1.45 (part): “When changes are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year. [...]”.

- 1.47 (part): “Admission authorities **must** consult with:
 - a) parents of children between the ages of two and eighteen; [...]

 - c) all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);

d) whichever of the governing body and the local authority is not the admission authority;

e) any adjoining neighbouring local authorities where the admission authority is the local authority; [...].”

- 1.48 (part): “For the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on the school’s website or its own website (in the case of a local authority) together with details of where comments may be sent and the areas on which comments are not sought. [...].”
- 1.54 (part): “Local authorities **must** publish online [...] a composite prospectus for parents [...]. They **must** ensure the prospectus is written in a way that makes it clear and accessible to all parents.”
- 2.29 (part): “Where an admission authority is dealing with multiple in-year admissions and do not have sufficient places for every child who has applied for one, they **must** allocate places on the basis of the oversubscription criteria in their determined admission arrangements only”.

19. I will make clear whether these are relevant in the ‘Consideration of Case’ section below.

20. In addition to those cited by the Objectors, I have identified the following paragraphs of the Code that are relevant:

- 1.10 (part): “This Code does not give a definitive list of acceptable oversubscription criteria. It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances.”
- 1.46: “Consultation **must** last for a minimum of 6 weeks and **must** take place between 1 October and 31 January in the determination year.”
- 1.47 (part): “Admission authorities **must** consult with: [...]

b) other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions; [...].”

- 1.49: “All admission authorities **must** determine their admission arrangements, including their PAN, every year, even if they have not changed from previous years and a consultation has not been required by 28 February in the determination year”.

21. Objector 1 raised two matters regarding the LA’s handling of its communications about changes to admission arrangements. First, Objector 1 stated that the proposal to introduce the FSM priority in the 2025/26 arrangements was not properly communicated or

then subsequently implemented as proposed. My jurisdiction is for the 2026/27 Arrangements and not the 2025/26 arrangements, and so I have not considered this matter. Second, Objector 1 raised a number of issues about the implementation and consequent effect of the LA's pre-consultation engagement exercise for the 2026/27 Arrangements, including a lack of transparency as to how this led to what was subsequently consulted upon. The Act (and hence the Code) places no requirement on admission authorities to carry out pre-consultation engagement exercises; paragraph 1.45 of the Code only requires admission authorities to conduct a consultation when changes to admission arrangements are proposed. The matter raised by Objector 1, therefore, is also not within my jurisdiction and I have not considered it any further. However, I note the information provided on these matters was helpful context for those matters raised that I do consider in this determination.

22. Some Objectors have suggested 'solutions' to the concerns that they raised. It is not within my jurisdiction to say how the LA, as the Admission Authority, should revise its arrangements (where necessary) in response to my determination. My role is to determine whether or not the arrangements conform to the relevant legal requirements and if not in which ways they do not so conform.

23. Given the nature and complexity of the concerns raised, I felt it was important to provide a number of opportunities for parties to comment on each other's submissions. This has inevitably led to an increase in the time it has taken to complete the determination. I stress, again, that it I have only referred to that which has a bearing on my decision.

Background

24. Brighton and Hove is a city situated on the southeastern coast of England in the county of Sussex approximately 51 miles (82 km) south of London. BHCC is a unitary authority, being a district council which also performs the functions of a county council, covering 32 square miles (82 square km). ONS data records that there were 279,637 residents in the city in 2023 (mid-year population estimates).

25. According to GIAS, there are 10 secondary schools in the BHCC area. Table 3 lists the schools with their characteristics. All schools are mixed gender (co-educational) and non-selective.

Table 3: Secondary schools in the BHCC area

School name	Type	PANs 2025/26 ¹⁰ (2026/27 ¹¹)	Religious character	Ofsted ⁸
Blatchington Mill School	C	330 (300)	No	Good
Brighton Aldridge Community Academy (BACA)	AS	180 (180)	No	Good ⁹
Cardinal Newman Catholic School	VA	360 (360)	Roman Catholic	Outstanding ⁹
Dorothy Stringer School	C	330 (300)	No	Good

School name	Type	PANs 2025/26 ¹⁰ (2026/27 ¹¹)	Religious character	Ofsted ⁸
Hove Park School	C	180 (180)	No	Good
King's School	FS	165 (165)	Church of England	Good
Longhill High School	C	270 (210)	No	Requires Improvement
Patcham High School	C	225 (225)	No	Good
Portslade Aldridge Community Academy (PACA)	AS	220 (220)	No	Good
Varndean School	C	300 (300)	No	Good

Key:

PANs – Published Admission Numbers

AS – academy sponsor-led

C – community

FS – free school

VA – voluntary aided

⁸ Ofsted changed the way it reports the outcomes of inspections on 2 September 2024. Before that date, a single grade was given. After that date, a grade in five categories⁹ is given (four if no sixth form).

⁹ In all five Ofsted inspection categories (Quality of education, Behaviour and attitudes, Personal development, Leadership and management, and Sixth form provision).

¹⁰ In the BHCC area in 2025/26, there are:

- 2,560 places in the 10 secondary schools.
- 2,035 places in the eight secondary schools using catchment areas to determine priority for admission (the six community secondary schools, BACA and PACA, hereinafter referred to collectively as the 'catchment secondary schools').
- 1,635 places in the six community secondary schools.

¹¹ In the BHCC area in 2026/27, there will be:

- 2,440 places in the 10 secondary schools.
- 1,915 places in the eight catchment secondary schools.
- 1,515 places in the six community secondary schools.

26. Whilst the 2025/26 arrangements are not the focus of the objections, I have looked at those arrangements in order to understand the changes that have been made for the Arrangements in 2026/27. For the six community secondary schools in Table 3 (and which are the focus of this determination), the oversubscription criteria (called 'admission

priorities' in the arrangements) in 2025/26, after the admission of children with Education, Health and Care Plans (EHCPs), are:

1. Looked after children and all previously looked after children, including those children who appear (to BHCC) to have been in state care outside of England and ceased to be in state care as a result of being adopted.
2. Compelling medical or other exceptional reasons to attend the school.
3. Sibling link (for those living within the designated catchment area only).
4. Children eligible for FSM and living within the school's catchment area.
5. Other children eligible for FSM, up to the city average.

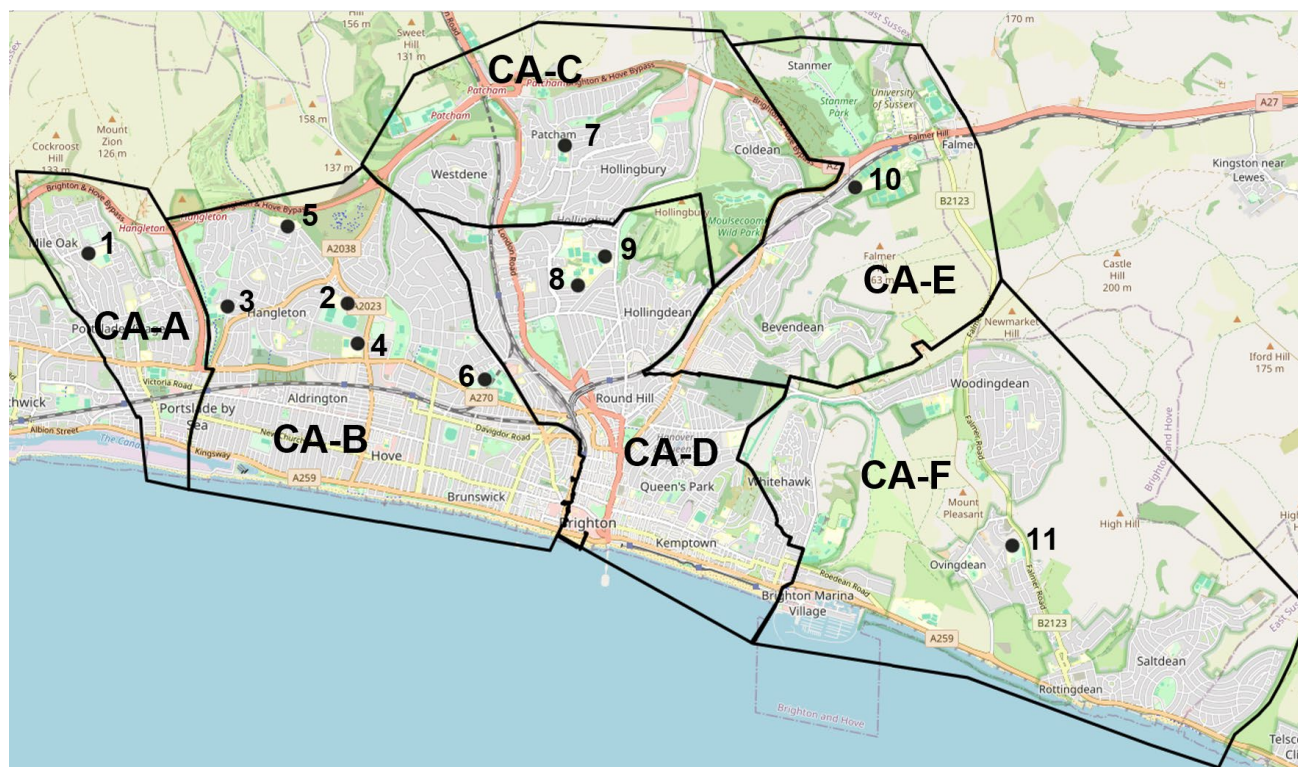
("The city average will be taken as the average percentage of children eligible for free school meals in the year 6 cohort. This is taken from the school census in October 2024. The number of places that can be available at each school under Priority 5 will be calculated by applying the city average to the school's PAN, minus the number of pupils considered under priority 4.").

6. Children living in the designated catchment area for the school.
7. Other children.

If a school is oversubscribed with children in any of the above priorities, the LA uses an electronic random allocation system to decide which of the children within that priority should be offered the available places.

27. The catchment areas for the eight catchment secondary schools in the BHCC area and the location of all 10 secondary schools (Hove Park School is split over two sites) is shown in Map 1, with its key in Table 4.

Map 1: Catchment areas and location of all secondary schools in the BHCC area (2025/26 arrangements)



(Source: OpenStreetMap basemap in ArcGIS with catchment area boundaries for 2025/26 and all secondary school location files provided by the LA)

Table 4: Key to Map 1

Catchment area	Schools located in each catchment area	Postcodes covered in each catchment area
CA-A	PACA (1)	BN41 1A BN41 1DY BN41 1D except Y BN41 1E BN41 1FX BN41 1GR, S, T & U BN41 1G except R, S, T & U BN41 1H BN41 1L except D, E BN41 1LD, E, F, G & H BN41 1N BN41 1OH BN41 1PB Part of BN41 1PH BN41 1PS F, G, H BN41 1RX

Catchment area	Schools located in each catchment area	Postcodes covered in each catchment area
		BN41 1S BN41 1T BN41 1UA, B, Q BN41 1UY BN41 1WY BN41 1WA, B, E & R BN41 1X BN41 1Y BN41 2
CA-B	Blatchington Mill School (2) Hove Park School (Valley Campus – Years 7 and 8) (3) Hove Park School (Neville Campus – Years 9 to 11) (4) (King's School (5)) (Cardinal Newman Catholic School (6))	BN3 BN1 2 BN1 3 (Except for the following which are in catchment area D: - BN1 3TF / 3TX (Belmont) - BN1 3TG (Westcombe) - BN1 3TH (Russell Crescent) - BN1 3TL (Prestonville Road north of the railway line - Nos 1-28) - BN1 3TS (York Villas) - BN1 3TT (York Grove) - BN1 3TU (New England Road) - BN1 3UG (Prestonville Court))
CA-C	Patcham High School (7)	BN1 5AZ BN1 5BQ BN1 5E,F,G,H BN1 5JD (even numbers only) BN1 5JE (even numbers only) BN1 5JH, JJ, JP, JX BN1 5L except A, B, D, E, BN1 8 BN1 9A BN1 9BA BN1 9B,X,Y,Z BN1 9D BN1 9E BN1 9G BN1 9HT R, S, W BN1 9HU BN1 9JS BN1 9QB BN1 9TN
CA-D	Dorothy Stringer School (8)	BN1 1

Catchment area	Schools located in each catchment area	Postcodes covered in each catchment area
	Varndean School (9)	BN1 3TF / X (Belmont) BN1 3TG (Westcombe) BN1 3TH (Russell Crescent) BN1 3TL (Prestonville Road north of the railway line - Nos 1-28) BN1 3TS (York Villas) BN1 3TT (York Grove) BN1 3TU (New England Rd) BN1 3UG (Prestonville Court) BN1 4 BN1 5JS BN1 5A except Z BN1 5B, D, N, P, R, S, T BN1 5JB, JD (odd nos only), JE (odd nos only), JF, JG, JL, JN BN1 5LA, B, D, E, R, S, W BN1 6 BN1 7 BN2 0 BN2 1 BN2 3 BN2 5A BN2 5B BN2 5D except T & some of Z BN2 5E except T & some of F, H & L BN2 5FA BN2 5FB BN2 5FG BN2 5GG, H & J BN2 5J BN2 5LJ BN2 5NA, B & S Some of BN2 5PA BN2 5RT, Y & Z BN2 5TA, B, D, E, F, G, H, J, W & X BN2 5UB BN2 5YS, U & W BN2 5ZH, L BN2 9
CA-E	BACA (10)	BN1 9P BN1 9HW BN1 9Q except B BN1 9HX

Catchment area	Schools located in each catchment area	Postcodes covered in each catchment area
		BN1 9R BN1 9HY BN1 9S BN1 9J except S BN1 9B except A BN2 4
CA-F	Longhill High School (11)	BN2 5DT & some of Z BN2 5ET & some of F, H & L BN2 5F except A, B & G BN2 5G except G, H & J BN2 5H BN2 5W BN2 5L except J BN2 5N except A, B & S BN2 5P except some of A BN2 5R except T, Y & Z BN2 5Q BN2 5S BN2 5TN, P, Q, R & S BN2 5U except B BN2 5X BN2 5ZB, D, E, F, G, J BN2 6 BN2 7 BN2 8
CA-C / D and F	-	Addresses in BN1 5JD and BN1 5JE (Tongdean Lane) cross the boundary between CA-C and CA-D. Odd numbers are in the area for CA-D. Even numbers are in CA-C. The part of Tongdean Lane which is east of the railway line (i.e. Windsor Court BN1 5JS and Manhattan Court BN1 6XZ) is in CA-D. Addresses in BN2 5DZ, BN2 5EF, BN2 5EH, BN2 5EL and BN2 5PA cross the boundary between CA-F and CA-D: BN2 5DZ / BN2 5EF (Manor Way) – even numbers 2-34 are in CA-D.

Catchment area	Schools located in each catchment area	Postcodes covered in each catchment area
		All odd numbers and evens from 36 onwards are in CA-F. BN2 5EH / BN2 5EL (Manor Hill) – odd numbers are in CA-F. Even numbers are in CA-D. BN2 5PA (odd numbers in Wilson Avenue) - 1, 3, 5, 7 and 11 are in the CA-D. 13 upwards are in CA-F. NB: addresses on the eastern side of Wilson Avenue (BN2 5PB) are all in CA-F.

Note: CA-B and CA-D are referred to by the LA as ‘dual catchment areas’ as there are two community schools located in both areas. The two schools in in CA-B (in brackets), which are not community schools, do not use catchment areas to prioritise admission.

28. For 2026/27, the oversubscription criteria, after the admission of children with EHCPs, are:

1. Looked after children and all previously looked after children, including those children who appear (to BHCC) to have been in state care outside of England and ceased to be in state care as a result of being adopted.
2. Compelling medical or other exceptional reasons to attend the school.
3. Sibling link (for those living within the designated catchment area only).
4. Children living within the designated catchment area and eligible for FSM up to the city average.
5. Other children eligible for FSM up to the city average.

(“The city average will be taken as 30%. The number of places available at each school under criteria 4 will be calculated by applying the city average to the school’s PAN and subtracting the number of places offered to pupils eligible for free school meals under criteria 1,2, and 3.

The number of places available under criteria 5 will be calculated by applying the city average to the schools PAN and subtracting the number of places offered to pupils eligible for free school meals under criteria 1,2,3, and 4.”).

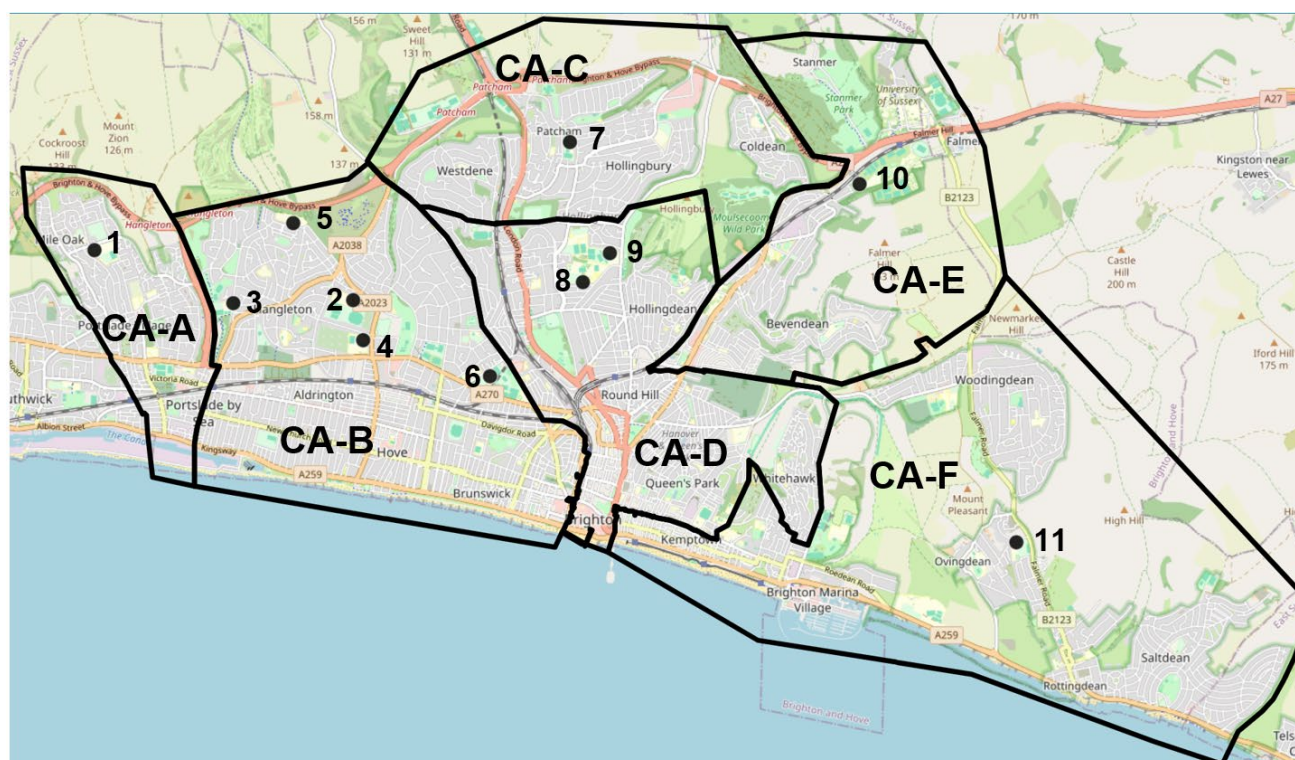
6. Children living outside the school’s catchment area but within the catchment area for BACA, PACA, Patcham or Longhill up to five per cent.
7. Children living in the designated catchment area for the school.

8. Other children.

The same random allocation process as employed in the 2025/26 arrangements is used to prioritise places in the event of oversubscription under any of the criteria.

29. Map 2 shows the catchment areas for the Arrangements, two of which have been changed from those shown in Map 1, with its key in Table 5.

Map 2: Catchment areas and location of all secondary schools in the BHCC area (the Arrangements for 2026/27)



(Source: OpenStreetMap basemap in ArcGIS with catchment area boundaries for 2026/27 and all secondary school location files provided by the LA)

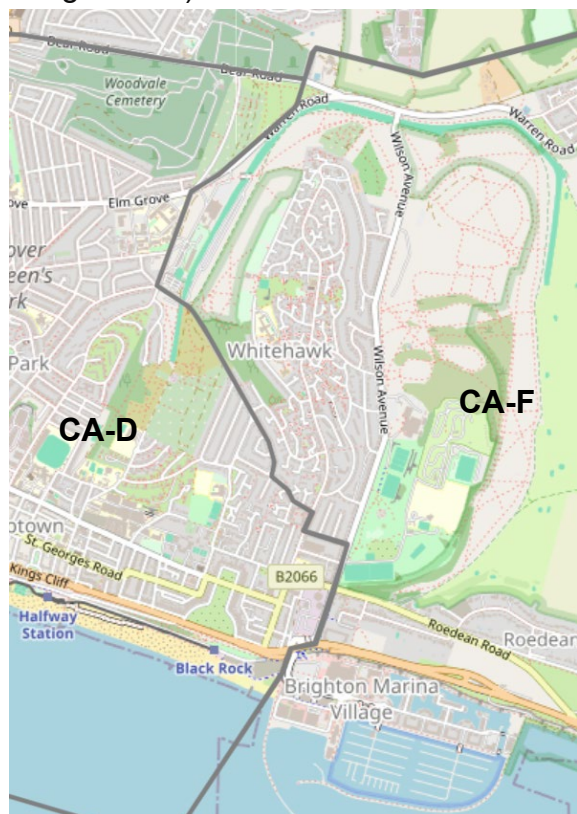
Table 5: Key to Map 2

Postcodes moved from CA-F to CA-D	BN2 5DT & some of Z BN2 5ET & some of F, H & L BN2 5F except A, B & G BN2 5G except G, H & J BN2 5H except A BN2 5L except J BN2 5N except A, B & S BN2 5P except some of A & B BN2 5Q BN2 5RS BN2 5ZG & J
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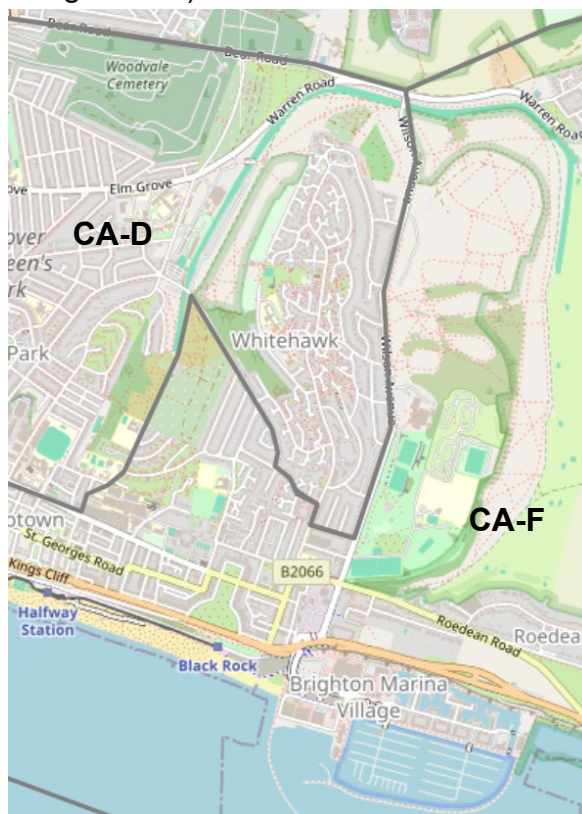
Postcodes moved from CA-D to CA-F	BN2 5R except S BN2 1 BN2 5A BN2 5B BN2 5D except T & some of Z BN2 5E except T & some of F, H & L BN2 5FA, B & G BN2 5Y BN2 5GG, H & J BN2 5Z except G & J BN2 5HA BN2 5J BN2 5LJ BN2 5NA, B & S Some of BN2 5PA & B
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30. The changes to the boundaries between CA-D and CA-F for the Whitehawk area of Brighton and Hove between 2025/26 and 2026/27 are shown in Maps 3 and 4.

Map 3: Location of Whitehawk area of Brighton and Hove in CA-F (2025/26 arrangements)



Map 4: Location of Whitehawk area of Brighton and Hove in CA-D (2026/27 Arrangements)



(Source: Objector 5 – OpenStreetMap with my labelling)

31. The changes to the boundaries between CA-D and CA-F for the Kemptown and Bristol Estate areas of Brighton and Hove between 2025/26 and 2026/27 are shown in Maps 5 and 6.

Map 5: Location of Kemptown and Bristol Estate areas of Brighton and Hove in CA-D (2025/26 arrangements)



(Source: Objector 5 – OpenStreetMap with my labelling)

Map 6: Location of Kemptown and Bristol Estate areas of Brighton and Hove in CA-F (2026/27 Arrangements)



(Source: Objector 5 – OpenStreetMap with my labelling)

32. The changes to the Arrangements for 2026/27 can be summarised as follows:

- Changes to the oversubscription criteria:
 - 4 – the ‘city average’ percentage of children eligible for FSM has been applied to the criterion.
 - 5 – the ‘city average’ percentage of children eligible for FSM has been set at 30 per cent and is no longer dynamically linked to the percentage of children with FSM in Year 6.
 - 6 – the LA has introduced this priority (to prioritise five percent of places at community secondary schools for children living outside a school’s catchment area and in a different catchment area within the city where that catchment area has only one school). This is referred to as the ‘open admission priority’ (OAP). This will have the effect of lowering the priority for those in catchment (previously oversubscription criterion 6 in the 2025/26 arrangements and oversubscription criterion 7 in the Arrangements).
- Alterations to two catchment areas (CA-D and CA-F), to:
 - Move the Whitehawk area from CA-F into CA-D.
 - Move the Kemptown and Bristol Estate areas from CA-D to CA-F.
- Reducing the PANs at the following schools:
 - Blatchington Mill School (from 330 to 300).
 - Dorothy Stringer School (from 330 to 300).
 - Longhill High School (from 270 to 210).

33. The LA also increased the number of preferences that parents will be able to express for secondary school places in 2026/27 from 3 to 4 as part of its changes to the co-ordinated scheme. I note here that the PAN reduction for Longhill High School was uncontroversial as admission numbers have been much lower than the PAN for a number of years.

34. In terms of its priorities and objectives, the LA told me that:

“The Council Plan 2023 to 2027, A better Brighton & Hove for all, outlines a vision of an inclusive, accessible and fair city where everyone thrives, and where no child, young person or family is left behind. The plan details the importance of delivering strategies for children and young people at risk of educational disadvantage. It also commits to finding ways to address the challenges schools are facing with falling pupil numbers in the city.

The council's School Organisation Strategy outlines [five] strands of work to implement the council's commitment to develop a system that:

- provides families with a good choice of schools in the city that meets their child's needs,
- delivers schools which are sustainable and able to thrive,
- ensures risk (budget) to the council is manageable and proportionate,
- delivers children's outcomes which are good and improving especially for those at risk of disadvantage,
- facilitates schools working together and with the council in an effective partnership model".

35. The LA told me that the revisions to the Arrangements were designed to address the following:

"(i) the issue of educational disadvantage in the city (outcomes for disadvantaged pupils in Brighton & Hove mirror outcomes in the south east of England where social segregation is greater than elsewhere in the country) and the established inequity experienced by many families regarding school admissions, due to the current configuration of secondary school catchment areas [...].

The policy approach intends to provide more equity of opportunity and a greater element of preferred choice of school for parents living in single school catchment areas who have previously only had a priority for their catchment school. [...]

An analysis of the end of Key Stage results for children and young people for the 2023 - 2024 academic year shows that the percentage of pupils eligible for Free School Meals (FSM) in Brighton & Hove achieving a good level of development was 50%, which was lower than the national average. At Key Stage 2, the percentage of disadvantaged pupils achieving the expected standard in reading, was above the national average. However, the percentage achieving reading, writing, maths combined was below the national average. At Key Stage 4 attainment of disadvantaged pupils has mixed results with the percentage obtaining maths and english [sic] at grade 5 or above was above national averages, the English Baccalaureate average point score was in line with national averages but the percentage attainment 8 score was below national averages.

(ii) Falling pupil numbers in the city.

Pupil numbers overall across the city have been falling and are forecast to continue to fall over the coming years. The council is therefore seeking to manage the reduction in pupil numbers across the city now and into the future by reducing the Published Admission Number of three secondary schools in the city [...].

The 2021 census showed there has been a 22% drop in children aged 0-4 in the city compared to the 2011 census whilst across England and Wales the number of children aged 0-4 fell by 7.6%.

Until 2023/24 the council had endeavoured to tackle the issue of surplus primary places through the reduction of PANs. However, it became clear as the number of surplus places increased that the council would need to take additional steps to address the issue, and that it could no longer be tackled by PAN reductions alone. The council was also cognisant of the fact that further PAN reductions would be likely to result in the frustration of parental preference.”

36. In its pre-consultation and consultation materials, the LA set out that falling demand for places in secondary schools was one of the reasons for the changes then proposed for the Arrangements. In the report for the LA Cabinet meeting on 5 December 2024, it was recorded about the changes to the Arrangements, that:

“ In addition, the proposals put forward were designed to include:

- Better equality of outcomes – results not driven by economic advantage.
- Deliver a ‘comprehensive’ offer from our city schools as a more mixed pupil intake creates better outcomes for disadvantaged pupils.
- To deliver change whilst ensuring a genuine alliance of city schools that considers the ‘city child’ (where the education system takes responsibility for all children) and works in effective partnership.
- Maintaining the geographic spread of secondary schools in the city.”

37. The LA has made clear that, in respect of ‘maintaining the geographic spread of secondary schools in the city’, it intends to develop an admission system that keeps Longhill High School open (this is the ‘least popular’ of all of the schools in terms of preferences and admissions and has the lowest Ofsted grading of the schools in the city). To do that, the LA has made changes to the oversubscription criteria in the Arrangements that have the effect of moving children from other catchment areas and displacing others from other schools to ensure the viability of Longhill High School. I will explore later in section H why the closure of the school would have a significant impact on all of the schools in the city and on catchment area CA-F. The LA has a statutory duty under the Education Act 1996 to ensure there are enough school places for all children of compulsory school age in its area; it is at liberty to take reasonable steps to ensure that it meets that duty.

38. The LA provided me with data which has allowed me to look at previous admission patterns to its secondary schools and forecast data. By looking at this at this point in the determination, I intend for this to act as background to the secondary school system in the BHCC area and the LA’s reasons for the changes it has implemented in the Arrangements.

39. Looking at previous admission patterns first, the LA provided data showing the number of preferences expressed for places and the number offered places / admitted to

each secondary school between 2023/24 and 2025/26 (admission data for 2025/26 was only available for the six community schools at the time this determination was written) which I have put into Tables 6 to 8.

Table 6: Data showing the number of preferences expressed for places at BHCC secondary schools and number offered / admitted to each in 2023/24

School name	First preferences / (number offered) ¹²	Second preferences / (number offered) ¹²	Third preferences / (number offered) ¹²	Totals ¹³	Number admitted ¹⁴
Blatchington Mill School	300 (260)	309 (61)	231 (9)	840 (330)	328
BACA	92 (92)	34 (5)	34 (3)	160 (100)	122
Cardinal Newman Catholic School	451 (351)	189 (9)	297 (0)	937 (360)	366
Dorothy Stringer School	260 (242)	516 (81)	232 (7)	1008 (330)	329
Hove Park School	158 (132)	298 (40)	258 (8)	714 (180)	178
King's School	241 (162)	229 (3)	198 (0)	668 (165)	181
Longhill High School	134 (134)	38 (14)	27 (4)	199 (152)	170
Patcham High School	203 (196)	87 (17)	292 (12)	582 (225)	213
PACA	154 (154)	79 (26)	113 (20)	346 (200)	214
Varndean School	409 (292)	423 (8)	233 (0)	1065 (300)	297
Totals =	2402 (2015)	2202 (264)	1915 (63)	6519 (2342)	2398

Key (for Tables 6 to 8):

¹² The number expressing preferences (first, second and third) with the number of each who expressed a preference who were subsequently made an offer on National Offer Day (NOD) in brackets.

¹³ The total number of preferences expressed for places with the total number of places offered on NOD in brackets.

¹⁴ The number of children admitted in September (from the October school census) for 2023/24 and 2024/25. LA data for 2025/26 was only available for the six community secondary schools. The LA told me that 323 children were admitted to Blatchington Mill School and 329 children were admitted to Dorothy Stringer School in September 2025, but that “these schools have a waiting list so any vacant places will be filled within the next two weeks”. I have, therefore, recorded both to be at PAN.

Table 7: Data showing the number of preferences expressed for places at BHCC secondary schools and number offered / admitted to each in 2024/25

School name	First preferences / (number offered) ¹²	Second preferences / (number offered) ¹²	Third preferences / (number offered) ¹²	Totals ¹³	Number admitted ¹⁴
Blatchington Mill School	279 (243)	268 (69)	224 (18)	771 (330)	326
BACA	73(73)	27 (6)	39 (5)	139 (84)	119
Cardinal Newman Catholic School	466 (347)	203 (12)	272 (1)	941 (360)	370
Dorothy Stringer School	234 (199)	518 (111)	262 (20)	1014 (330)	330
Hove Park School	110 (110)	252 (41)	244 (19)	606 (170)	150
King's School	242 (159)	224 (6)	202 (0)	668 (165)	180
Longhill High School	80 (80)	30(9)	39 (5)	149 (94)	103
Patcham High School	210 (182)	89 (23)	253 (20)	552 (225)	224
PACA	129 (129)	105 (38)	77 (4)	311 (171)	173
Varndean School	456 (293)	394 (7)	209 (0)	1059 (300)	297
Totals =	2279 (1815)	2110 (322)	1821 (92)	6210 (2229)	2272

Table 8: Data showing the number of preferences expressed for places at BHCC secondary schools and number offered places in each in 2025/26 and admitted to the six community secondary schools

School name	First preference s / (number offered) ¹²	Second preferences / (number offered) ¹²	Third preference s / (number offered) ¹²	Totals ¹³	Number admitted ¹⁴
Blatchington Mill School	258 (244)	273 (61)	303 (25)	834 (330)	330
BACA	83 (83)	37 (5)	33 (1)	153 (89)	-
Cardinal Newman Catholic School	523 (349)	239 (11)	319 (0)	1081 (360)	-
Dorothy Stringer School	215 (186)	479 (127)	228 (17)	922 (330)	330
Hove Park School	130 (130)	242 (27)	274 (14)	646 (171)	176
King's School	252 (170)	280 (10)	219 (0)	751 (180*)	-
Longhill High School	74 (74)	39 (17)	38 (6)	151 (97)	103

School name	First preference s / (number offered) ¹²	Second preferences / (number offered) ¹²	Third preference s / (number offered) ¹²	Totals ¹³	Number admitted ¹⁴
Patcham High School	166 (166)	74 (18)	235 (18)	475 (202)	189
PACA	175 (175)	87 (12)	70 (3)	332 (190)	-
Varndean School	427 (284)	390 (13)	192 (3)	1009 (300)	302
Totals =	2303 (1861)	2140 (301)	1911 (87)	6354 (2249)	-

40. Table 3 recorded there being 2,560 places in all of the secondary schools in the BHCC area. In the three years covered by the data in Tables 6 to 8, it was evident that there has been a surplus of between 218 and 331 places at NOD (between 8.5 and 12.9 per cent of the total number of places). The number admitted in September 2023 and 2024 was higher in both years than the number of places offered at NOD (by between 43 and 56 more children admitted). This meant that the surplus fell to between 6.3 to 11.3 percent. The DfE document, “Basic need allocations 2025-26: Explanatory note on methodology”, refers to the need for two per cent surplus capacity “to provide an operating margin for local authorities ... to support parental choice, pupil population movement, and general manageability of the system”. I note that the proportion of vacant places in the BHCC area has been significantly higher than two per cent in the period covered by the data.

41. The LA provided its dataset of the forecast demand for 2026/27 to 2031/32 for each of the catchment areas (CA-A to CA-F) and in the context of the revisions to CA-D and CA-F and the PAN reductions at Blatchington Mill, Dorothy Stringer and Longhill High Schools from 2026/27. I have put that data into Table 9.

Table 9: Data showing the forecast demand for 2026/27 to 2031/32 for each of the catchment areas (CA-A to CA-F)

Catchment Area	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
CA-A¹⁵	264	228	234	225	257	192
CA-A¹⁶	221	185	191	182	214	150
CA-B¹⁵	750	760	725	728	662	677
CA-B¹⁶	434	443	410	413	351	365
CA-C¹⁵	241	249	237	230	198	214
CA-C¹⁶	205	212	201	194	163	179
CA-D¹⁵	726	692	688	659	656	637
CA-D¹⁶	624	592	588	560	557	539
CA-E¹⁵	165	175	180	147	129	161
CA-E¹⁶	129	138	143	112	95	125
CA-F¹⁵	301	290	302	280	270	274

Catchment Area	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
CA-F¹⁶	175	166	176	159	151	154
Totals¹⁷	2447	2394	2366	2269	2172	2155
Totals¹⁸	1788	1736	1709	1620	1531	1512

Key:

¹⁵ The first row for each catchment area shows the forecast demand for places in all secondary schools in the BHCC area for the period covered.

¹⁶ The second row for each catchment area shows the forecast demand for the catchment secondary schools in the BHCC area for the period covered. The LA told me that this figure has been arrived at by the application of two adjustments:

- By applying a 'reduced by' percentage. The LA explained to me that:

"the 'reduced by' percentage is the difference between primary school and secondary school uptake for each catchment area. This is calculated by comparing the number of pupils living in the catchment area in year 6 attending a B&H [Brighton and Hove] maintained primary school on the May census, with the number pupils living in that catchment area who attend a maintained secondary school in the city in the following October census. The percentage is calculated using a weighted average across the last 3 years."

The 'reduce by' percentage for each catchment area (in brackets) is: CA-A (2.01); CA-B (5.47); CA-C (3.48); CA-D (3.82); CA-E (7.37); and CA-F (22.61).

- Taking away the number of children it is forecast will be admitted to the Cardinal Newman Catholic School and King's School from each catchment area (that number in brackets): CA-A (38); CA-B (275); CA-C (28); CA-D (74); CA-E (24); and CA-F (58).

¹⁷ The forecast total number of places required at all secondary schools in the BHCC area in the period covered.

¹⁸ The forecast total number of places required at the catchment secondary schools in the BHCC area in the period covered.

42. Taking the 'Totals' data from Table 9, I have calculated the forecast deficit / surplus places for all secondary schools and then for the catchment secondary schools in the BHCC area between 2026/27 and 2031/32 and put that data in Table 10.

Table 10: Forecast deficit / surplus places for all secondary schools ('All') and catchment secondary schools ('Catchment') in the BHCC area between 2026/27 and 2031/32 in numbers and percentages

	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
All¹⁹	-7	46	74	171	268	285
All (percentage²¹)	-	1.9	3.0	7.0	11.0	11.7
Catchment²⁰	127	179	206	295	384	403
Catchment (percentage²¹)	6.6	9.3	10.8	15.4	20.1	21.0

Key:

Deficits are indicated with a '-'.
¹⁹ For all secondary schools in the BHCC area, the forecast totals from Table 9 subtracted from the total number of places (2,440).

²⁰ For all catchment secondary schools in the BHCC area, the forecast totals from Table 9 subtracted from the total number of places (1,915).

²¹ Percentages calculated to show the proportion of any surplus places within the total number of places available.

43. The data in Tables 9 and 10 show a clear decrease in the forecast demand for places in all secondary schools in the BHCC area between 2026/27 to 2031/32, though initially there is a small deficit of seven places in 2026/27 and the government recommendation to have two per cent surplus places is not met until 2028/29. However, the forecast is for there to be a surplus of 127 places in the catchment secondary schools in the BHCC area from 2026/27 (6.6 per cent of the total number of places). This is forecast to increase year-on-year until 2031/32 when there is forecast to be a surplus of 403 places (21 per cent of the total number of places) even with the reduction in PANs at Blatchington Mill, Dorothy Stringer and Longhill High Schools from 2026/27. Had the LA not reduced the PANs at those three community schools from 2026/27, the surplus of places in catchment secondary schools in 2026/27 would have been 247 (12.1 per cent of the total number of places) rising to 523 surplus places in 2031/32 (25.7 per cent of the total number of places).

44. From this data, it is clear that there is an imperative for the LA to take action to reduce the surplus, particularly to protect the financial position of its six community secondary schools in the medium to long term. This is because schools are largely funded on a per-child basis. In general, maintaining PANs in a situation where there is a surplus may mean schools maintaining higher levels of staff and resources than is needed. This is likely to lead to schools entering deficit budgets as the costs outweigh the income from the children admitted. The LA not only has the responsibility for its own community schools, but a co-ordination role for all schools in its area. The steps it has taken in the Arrangements to begin the process of addressing the situation of falling demand, as forecast by the data, appear to me to be evidence of the LA exercising its statutory responsibility.

45. I will draw upon the data in Tables 6 to 10 later in this determination where relevant to my consideration of the objections in Part 3 of this determination (as set out in Table 2). I will also consider how these general catchment / city-wide forecasts affect the individual community schools in Part 3 of this determination.

46. Brighton and Hove is a coastal city, delimited to the south by the English Channel and within the county of Sussex. To the east, the city merges into Southwick and then Shoreham-by-Sea. To the west are Peacehaven and Newhaven. It is the case, as with any area, that parents may choose to apply for places at schools outside of the administrative area in which they live. At my request, the LA provided data for the numbers of children in each catchment area offered places in schools outside of the BHCC area on NOD and the percentage of the total number of children in Year 7 not admitted to a school in the BHCC area between 2023/24 to 2025/26. I have put that data in Table 11.

Table 11: Number offered places in schools outside of the BHCC area on NOD and the percentage of the total number of children in Year 7 not admitted to a school the BHCC area between 2023/24 to 2025/26 in each catchment area

Catchment Area	2023/24 (number)	2023/24 (per cent)	2024/25 (number)	2024/25 (per cent)	2025/26 (number)	2025/26 (per cent)
CA-A	3	4.76	3	4.48	9	12.16
CA-B	3	4.76	7	10.45	7	9.46
CA-C	2	3.17	1	1.49	0	0
CA-D	2	3.17	5	7.46	1	1.35
CA-E	3	4.76	5	7.46	3	4.05
CA-F	50	79.37	46	68.66	54	72.97
Totals	63	-	67	-	74	-

Key:

‘(number)’ - Number of children offered places in schools outside of the BHCC area on NOD between 2023/24 to 2025/26 in each catchment area.

‘(per cent)’ – The percentage of the total number of children in Year 7 not admitted to a school in the BHCC area between 2023/24 to 2025/26 in each catchment area.

47. The data in Table 11 show that there has been a small but slightly increasing number of children being admitted to schools outside of the BHCC area (such as to schools in neighbouring East and West Sussex or to boarding schools further afield). The largest proportion of children being admitted to schools outside of the BHCC area has been from catchment area CA-F, though this has been decreasing overall over the period covered by the data in Table 11. The data for catchment areas CA-A, CA-B, CA-C and CA-E is unremarkable in that it represents an expected proportion of children admitted to schools in other administrative areas in Sussex adjacent to the boundary of the area in which the applicants live (CA-D is bordered by the other catchments).

48. The objections include concerns raised about the effects of the changes to the Arrangements for 2026/27 on socio-economically disadvantaged groups (specifically those children eligible for FSM). By way of background to the BHCC area as a whole, I looked at the relative disadvantage / affluence of the BHCC area, using IoD 2019 data. IoD 2019 uses Lower-Layer Super Output Areas (LSOAs) which are standard statistical geographical areas of England designed to be of a similar population size, with an average of approximately 1,500 residents or 650 households). The data is organised by deciles (deciles are calculated by ranking the 32,844 LSOAs in England from most deprived to least deprived and dividing them into 10 equal groups, where '1' is the 10 per cent most deprived and '10' is the 10 per cent least deprived). The BHCC area consists of 165 LSOAs. I have classified these into deciles in Table 12.

49. Table 12: LSOAs (whole or part) in the BHCC area organised by decile (in both 2025/26 and 2026/27)

Decile	LSOAs	Total for each decile
1	002D, 006D, 008A, 008C, 009C, 013B, 025A, 025B, 025C, 025D, 025E, 025F, 030C, 031C, 032A	15
2	008D, 009A, 009D, 009E, 002C, 005C, 030A, 030B, 030E, 027C, 027E, 012E, 023C, 017E	14
3	001B, 005D, 008E, 009B, 012A, 012B, 013A, 013C, 014E, 017A, 019D, 021B, 027A, 027F, 029C, 029D, 031E	17
4	006A, 008B, 019A, 022B, 022C, 024C, 026B, 027G, 029E, 030D, 031A, 032B	12
5	002A, 004A, 006C, 006E, 012C, 012D, 015B, 016C, 021A, 023B, 026D, 028A, 028B, 028D, 028E	15
6	001C, 013D, 014C, 015A, 015D, 016B, 016D, 017C, 017F, 018A, 019B, 019C, 020B, 020D, 020E, 021D, 024D, 024E, 026A, 026E, 027B, 029A, 031D, 032C, 032D	25
7	002B, 005A, 005E, 006B, 011C, 013F, 014B, 015C, 018C, 018D, 018E, 019E, 022A, 023A, 024A, 024B, 026C, 028C, 029B, 031B, 033E	21
8	001D, 001E, 003A, 003B, 005B, 010A, 010B, 011A, 011E, 014A, 014D, 015E, 016A, 017B, 017D, 018B, 020A, 022D, 022E, 033A, 033B, 033D	22
9	001A, 003D, 003E, 004D, 007A, 007E, 011B, 013E, 020C, 021C, 021E, 023D, 033C, 033F	14
10	003C, 004B, 004C, 007B, 007C, 007D, 010C, 010D, 010E, 011D	10

50. As will be shown in Tables 13 and 15 below, there are LSOAs from the Lewes area in CA-E and CA-F which will have to be taken into account when looking specifically at those catchments.

51. In the document entitled 'English Indices of Deprivation 2019: Brighton and Hove Briefing' (available on the LA website), it is recorded that out of 317 authorities, BHCC is ranked the 131st most deprived authority in England. The document sets out that deprivation is distributed across the whole of the city but is more concentrated in some areas. The highest concentration of deprivation is in the Whitehawk, Moulsecoomb and Hollingbury areas but is also found around Grand Parade, St James's Street and Edward Street. To the west of the city, deprivation is more isolated and includes areas around Downlands Drive, Portslade Academy, Portslade Village, and the Knoll and Ingram estates. The most deprived area in the city is Whitehawk, the area transferred from CA-F to CA-D in the Arrangements.

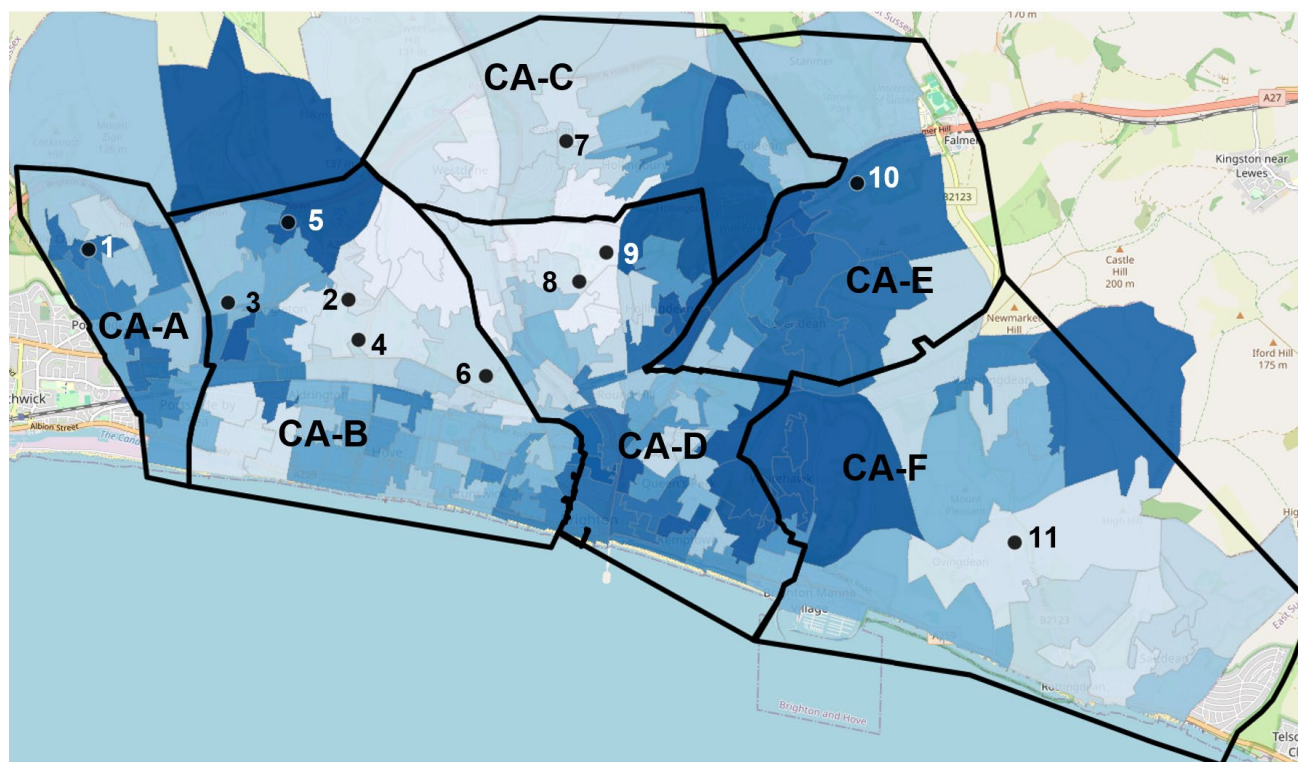
52. In terms of deprivation in the education, skills and training domain of the IoD 2019, Brighton and Hove is ranked the 169th most deprived of the 317 authorities in England. Five of the city's LSOAs are in the one per cent most deprived LSOAs in England, three are in the East Brighton ward and two in the Moulsecoomb and Bevendean ward. In total 15 LSOAs (nine per cent) are in the 10 per cent most deprived LSOAs in England and 28 (17 per cent) are in the 20 per cent most deprived. The Children and Young People sub-domain has nearly twice as many LSOAs in the 20 per cent most deprived. Six LSOAs (four per cent) are in the one per cent most deprived areas in England and 24 LSOAs (15 per cent) are in the 10 per cent most deprived. Eight out of ten LSOAs in the Moulsecoomb and Bevendean ward are in the 10 per cent most deprived areas in England. The East Brighton ward is located in CA-D and CA-F and the Moulsecoomb and Bevendean ward in CA-E and CA-F and cover the Whitehawk and Bristol Estate.

53. IoD 2019 deciles can be grouped into the least affluent (1 to 5 – the 'lower decile range') and most affluent (6 to 10 – 'the upper decile range'). I can see from Table 12 that 44.2 per cent of the LSOAs in the BHCC area as set out in Table 12 are categorised as being in the least affluent grouping and 55.8 per cent are in the most affluent grouping.

54. There is well-documented, strong and positive correlation between IoD 2019 LSOA deciles and poorer educational outcomes; children in the lower decile range show lower rates of academic achievement compared to those in the upper decile range. I have, therefore, looked at IoD 2019 data for each catchment area.

55. Maps 7 and 8 show the LSOAs mapped with the catchment areas for 2025/26 and 2026/27 respectively with keys to both maps being found in Tables 13 and 15.

Map 7: LSOAs and catchment area boundaries 2025/26



(Source: OpenStreetMap basemap in ArcGIS with IoD 2019 and catchment area boundary files for 2025/26 provided by the LA)

Table 13: Key to Map 7

Catchment area	LSOAs (including any part LSOAs) ²²	Numbers (percentage) in lower decile range ²³	Numbers (percentage) in upper decile range ²³
CA-A	005A, 005B, 005C, 005D, 005E, 012A, 012B, 012C, 012D, 012E, 013F, 021A, 021B	9 (69) (1 – 0, 2 – 2, 3 – 4, 4 – 0, 5 – 3)	4 (31) (6 – 0, 7 – 3, 8 – 1, 9 – 0, 10 – 0)
CA-B	006A, 006B, 006C, 006D, 006E, 007A, 007B, 007C, 007D, 007E, 011A, 013A, 013B, 013C, 013D, 013E, 016A, 016B, 016C, 016D, 019A, 019B, 019C, 019D, 019E, 020A, 020B, 020C, 020D, 020E, 021C, 021D, 021E, 023A, 023B, 023C, 023D, 024B, 024C, 024D, 024E, 026A, 026B, 026C, 026D, 026E, 027A, 027B, 027C, 027E, 027F, 027G, 028A, 028B, 028C,	27 (44) (1 – 2, 2 – 1, 3 – 7, 4 – 6, 5 – 11)	35 (56) (6 – 15, 7 – 7, 8 – 3, 9 – 7, 10 – 3)

Catchment area	LSOAs (including any part LSOAs) ²²	Numbers (percentage) in lower decile range ²³	Numbers (percentage) in upper decile range ²³
	028D, 028E, 029A, 029B, 029C, 029D, 029E		
CA-C	001A, 001B, 001C, 001D, 001E, 002A, 002B, 003A, 003B, 003C, 003D, 003E, 004A, 004B, 008A	4 (27) (1 – 1, 2 – 0, 3 – 1, 4 – 0, 5 – 2)	11 (73) (6 – 1, 7 – 1, 8 – 4, 9 – 3, 10 – 2)
CA-D	003E, 004C, 004D, 008A, 008B, 008C, 008D, 010A, 010B, 010C, 010D, 010E, 011B, 011C, 011D, 011E, 014A, 014B, 014C, 014D, 014E, 015A, 015B, 015C, 015D, 015E, 018A, 018B, 018E, 022A, 022B, 022C, 022D, 022E, 024A, 025D, 025F, 027A, 027C, 027E, 027F, 027G, 030A, 030B, 030C, 030D, 030E, 031A, 031B, 031C, 031D, 031E, 032A, 032B, 032D, 032C	26 (46) (1 – 7, 2 – 6, 3 – 4, 4 – 8, 5 – 1)	30 (54) (6 – 7, 7 – 6, 8 – 9, 9 – 3, 10 – 5)
CA-E	002B, 002C, 002D, 008A, 008C, 008E, 009A, 009B, 009C, 009D, 009E, 017B, 018C, 018D (Lewes 002C) ²²	10 (67) (1 – 4, 2 – 4, 3 – 2, 4 – 0, 5 – 0)	5 (33) (6 – 1, 7 – 3, 8 – 1, 9 – 0, 10 – 0)
CA-F	009A, 009D, 009E, 017A, 017B, 017C, 017D, 017E, 017F, 025A, 025B, 025C, 025D, 025E, 032B, 032C, 032D, 033A, 033B, 033C, 033D, 033E, 033F (Lewes 002C, 006A, 006D, 006E) ²²	12 (44) (1 – 5, 2 – 4, 3 – 1, 4 – 2, 5 – 0)	15 (56) (6 – 5, 7 – 1, 8 – 7, 9 – 2, 10 – 0)

²² LSOAs do not follow the LA's administrative boundaries. Therefore, there are some LSOAs which sit in more than one area and have to be counted as such. Additionally, there are four LSOAs from the adjacent area of Lewes that are also included in the relevant catchment areas as drawn by the LA and are also counted.

²³ The total count is shown in bold with the percentage in brackets. Underneath each total count is the decile breakdown in brackets.

56. The data show that there are evident inequalities between the catchment areas in 2025/26. CA-A, and CA-E have more LSOAs in the lower decile range than upper decile

range, with CA-A having the highest proportion of LSOAs in the lower decile range than any other catchment area. CA-B, CA-C, CA-D and CA-F have more LSOAs in the upper decile range than lower decile range, with CA-C having the highest proportion of LSOAs in the upper decile range than any other catchment area.

57. It is evident that there is an uneven distribution of deprivation between the 2025/26 catchment areas. In the report to the LA's Cabinet meeting on 5 December 2024, it was stated that:

“3.13 It is proposed to address education disadvantage in one distinct area of the city by putting forward a change of catchment area. It is proposed that the BN2 5 north area above Manor Way and Manor Hill is moved to within the Dorothy Stringer & Varndean catchment area, moving from the Longhill catchment area. This proposed change seeks to address some of the systemic inequality that can be compounded by the boundaries of a school's catchment area.”

58. Table 14 includes data showing the percentage of children with FSM in each of the secondary schools in the BHCC area (taken from the GIAS website). The percentage is of the number of the school roll.

Table 14: Percentage of children with FSM on roll in each of the secondary schools in the BHCC area in summer 2025

Catchment area	School name	Percentage of children eligible for FSM on roll ²⁵
CA-A	PACA	32
CA-B	Blatchington Mill School ²⁴	20.9
	Hove Park School ²⁴	35.6
	Cardinal Newman Catholic School	20.3
	King's School	19.2
CA-C	Patcham High School ²⁴	23.8
CA-D	Dorothy Stringer School ²⁴	23.9
	Varndean School ²⁴	20.4
CA-E	BACA	49.4
CA-F	Longhill High School ²⁴	43.8

Key:

²⁴ The six community secondary schools.

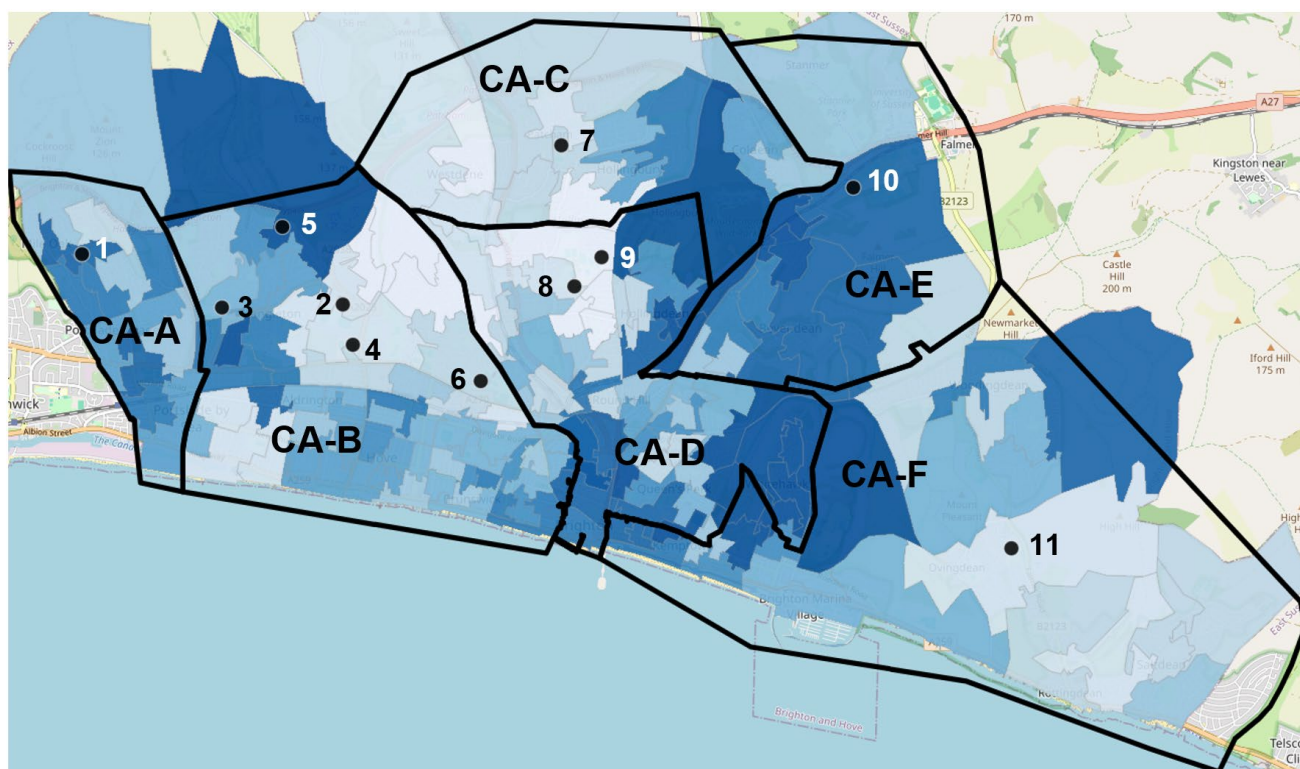
²⁵ For the entire school.

59. The data in Table 14 show that there is a 30.2 per cent range (19.2 to 49.4 per cent) of children eligible for FSM in the secondary schools in the city. The average percentage across all schools is 28.9 per cent. Four of the schools across the city have on roll more than 30 per cent of children eligible for FSM, with nearly half the children on roll in BACA being eligible for FSM.

60. The range for the six community secondary schools is 23.4 per cent (20.4 to 43.8 per cent). The average percentage across the six community schools is 28.1 per cent. For the six community secondary schools, only two have more than 30 per cent of children eligible for FSM on roll (Hove Park and Longhill High Schools).

61. I understand there to be a link between deprivation indicators such as IoD 2019 and the number of children eligible for FSM in an area (as set out on the Government's website). It is evident that the two catchment areas in the BHCC area that have the highest number of lower decile LSOAs have two of the three highest numbers of children eligible for FSM in the schools in those areas. Longhill High School is an anomaly in that it has a higher percentage of LSOAs in the upper decile range than in the lower decile range but the second highest proportion of the school population eligible for FSM. This is likely to be because the Whitehawk area of the city is currently in its catchment area.

Map 8: LSOAs and catchment area boundaries 2026/27



(Source: OpenStreetMap basemap in ArcGIS with IoD 2019 and catchment area boundary files for 2026/27 provided by the LA)

Table 15: Key to Map 8, showing CA-D and CA-F only (CA-A, CA-B, CA-C and CA-E remain as shown in Table 13):

Catchment area	LSOAs (including any part LSOAs) ^{22/26}	Numbers (percentage) in lower decile range ²³	Numbers (percentage) in upper decile range ²³
CA-D	003E, 004C, 004D, 008A, 008B, 008C, 008D, 010A, 010B, 010C, 010D, 010E, 011B, 011C, 011D, 011E, 014A, 014C, 014B, 014D, 014E, 015A, 015B, 015C, 015D, 015E, 018A, 018B, 018E, 022A, 022B, 022C, 022D, 022E, 024A, 025A, 025B, 025C , 025D, 025E , 025F, 027C, 027E, 027F, 027G, 030A, 030C, 030D, 030E, 031B, 031C, 031D, 031E	25 (47) (1 – 11, 2 – 4, 3 – 3, 4 – 6, 5 – 1)	28 (53) (6 – 5, 7 – 6, 8 – 9, 9 – 3, 10 – 5)
CA-F	009A, 009D, 009E, 017A, 017B, 017C, 017D, 017E, 017F, 025A, 025D , 025E, 030A, 030B, 031A, 031B, 031C, 031E, 032A , 032B, 032C, 032D, 033A, 033B, 033C, 033D, 033E, 033F (Lewes 002C, 006A, 006D, 006E) ²²	16 (50) (1 – 5, 2 – 6, 3 – 2, 4 – 3, 5 – 0)	16 (50) (6 – 5, 7 – 2, 8 – 7, 9 – 2, 10 – 0)

²² and ²³ See key for Map 7

²⁶ Those in bold are gained from the other catchment area, sometimes only in part.

62. The schools in CA-A and CA-E (PACA and BACA respectively) are academies. The LA does not have responsibility for the admission arrangements of those two schools. It has therefore made changes to the arrangements which it has said will decrease the inequality of deprivation in its own schools by making changes to CA-D and CA-F. Table 15 shows how the number of LSOAs in the lower and upper decile ranges will change as a result of alteration to the boundary between the two catchment areas in 2026/27. It can be seen that the range between the number of LSOAs in the lower decile range compared to the upper decile range will reduce by one in CA-D. In CA-F, the number of LSOAs in the lower decile range will equal those in the upper decile range.

63. I will refer to these changes in relevant sections of the 'Consideration of Case' section, to which I now turn.

Consideration of Case

64. In this section, I will consider the concerns raised by the Objectors that are within my jurisdiction.

65. I previously set out, in Table 2, how I intend to structure my consideration of the objections in this section of the determination. For ease of reference, the part of Table 2 relevant to each section of the determination is included below, labelled Tables 2a through 2i.

Part 1

A. The consultation process

66. In this section, I will consider the concerns raised by the Objectors about the consultation process conducted by the LA in respect of the proposed changes to the Arrangements.

67. The requirements for consultations are set out in paragraphs 1.45 to 1.48, and can be summarised as:

- Consultations must be carried out when changes to admission arrangements are proposed or every seven years if there have been no changes.
- Consultation must last for a minimum of six weeks and must take place between 1 October and 31 January in the determination year.
- During the consultation period, the admission authority must consult with relevant parties.
- For the duration of the consultation period, the admission authority must publish a copy of their full proposed admission arrangements, together with details of where comments may be sent and the areas on which comments are not sought.

68. Objector 1 set out their concerns about the consultation process under the four Gunning Principles. These principles ensure that consultations are not merely a formality but a genuine opportunity for the public to influence policy and decisions. I consider each of the principles to set out how those conducting a consultation process must act reasonably in order for a process to be effective.

69. Paragraph 1.48 states: “Failure to consult effectively may be grounds for subsequent complaints and appeals.” In the absence of a definition in the Code, in the context of consultations I have taken ‘effectively’ to mean that the consultation must meet: the requirements of the Code; and the four Gunning Principles.

70. I will use the four Gunning Principles, as set out in Table 2a, to structure my consideration in order to engage with the concerns of the Objectors and the responses of the LA which were structured to respond directly to the Objectors’ concerns, and to

determine whether the requirements of the Code were met by the consultation carried out by the LA on the 2026/27 Arrangements.

Table 2a: Summary of the objections relevant to determination section A

Objections summary	Objection numbers
The consultation process i. The consultation process did not meet the four Gunning Principles: a. consultation must take place when the proposal is still at a formative stage; b. sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response; c. adequate time must be given for consideration and response; and d. the results of consultation must be conscientiously taken into account.	1, 3, 5

71. I note that Objector 1 is not of the view that the consultation process met any of the Gunning Principles, stating:

“We think there are significant ways in which the consultation process failed to comply with the School Admissions Code due to the level of errors, the misrepresentation of the impact of the Council’s proposed changes and the Council’s failure to take adequate account of concerns raised during the consultation.”

72. In addition, Objector 3 stated:

“Whilst the School welcomes engagement with the Council, it strongly believes that the consultation process has not adequately addressed key concerns and has left many families, staff members, and governors without clear answers regarding the long-term impact of these changes.”

73. To this, the LA responded:

“The council considers that the consultation process was thorough, legally compliant, and genuinely responsive to community input. While no consultation can satisfy all participants, the council considers that it fulfilled its duties under both administrative law and the School Admissions Code, demonstrating proper regard for the Gunning Principles throughout.”

74. In its response to the concerns raised about the consultation process, I note the LA stated the following (with which I am in agreement):

“The objectors have raised detailed concerns about the meeting of the council’s People Overview and Scrutiny Committee on 14 January 2025. The council submits

that any concerns regarding the proceedings of this meeting should be addressed and resolved through the council's own policies and procedures and that they are outside the remit of the Adjudicator."

75. In the objections, concerns are raised about the proposals being 'untested'. I have put this concern aside; it is difficult to see how the proposals could be considered anything other than 'untested' when they had not – at the point of the consultation – been adopted and, since adoption, have not yet been implemented.

A.i.a. Consultation must take place when the proposal is still at a formative stage

76. Under this principle, the LGA state that a final decision should not be made, or predetermined, by the decision makers.

77. The concerns raised about this aspect of the consultation were:

Objector 1:

"We think there is clear evidence that the Council has not been open to reconsidering its approach or to taking account of the negative consequences of what it is seeking to do in spite of the weight of opposition and the quantity of evidence demonstrating that its changes are unlikely to meet any of its shifting claims about its objectives."

Objector 5:

"There is also concern that the process connected to the decision to adopt the Admission Arrangements has been tainted by bias. This is partly attributable to a sense of ideological predetermination and early opinions expressed by key B&H representatives as set out above. I believe that B&H had more than a predisposition in favour of particular outcome, which is legitimate, but demonstrated an unlawful predetermination, where a decision-maker has made up their mind finally at too early a stage (*R (on the application of Lewis) v Persimmon Homes Teesside Ltd*). There seemed to be a long standing relationship between the key councillors and the movement Class Divide which heightened a sense of this being part of an orchestrated and predetermined plan, devised over a long period.

Additionally, the key involvement of Councillor Taylor in the process, and the fact he was only a very recently resigned as a governor of Longhill school also meant he was subject to public criticism as people were concerned this represented a conflict of interest. Councillor Taylor's connection to Longhill is relevant because one side of the debate might consider that the closure or movement of Longhill is the right thing to solve issues connected to falling pupil numbers in the City. This is something Councillor Taylor and B&H advocated strongly to avoid. I make no comment on the right or wrong of the policy about Longhill, but Councillor Taylor's pivotal and leading role in this process means that he has a responsibility to not only avoid actual bias but also avoid the appearance of bias. Although Councillor Taylor publicly reacted

strongly to deny any bias, I think many of those making these comments (see the Brighton and Hove catchments facebook group, for example) were indeed fair minded and informed observers who were expressing legitimate concerns that there was a real possibility that the decision-maker had a predetermined end point from the start of the process.”

78. The LA’s responses were:

“The council refutes any suggestion that it was carrying out a consultation purely because it was required to do so. Throughout both the consultation and the preceding pre-engagement exercise the council has demonstrated a commitment to listening and responding to the views expressed by stakeholders. This is evidenced by the fact that the final determined arrangements were shaped by the consultation responses received.

The council carried out a pre-consultation engagement (October 2 - October 23 2024) where three illustrative models were presented for community feedback without predetermined outcomes. Although the Adjudicator has stated [...] that the pre-engagement exercise conducted by the council in October 2024 is not within his jurisdiction it does clearly demonstrate that from the outset the council has been keen to engage with stakeholders in developing proposals for future school admission arrangements.

Following feedback from the pre-engagement exercise, the council made the decision not to proceed with any of the proposed options as there was no one model which received overwhelming support. The council instead developed new proposals for consultation using the large volume of quantitative and qualitative data which had been gathered during the pre-engagement exercise. This was set out in the Cabinet report dated 5 December 2024 (the ‘Cabinet Report’) (paragraphs 3.10-3.11) together with a detailed explanation as to why the changes were being proposed (paragraphs 3.12-3.18). The report also explained that the changes were “most likely going to increase the potential” of pupils not receiving a place within a catchment area school and provided forecast data on this (paragraphs 3.43-44).

The Cabinet Report also contained an explanation of alternatives to the proposal (paragraphs 4.3-4.8).

Once the consultation commenced on 6 December 2024 the council continued to refine its proposals throughout the consultation period, based on stakeholder feedback.

The final determined arrangements represent a synthesis of community input rather than a predetermined council position. This is most easily demonstrated by the decision to reduce the percentage of open admissions from 20% to 5%.”

and

“Objection 5 [...] raises concerns that there was procedural impropriety during the process as the consultation and subsequent determination were tainted by bias or the appearance of bias.

The involvement of Councillor Taylor is referenced in the objection. School Admissions falls within Councillor Taylor’s portfolio as Cabinet Member for Finance and Regeneration. He therefore led the process of proposing change to the current admission arrangements on behalf of Members.

Until his resignation in September Councillor Taylor was also a governor at Longhill High School. During the consultation concerns were raised with the council’s Monitoring Officer about a potential conflict of interest given his previous role as a governor. The Monitoring Officer confirmed that there were no breaches of the Code of Conduct for Members and no conflicts of interest which prevented Councillor Taylor’s involvement in any decision making.”

79. I have been provided with the consultation materials / links to such materials by Objectors and the LA. I have looked at the consultation materials and ‘Your Voice’ pages of the LA’s website which were used during the pre-consultation engagement and the consultation period to provide information, links to relevant documents and websites, and collect responses online.

80. I made clear to the parties that the pre-consultation exercise itself was out of my jurisdiction, as the Code does not mandate that such a process is undertaken. However, I have noted that the LA conducted such an exercise, the purpose of which was set out on the ‘Your Voice’ pages of the LA’s website and as set out in the LA’s response above. The ‘Your Voice’ website stated:

“We want to know what you think about possible changes to secondary school admission arrangements. [...] These different models could help us develop a fair and inclusive education system where available school places align more closely with pupil numbers, which in turn will assist with budget sustainability.”

81. During the pre-consultation engagement, the following public meetings were held by the LA:

- 6.30pm on 8 October 2024 at Hove Town Hall.
- 6pm on 10 October 2024 (online).
- 6.30pm on 16 October 2024 (online).
- 11.30am on 21 October 2024 (online).

82. The ‘Your Voice’ pages of the LA website were also used during the public consultation period. The website made clear the purpose of the consultation, stating that:

“We’re asking for your views on proposed changes to school admission arrangements in the city from September 2026.

The aim of the proposals relating to community secondary schools is to further improve equality and fairness across the city’s schools. At present, some catchment areas include only one maintained school while others include more than one. The proposal aims to introduce better equity of choice.”

83. The LA held the following public meetings during the consultation period:

- 10am on 12 December 2024 (online).
- 5.30pm on 16 December 2024 (online).
- 6pm on 7 January 2025 at Hove Town Hall.
- 10am on 11 January 2025 at the Jubilee Library.
- 6pm on 13 January 2025 at Varndean School.
- 6pm at on 14 January 2025 at Blatchington Mill School.
- 5.30pm on 15 January 2025 at Longhill High School.
- 6pm on 16 January 2025 at Queens Park Primary School.
- 6.30pm on 20 January 2025 at Mile Oak Primary School (on behalf of the Portslade Primary Partnership).
- 5.30pm on 21 January 2025 at Fairlight Primary School.
- 3.30pm on 24 January 2025 at Coombe Road Primary School.
- Lunchtime workshop at the Hangleton and Knoll community meeting on 25 January 2025.
- 9am on 27 January 2025 at Bevendean Primary School.
- 3.45pm on 28 January 2025 at St Mark’s Primary School.

84. Notes were taken at all engagements and published on the ‘Your Voice’ website. Where online meetings were conducted, they were recorded and links to those recordings also made available on the ‘Your Voice’ website.

85. In respect of the concerns raised by Objectors 1 and 5 and in the context of the first of the four Gunning Principles, I found the following to be indicative that the LA’s views were not predetermined:

- The LA ran a pre-consultation engagement exercise which ended over six weeks before the start of the consultation period, giving ample time for the results of that exercise to influence the changes to the proposed Arrangements which were to be consulted upon.
- The models proposed during the pre-consultation engagement exercise were not implemented in the proposed Arrangements because of the responses received from the community during that exercise.
- The consultation entry page on the 'Your Voice' website stated, "These proposals are informed by the results of an engagement exercise held in October 2024."
- Consultation documentation was set out in a way which set out the proposal and requested views on those proposals.
- The LA ran a substantial number of public engagement opportunities indicating clearly that the LA intended to, and did, engage with the community with regard to its proposed solution for the issues facing secondary education in the city.
- The 'Your Voice' website includes evidence of regular updates from the LA in response to the input from the community throughout the process.
- The LA provided a letter it had received from a number of the city's secondary school headteachers, dated 26 February 2026 (presumed 2025), in which it was stated:

"We want to formally recognise and support the recent compromise made by the Local Authority in reducing the open priority admissions from 20% to 5% for pupils outside the two central catchment areas. This adjustment demonstrates the Council's willingness to engage in thoughtful dialogue and to find a balanced approach to school admissions that addresses the concerns of all stakeholders. We understand that this decision represents a considered response to the diverse perspectives raised during the consultation, and we are appreciative of the effort to safeguard the best interests of both local students and the wider community."

The LA, at least in this aspect of the proposed changes to the Arrangements, demonstrated that it had listened to the responses about this issue during the consultation.

- With regard to the assertion that Cllr Taylor displayed a predetermination to the outcome of the consultation, no evidence was provided for this view other than his previous role as a governor at Longhill High School. In any event, he was not the sole decision-maker; the Cabinet consists of nine other members who had a vote in the decision whether to determine the Arrangements.

86. The obligations set out in the Code in respect of consulting on arrangements are for the admission authority to: consult on a copy of the proposed arrangements (as set out under paragraph 1.45), within the required consultation window (as set out under paragraph 1.46, it must be between 1 October and 31 January in the determination year), and for the prescribed minimum time period within that window (at least six weeks, as set out under paragraph 1.46).

87. The consultation was carried out between 6 December 2024 and 31 January 2025 a period of eight weeks (I note that the LA took into account the Christmas and New Year holiday period). The ‘Your Voice’ website has links to the then-proposed arrangements along with a number of other documents. I find that, in respect of paragraphs 1.45 and 1.46 insofar as they are relevant the first of the Gunning Principles, the consultation was undertaken at a formative stage and was compliant with the Code.

88. I, therefore, do not uphold this part of the objections.

A.i.b. Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response

89. Under this principle, the LGA state that the information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.

90. The concerns raised by objectors are:

Objector 1:

“[...] the Council has repeatedly changed its stated objectives and has failed to provide clear and accurate information explaining how the complex measures it has proposed interact and what their potential impact is. The Council failed, despite repeated requests, to provide adequate data and analysis so that parents, and others, could understand what the proposals meant for them. The Council also downplayed any negative impacts and risks. Throughout the consultation process, it did not provide clarity on what it was proposing as its admissions arrangements.”

Objector 3:

“The council has not provided compelling evidence as to why [Blatchington Mill School], specifically, should be subject to a PAN reduction.”

Objector 5:

“The failure during the consultation to properly consider what journeys displaced children might have to make and how they might plan for that accordingly has been very disappointing.”

91. About this objection, the LA provided a detailed response; the key points of which are:

- “The consultation was published on the ‘YourVoice’ site on 6 December 2024. This is the council’s online engagement hub, where residents can participate in consultations and provide feedback on local issues. The consultation lasted for 8 weeks, two weeks more than the legislation requires. The YourVoice site provided consultees with summary information together with a reference to the Cabinet Report and relevant paragraph references if consultees sought more detail.”
- “The report explained in some detail the rationale, evidence base, and legal framework for the proposals. the rationale is set out in paragraphs 3.12-3.16 of the Cabinet Report and can be summarised as:
 - Addressing the demographic challenge: Falling pupil numbers in the city requiring a managed response
 - Addressing educational inequality: Evidence of persistent gaps in outcomes between different areas of the city
 - Fulfilling the Council’s strategic objectives by supporting a sustainable, equitable school system

The Cabinet Report also had 8 appendices which set out:

1. Published Admission Numbers for Primary and Secondary schools.
 2. Forecast of primary pupil numbers
 3. Forecast of secondary school pupil numbers – existing arrangements
 4. Forecast of secondary school pupil numbers – proposed arrangements
 5. Draft admission arrangements and priorities for community primary and secondary schools
 6. Coordinated scheme of admissions – primary.
 7. Coordinated scheme of admissions – secondary.
 8. Equality Impact Assessment”.
- “Following feedback from stakeholders in the first week of the consultation, the council subsequently published a general information document and FAQ document on 17 December 2024, some 8 days into the consultation and over 6 weeks before the consultation was due to end.”
 - “The general information document provided a high level summary of the rationale for the proposed changes and set out the proposed new admission arrangements for 2026.”

- “The council does not accept the objector’s assertion that it ‘fundamentally changed’ the information provided about the consultation [...]. The information in the general information document remained the same but was simply in a summary form.”
- “The FAQ document was intended to address queries that arose during the consultation. The council considered this to be an efficient means of ensuring that helpful information given to one consultee could then be circulated more widely. The document made clear that: “This document will remain live and may be updated anytime”.”
- “The council does not accept that any early respondees who did not have sight of either document were prejudiced as it was open to those individuals to submit a further response, or (as some did) send an email to the council seeking to add to their response.”
- “The Cabinet Report set out modelling on displacement which in the council’s view provided sufficient information to enable consultees to intelligibly respond. In particular paragraph 3.44 set out the potential impact of the introduction of the proposals in terms of data and numbers of children who might not gain a place at a catchment area school, and paragraph 3.45 detailed the planning assumptions made in that modelling.”
- “In response to questions raised during the consultation period the council provided further information in the FAQ document (page 2) regarding the likelihood of a child living in a dual school catchment area securing a place under proposed [criterion] 7.”
- “Whilst the council understood that families were keen to understand the likelihood of gaining a place based on forecast data it made clear that it could not publish a percentage chance of a family gaining a place at a specific school, or catchment area schools, based on their admission priority. As much information as possible was provided to model the impact of the proposed arrangements however that information was always subject to a number of caveats which are set out in the report to Council dated 27.02.2025 (‘Council Report’) (paras 16.-16.9). This report contained a detailed section on modelling and pupil numbers (paragraph 18) and explained the difficulties involved in providing further modelling data to consultees.”
- “The council referred in its FAQ document to ‘further data modelling taking place in January 2025’. This was a reference to the data and insight which would become available to the council following receipt of applications for 2025/26 admissions. This data would provide the council with the opportunity to analyse and reflect on the pattern of those applications in relation to FSM applicants and further inform the thinking about data modelling and the assumptions made at the outset of the consultation.”

- “It was not possible to incorporate an analysis of the September 2025 admissions round into the consultation as the allocations were being processed during the consultation period. The council had to be cautious about the information it was able to publicly share ahead of National Offer Day (3 March 2025), as information could not be divulged which might inform families ahead of that date of their likely school allocation. However, the council was able to use the information gained from the pattern of preferences expressed for September 2025 to further inform the thinking for September 2026 arrangements. That informed thinking did not indicate a change to the number of children that might not be offered a catchment area school.”
- “It is accepted that there was an erroneous number on page 17 of the Cabinet Report [...] The report stated that 125 children from the Dorothy Stringer School /Varndean School catchment area might not gain a catchment area school place. Following feedback and a further review of all data and calculations, the council amended this figure to 144 and this was clearly signposted in meetings that were held from the 11 January onwards. This was also corrected in the consultation document (which also highlighted it in yellow). This was a clerical error and the council did not consider that it caused material unfairness. It is notable that after the 144 figure in the table, the next highest is 57, so whether it was 144 or 125 would not have been significant when seen in context. This was in relation to the proposed introduction of open admissions at 20%, the reduced determined amount of 5% reduced this impact. In addition, the council report referenced the error at paragraph 18.12 in order that Members were fully aware when determining the arrangements.”
- “The proposed oversubscription criterion relating to FSM remained the same in both the Cabinet report and the Council report. It is just the wording of the footnote (d) to the criterion which changed.”
- “The objectors have raised two main concerns:

(1) Confusion whether the quota would be the city average or 30%.

The council does not accept that the position was confused. The Cabinet Report states at paragraph 3.35 that the proposal was:

“to limit the number of pupils considered under this criterion to 30% of places available, rather than the existing proportion which stipulates the city average”.

Footnote(d) then states that the city average will be taken as 30%.

(2) Confusion regarding the implementation of the criteria

Objectors believe that the Cabinet report was misleading because it was not clear whether the proposal was that if the 30% FSM is reached under priorities 1-3, those priority groups would not be allocated as part of priorities 4-5. The council

does not accept that this was misleading information. It was a point which was raised as a matter for clarification, which was subsequently clarified by the council from the outset, both in consultation meetings and in the published FAQ document. The footnote at (d) to the proposed admission arrangements made clear how the criteria would be applied.”

- “Particular concerns were also raised regarding the impact of the FSM priority in a dual school catchment on the number of places available for children living in a catchment area. Objectors believe it is likely to be greater than is suggested in the council’s numbers. These concerns were addressed at paragraph 18.22-18.23 of the Council Report where modelling data was provided.”
- “Objectors believe that the explanation of the proposals on the website was misleading as it provided no explanation of how the 20% open admissions “would deny large numbers of children in both the dual catchment areas the chance to attend either of their catchment schools”, and it was therefore misleading to suggest that the proposals would “improve equality and fairness across the city’s schools.”

This is not accepted by the council. This issue is directly referenced in the Cabinet Report at paragraph 3.41 and that specific paragraph is expressly cited in the survey:

“Another potential consequence, in the event of oversubscription, is catchment area pupils might miss out on a place at their catchment school should the places available to Free School Meal pupils and ‘open admission’ from outside the catchment area be filled.”

Further reference is included at paragraph 3.44:

“As under the current arrangements, it is possible that a pupil may not receive a place in a catchment area school. As it is subject to the pattern of preferences made across the city. The introduction of new priorities does not reduce the likelihood of this happening. It is most likely going to increase the potential of this happening in certain areas of the city over the coming years”.

92. I have already found, under my consideration of the first of the Gunning Principles, that the LA published the proposed Arrangements as required by paragraph 1.45 of the Code.

93. In the papers for the LA’s Cabinet meeting on 5 December 2024, the reasons for the proposed changes to the Arrangements were stated. I have found those same reasons to be evident in the LA’s Cabinet meeting papers for the 27 February 2025 (when the arrangements were determined). Although sometimes expressed differently in the various documents, I find that the reasons for the proposed changes were consistent throughout the consultation process.

94. In the document entitled “Brighton & Hove School admission arrangements consultation in Brighton & Hove – Winter 2024” available from the ‘Your Voice’ website, the proposed changes to the Arrangements and the reasons for them were set out clearly and appropriately for the target audience (largely parents). Consultees were provided with a number of documents providing data used in the LA’s modelling to contribute to the process of ‘intelligent consideration and response’. This information and data included the reasons for the proposed PAN reduction at all schools, including Blatchington Mill School (in respect of Objector 3’s specific concern), and the data showing that the reductions were needed to address the growth in surplus places forecast to 2031/32 (see Table 9).

95. I note there was an issue initially with the way that the proposal to admit up to 30 per cent of the intake with children eligible for FSM was understood by the community (that the 30 per cent would only be counted from those admitted under criteria 4 and 5 as is the case in the 2025/26 arrangements). However, the LA quickly rectified this misunderstanding in the FAQs released early into the consultation period which clarified that the 30 per cent would be counted from those admitted under criteria 1 to 5. Although the LA could have been clearer on this point initially, I do not find that this error, which was quickly rectified, jeopardised there being intelligent consideration and response by the community. In the meeting on 27 February 2025, the LA’s Cabinet was made aware of this issue (as evident in 24.13 and 24.14 of the report to Cabinet about the Arrangements) and took it into account when making its final decision.

96. Extraordinary steps have been taken by some members of the community to provide data and analysis that they felt that the LA should have produced; indeed, I have had sight of relevant aspects of that data and analysis in respect of the six community secondary schools when making my determination in Part 3. However, I find that what was provided by the LA initially and throughout the consultation process struck the right balance for the purposes of the second of the Gunning Principles. To have made available data and analysis on the scale that some in the community have produced during and since the consultation could have made the consultation materials inaccessible to many and may have caused people to disengage from the process. It is also the case that the source of this additional data and analysis comes from those with strong and opposing views on the changes proposed and therefore could be considered to be giving only one side of the story. This would equally be the case for the materials produced by ‘Class Divide’, which are strongly supportive of the changes that the LA has made to the Arrangements. What was provided by the LA for the consultation showed that it had focussed materials on meeting the requirements to: present the proposed Arrangements; present the reasons for what had been proposed; and to have done so appropriately for the intended audience.

97. Looking through the notes of the many public engagement meetings, it was clear to me that the community did intelligently consider the LA’s proposals; many pertinent questions were asked and answered. In response to the earlier meetings, the FAQ document produced provided a record of the answers to the questions that councillors and LA officers had found were the most asked at the public engagement meetings. At other points during the consultation period, the LA provided further clarification of issues raised; I consider this to have been good practice, demonstrating that the LA engaged directly with

the community about the proposals and had been listening and responding to the concerns raised. In my view, this had the effect of facilitating and promoting ‘intelligent consideration and response’.

98. I find that the material provided was easily accessible in that all documentation and the online survey (the submission form) were available on the LA’s ‘Your Voice’ website. The public engagement meetings were conducted at different times and locations throughout the BHCC area and online. This will have maximised the opportunity for the community to engage directly with the consultation process.

99. In respect of Objector 1’s specific concerns, I note here that the Code requires that admission arrangements set out how places will be allocated in situations where there is oversubscription. Admission arrangements do not have to tell parents whether or not their child will get a place at a school, or even how likely this will be. The LA had included information to that effect in the document entitled “Brighton & Hove School admission arrangements consultation in Brighton & Hove – Winter 2024”, provided for the consultation:

“We know that families are keen to understand what impact these proposed changes might have on their child’s chance of getting into a school of choice.

We are not able to give a percentage estimate of what your child’s chances will be. The Council can never guarantee a school place will be offered to any child although it is often the case that all children applying under the first 3 categories will get a place. Each year how parents state their preference affects how places are allocated. We can only assume how families may use the new admission priorities and we don’t know how the applications to King’s School and Cardinal Newman Catholic School, who do not have catchment areas, will affect the places in schools with catchment areas.

Each year about 130-140 secondary school places can change after the allocation day because places are not taken up, families get a new place through the reallocation pool and some families are successful when appealing to an independent panel about the place they have been given. This also makes estimating who will get what place difficult to calculate.”

100. I turn finally to Objector 5’s concern. Reading the published notes from public engagement meetings, a number of questions were raised about the issue of transport, which the LA provided responses to. The LA included in its FAQ documentation answers to questions about school travel for children with SEND. I also note that the LA had included in its papers for the LA’s Cabinet meeting on 5 December 2024 and 27 February 2025 as much of a consideration of the impact on school travel as could be expected at those points in the process. I also note that paragraph 35.8 of the papers for the Cabinet meeting on 27 February 2025 recorded the intended way forward in terms of addressing the concerns in respect of the effect of the changes to the Arrangements on school transport:

“Before forming the current administration, the Labour Group indicated a policy intention to provide free bus travel for under-19s still in education. As the recommendations outline, the council intends to review its Home to School Transport Policy and that will consider how to continue to work to this policy aspiration and what other entitlements may be considered appropriate, following determination of the September 2026 admission arrangements.”

101. The Code does not require admission arrangements to include information on how a child will get to school once allocated a place. Additionally, it would be difficult, for the same reasons that the LA set out above for not being able to tell parents whether or not their child will get a place at a school, for the LA to give details about how children will be transported to school. It would also have been impossible for the LA to have done so during the consultation period, when no decision had yet been made on the outcome in order to have been able to put concrete plans in place. I note that the outcome of the consultation is the LA’s commitment to look into transport matters.

102. I do not uphold this part of the objections.

A.i.c. Adequate time must be given for consideration and response

103. Under this principle, the LGA state that there must be sufficient opportunity for consultees to participate in the consultation.

104. The following concern was raised by Objector 1:

“It is clear that the whole process has been rushed. While the timeframe for consultation is set by the School Admissions Code, the Code also assumes that admissions authorities will take the necessary time to prepare their proposals and supporting information before embarking on consultation. The Council introduced new proposals for the consultation that had not been included in the engagement exercise. The proposals were developed in a rush without the Council understanding the implications of its own proposals. The Council added new information during the consultation including explanations that changed the implications of its proposed admissions arrangements. This reduced the time available for people to respond.”

105. About this objection, the LA’s response was:

“The council does not accept that the consultation process has been rushed. The pre-engagement exercise took place between 2 October and 23 October 2024. The Council then had 5 weeks to consider the feedback and develop a proposal for the formal statutory consultation required.

The consultation period lasted for 8 weeks, some 2 weeks longer than required by statute although it is recognised that the Christmas and New Year holidays fell within this period.

As detailed in paragraph 4 of the report to council, consultees were offered extensive opportunities to respond to the consultation, including public meetings (which included targeted meetings with specific communities), and opportunities to submit views in person, online and by telephone and letter.

During the consultation period officers read and considered the responses both as they came in and following the closure of the consultation. The council Report was then published on 19 February 2025.

Any explanatory information published during the consultation did not affect the substance of the proposals themselves but instead provided further clarity as requested.”

106. I note the assertion of Objector 1 that the process ‘was rushed’. However, I do not find that to be the case, given that: the LA had to operate within a statutory consultation window within which there is little flexibility; it had provided more than the minimum consultation period required by the Code; the LA undertook a pre-consultation engagement exercise, which is not mandated but shows that the process was carried out over a longer period than is required; and consultees were provided with the opportunity to respond again to any updated information provided in response to earlier community input.

107. Under this principle, I need only consider whether the statutory timeframe, as set out under paragraph 1.46 of the Code, has been complied with. I have already found that to be the case and can see no breach of the Code in this regard. I find that the third principle was met.

108. I, therefore, do not uphold this part of the objections.

A.i.d. The results of consultation must be conscientiously taken into account

109. In the absence of any such definition in the Code, I have adopted the dictionary definition of ‘conscientiously’ as being ‘in a thorough and responsible way’.

110. Under this principle, the LGA state that decision-makers should be able to provide evidence that they took consultation responses into account.

111. Objectors raised the following concerns:

Objector 1:

“The Council has evidently not had time to engage properly with the feedback from the consultation. It has not worked through specific challenges or ensured that the wording of its admissions arrangements achieves even its own stated objectives. In pushing ahead with its proposals the Council has clearly ignored the weight of public opposition as well as specific evidence that has been provided to it during the consultation. Instead of taking account of the results of the consultation, the Council has sought to delegitimise and misrepresent concerns raised in the responses it has received. Indeed in para 28.4 of the Council report the Council uses the number of

responses (the majority of which were against the proposals) to justify introducing “untested, new priorities”. The purpose of being required to consult is lost when an admissions authority pays so little attention to the results of the consultation and the concerns that are raised.”

and

“The results of the engagement exercise demonstrated strong opposition to the Council’s initial plans, while data from the survey for the formal consultation demonstrated high levels of opposition to all the proposals that would contribute to displacing children from their catchment areas including 61.1% of the 3888 respondents either disagreeing or strongly disagreeing with the proposed introduction of a new Open Admission priority. In pressing ahead with the plans they have published, the Council has chosen to disregard the level of opposition and the reasons for this level of opposition. ”

Objector 3:

“Parental and community opposition has been substantial, yet concerns have not been addressed in detail. This lack of clarity has undermined confidence in the process and raises questions about whether the decision-making has been fully compliant with the principles of fairness and proportionality required under education law.”

112. About this part of the objections, the LA’s response was:

“Objection 1 [...] The council carried out extensive quantitative analysis of the responses received during the consultation. This included:

- Comprehensive summary of consultation responses (Appendix 12 to Council Report)
- Data analysis including breakdown by question and geographic area
- Statistical presentation allowing clear understanding of response patterns

A qualitative assessment of the responses was carried out and detailed in the Council Report which was 61 pages long together with 12 appendices. The report detailed the broad themes which had arisen during the consultation which included:

- Educational disadvantage
- Transition
- Fairness and opportunity of choice
- Travel times and transport costs
- Community cohesion impacts

- SEND pupil needs
- School capacity and displacement fears

The council recognised that the issue was highly complex and that no one proposal would satisfy all the respondents. In reaching a decision on the final proposals the council strived to balance all the competing views expressed, carefully weighing up the impacts on different communities, and taking into account both immediate concerns and long-term strategic needs.

Substantive changes were made to the final determined arrangements including:

- Open admission reduced from 20% to 5% following strong opposition from schools and parents [...]
- An enhanced commitment to transport planning and accessibility
- Additional safeguards for SEND pupils highlighted in final arrangements
- Strengthened monitoring and review commitments

[...]

Objection 3 [...]

The council does not accept that there has been a lack of meaningful engagement with stakeholders. Comprehensive documentation was provided which exceeded statutory requirements and many public meetings were held throughout the consultation period (listed at para 4.13 of the Council Report). When particular communities raised concerns that they did not have a public meeting listed for their part of the city the council agreed to schedule additional meetings in those localities. The council also work in conjunction with its Parent and Carer Council to ensure meetings took place with families of children with Special Educational Needs. Given the number of responses received and the wide variety of ways in which people could contribute to or engage with the consultation, the council believes that the consultation successfully offered opportunities for a wide range of residents to respond, challenge and offer feedback on the proposals.

The council recognises that it is inevitable that not everyone will accept or be happy with the outcome of the consultation and the determined arrangements. However, in reaching a decision the council carried out a balancing exercise to evaluate the fairness of the proposals and concluded that the advantage to children who would be afforded a higher priority for places would outweigh the disadvantage caused to children who would be offered a less high priority.”

113. I consider that the LA took a conscientious account of the responses made by consultees both during and after the consultation. During the process, the LA fully engaged with the community in a variety of ways (as set out above). It responded to concerns raised

by providing answers to questions at engagement events and in the form of FAQs early in the process. It was honest where answers could not be provided. The LA stated in its response (above) that, after the consultation period had closed, it had undertaken a considerable analysis of the responses between the closing of the consultation period and the determining of the Arrangements (note: both the dates of the end of the statutory consultation period and the date by which the determination of any arrangements must have taken place are set out in paragraphs 1.47 and 1.49 of the Code; the LA met the requirements in respect of both dates). I have had sight of the Cabinet papers for the meeting on 27 February 2025, and find that the decision-maker (the Cabinet) had in front of it the information from and analysis of the consultation responses necessary for it to make an informed decision. I also find that the consideration and analysis of the consultation responses was extensive and that this provided the information Cabinet members required in terms of how concerns raised during the consultation were to be addressed. Of course, the LA was not expected to have resolved all of the concerns raised by the community in the consultation period by the date of the Cabinet meeting. In my view, it was enough to have been working towards such, by presenting potential solutions or actions to the Cabinet, at that point given the short period between the statutory deadlines laid out in the Code.

114. Objector 1 raises the concern that the LA, in determining the Arrangements, has “chosen to disregard the level of opposition and the reasons for this level of opposition” and “The purpose of being required to consult is lost when an admissions authority pays so little attention to the results of the consultation and the concerns that are raised”. However, a consultation process is not a referendum or a negotiation; it is a process, with a legal framework, by which views can be sought on a proposal. Following a consultation period, the proposer has a broad discretion as to how to act; it does not have to amend its proposal, even if there is an overwhelming response against it, though there should be good reasons for not doing so. In section 35 of the Cabinet papers for the 27 February 2025 meeting, the reasons for proceeding with the proposal were put to the members determining the Arrangements. It considered that:

“35.2. The council has been informed by revised pupils forecasts until 2028, in the case of primary schools, and to 2031 for secondary schools. Together with consideration of the pattern of applications in relation to the new FSM category for September 2025.

35.3. These give the council a solid base by which to consider how to work towards the stated corporate ambitions to ensure a fair and inclusive city, where no child or family is left behind. Whilst deliberating this against the requirements of the School Admissions Code to ensure arrangements are reasonable, clear, objective, procedurally fair, and comply with all relevant legislation. Ensuring that arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs.

35.4. The percentage of pupils eligible for free school meals in the city’s secondary schools ranges from 19.1% - 49.1% with BACA and Longhill High School having

more than 40% of pupils eligible for free school meals. Six of the city's ten secondary schools have a below average proportion of pupils eligible for FSM.35.5 The council has concluded there is a strong rationale to make the proposed changes outlined in the recommendation. In so doing it is understood that these are not universally welcomed and will impact on families and children in different ways.

35.6. The benefits that the proposals bring are considered to outweigh the negative impacts outlined in responses to the consultation. Some of those responses are helping to shape how the admission arrangements may be further adjusted in future years to improve changes that the council does not feel justified to delay.

35.7. Outside of the admission arrangements there is on-going work to improve the education system and the council remains committed to continue to explore with all stakeholders in the city what they can bring to this work and consider what else may be possible to support the city's ambitions to minimise inequality and improve educational outcomes for the city's most disadvantaged children and young people.

[...]

35.9. It is recognised that at the conclusion of this process consideration will need to be made to the support and explanations provided to children and young people to help make sense of the changes determined. The range of emotions faced by families and the nature of some of the discourse will have polarised pockets of the city and efforts will be needed to ensure the admission arrangements determined are successfully introduced and families are supported to engage positively with them."

115. I also noted in sub-section A.i.a. the action that the LA took in respect of the concerns raised about the 20 per cent priority proposed under oversubscription criterion 6 (OAP) and the positive response to that action set out in the letter from local headteachers.

116. I consider there to be evidence that the LA acted conscientiously in taking into account the results of the consultation. Consequently, I do not uphold this part of the objections.

117. I have not found the LA to have breached the Code (for the avoidance of doubt that is any of the paragraphs of the Code identified by the Objectors and myself relating to the consultation process (1.45 to 1.48)), or any of the Gunning Principles in relation to the consultation.

Part 2

118. I now turn to the concerns raised by the Objectors about the determined Arrangements. My finding that the consultation process did not breach the Code or the Gunning Principles has no bearing on any findings in respect of the compliance with the Code of the determined Arrangements.

B. Leading matters

119. The Objectors assert that the Arrangements: cause disadvantage; are not reasonable; are not fair; and are indirectly discriminatory. I will refer to these as ‘the effects’ of the Arrangements on admission. As they span the objections relating to the determined Arrangements, I set out the general approach I will take to my consideration of each of the effects here.

Disadvantage

120. All admission arrangements create advantage for some applicants and disadvantage to others; indeed, that is their purpose. The Code, as set out under paragraph 1.7 sets out that “All schools **must** have oversubscription criteria for each ‘relevant age group’ [...]”

121. Oversubscription criteria must be included in admission arrangements to make clear how admission will be prioritised when the number of applications is greater than the number of places available in the relevant age group (the ‘relevant age group’ is defined in the Code as “the age group to which pupils are normally admitted to the school”). In situations of oversubscription, there will be applicants who are not admitted.

122. The Code sets out under paragraph 1.8 that “Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs [...]”.

123. To be contrary to paragraph 1.8 of the Code, therefore, any disadvantage arising from an oversubscription criterion would have to be unfair to one or more identified groups.

Reasonableness

124. The Code uses the term ‘reasonable’ but does not define it.

125. 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.

126. To determine whether a part of the Arrangements identified within the objections is reasonable or not, I will apply what I will refer to as the ‘reasonableness test’. This is a two-stage objective test in which the first stage is the consideration of the rationale for adopting that which is the focus of the objection. The second is the effect of its practical operation.

Fairness

127. I will consider reasonableness before I consider fairness. That is because if I find something unreasonable, then I do not then have to go on to consider fairness. However, if I do go on to consider fairness it will be as set out here.

128. Fairness is a concept, not unlike being ‘reasonable’, that is used in the Code but is, again, not defined.

129. 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. I re-state here that it is the purpose of oversubscription criteria to create advantage for some applicants and disadvantage to others. A factor which is relevant in the consideration of substantive unfairness is the reasons (or justification) for adopting a particular oversubscription criterion. These must be considered in context. It may be the case that the justification for the adoption of a particular set of oversubscription criteria could override any unfairness. I should also add that where the available evidence does not establish disadvantage, there cannot be any unfairness

Indirect discrimination

130. This type of discrimination is defined under the Equality Act 2010 (EA2010).

131. In very general terms, indirect discrimination applies where a provision, criterion, or practice (PCP) – which applies to everybody in the same way – places a person with a protected characteristic at a disadvantage. Indirect discrimination does not need to be intentional or a conscious decision. If the provision, criterion or practice is justified, it is not discriminatory. However, the justification must be that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

132. The nine protected characteristics under the EA2010 are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. A ‘legitimate aim’ must represent a real and objective consideration and be legal and non-discriminatory.

133. To determine whether the matters the Objectors have raised as being indirectly discriminatory are so, I compare the impact on persons with the protected characteristics and those without. If a group is disadvantaged then I will consider whether that disadvantage is the consequence of a legitimate aim and whether the disadvantage is necessary and proportionate to that aim.

134. I will consider disadvantage in this section and Part 3, reasonableness in this section and Part 3, fairness in Part 3 and indirect discrimination in Part 4.

135. As well as these four ‘effects’, the Objectors have raised concerns about whether the changes to the Arrangements are permitted by the Code. I consider these first; if any matter is found not permitted by the Code, then it would naturally follow that I would not then need to go onto consider its effects on admission to the individual schools. I will also consider any aspects of the concerns raised which do not fit into determination sections A or C to I. I will also consider the rationale for adopting the changes to the Arrangements which form the focus for the objections by applying the first stage of the ‘reasonableness test’.

Table 2b: Summary of the objections relevant to determination section B

Objections summary	Objection number
Leading matters i. The use of the FSM indicator to prioritise admission. ii. Giving priority to out of catchment children before in-catchment children. iii. The reasonable expectation that distance should be a consideration. iv. Priority for admission is afforded to children according to the financial status of parents. v. The use of random allocation as a tie breaker.	1, 5

B.i. The use of the FSM indicator to prioritise admission

136. The concerns raised by the Objectors about matter B.i. are:

Objector 1:

- a. That the Code says that the pupil premium indicator can be used to prioritise admission but that:

“[...] it does not say that this priority can override other requirements of the Code. This implies that the FSM priority needs to be applied in a way that is compatible with the other requirements of the Code.”

- b. That the FSM priority is placed higher than children living in the catchment area, prioritising out of catchment children above those in-catchment.
- c. The description of the way that the FSM indicator will be implemented breaches paragraphs 14 and 1.54 of the Code in that:

“Admissions criteria 4 and 5 say the quota will be “up to the city average”. However, in note d it says that “the city average will be taken as 30%”. This is confusing because the city average is lower than 30% and is forecast to fall over time due to changes in how eligibility for free school meals is defined. The detail provided in the footnote therefore contradicts the wording in the criterion.

‘Note d’ in the arrangements states:

“Children will be considered under this criteria if they are eligible for free school meals on the closing date for applications or on the date the application is submitted if it's late or outside the main admission round.

The city average will be taken as 30%. The number of places available at each school under criteria 4 will be calculated by applying the city average to the

school's PAN and subtracting the number of places offered to pupils eligible for free school meals under criteria 1,2, and 3.

The number of places available under criteria 5 will be calculated by applying the city average to the schools PAN and subtracting the number of places offered to pupils eligible for free school meals under criteria 1,2,3, and 4."

- d. That the setting of the 30 per cent limit for the 'city average' of children eligible for FSM is confusing and artificially high.
- e. That the use of the FSM indicator would not be compatible with paragraph 2.29 of the Code in that it would be difficult to apply it in respect of in-year admission.
- f. "The Council is shifting to using an "automatically opted in" approach (paragraph 24.24 of Council papers of 27th February 2025), so that it can count the number of children who are eligible for free school meals across the first five priorities. However, it would provide an option for parents to opt out of this priority. This means that some children who are able to obtain a place through the higher priorities might opt out of the FSM priority and therefore not be counted towards the 30% quota. This introduces an additional element of uncertainty about the effect this priority would have and how far it might reduce the number of places available for children living within the catchment area."

Objector 5:

- g. "I do not object to pupil premium being used in admission arrangements, as permitted by the Code, but I ask the Adjudicator to confirm whether B&H's use of FSM is appropriate given it does not seem to be what the Code (and therefore Parliament) intended or sets out as lawfully permissible."

137. I asked the LA to explain why it uses FSM and not pupil premium to prioritise admission. In its response, it told me:

"The School Admissions Code 2021 provides that Admission Authorities may give priority in their oversubscription criteria to children eligible for the pupil premium. The categories of eligible premium recipients to be prioritised should be clearly defined in the admission arrangements.

The decision to use Free School Meals as the priority measure, rather than the full range of Pupil Premium recipients was because of the following factors:

- Care experienced children are covered under priority 1 already[.]
- Free School Meals is an easily recognised and understood measure. A family will more likely know if their child is FSM eligible than necessarily know if their child is eligible for Pupil Premium. It's a clear and binary measure, which does not require families to try and work out if they are eligible. It is straightforward for

families to understand when making their applications for secondary school places.

- It's a recognised measure (attainment and progress data is measured according to this factor for example) and therefore will make analysis of the impact of the arrangements easier.
- Even with transitional protection in mind, it provides a priority based on a child's parents' qualification for certain benefits or low annual income. This makes it a timely indicator of present need which supports the purpose of the new priority.

The Council wants to promote the opportunity for those pupils eligible for FSM to be given a greater possibility of a place at their preferred school. Further information about the challenges for FSM pupils in the city is provided in the general points document in Section 12 of this response."

138. I note that the gov.uk website provides the following criteria for a child to be considered eligible for 'Pupil Premium' funding to a school:

"Pupil premium funding is allocated to eligible schools based on the number of:

- pupils who are recorded as eligible for [FSM], or have been recorded as eligible in the past 6 years (referred to as Ever 6 FSM)
- children previously looked after by a local authority or other state care, including children adopted from state care or equivalent from outside England and Wales."

139. Admission authorities have been able to prioritise the admission for disadvantaged children through the pupil premium indicator since the 2014 Code.

140. About matters a., b. (Objector 1), and g. (Objector 5), I make the following points:

- The Code permits, under paragraph 1.41, that "Admission authorities may give priority in their oversubscription criteria to children eligible for the early years pupil premium, the pupil premium and also children eligible for the service premium". The use of the word 'may' means that the inclusion of this indicator as a criterion in arrangements is not mandated. It is a choice for any admission authority as to whether this is included or not.
- Paragraph 1.41 does not state it is the only such measure that can be used nor does it preclude the use of any such similar measure.
- The eligibility criteria for triggering pupil premium funding includes FSM, Ever8 FSM and those children who are looked after or were previously looked after. There is no reason why the FSM indicator could not be used to prioritise admission in and of itself, just as is the case for those who are looked after or were previously looked after.

- Paragraph 1.10 of the Code states: “It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances.” The LA has chosen to use the FSM indicator for the reasons set out above. I consider the reasons provided by the LA to be rational, and in that regard would likely pass the first stage of the ‘reasonableness test’ were I to apply it.
- After setting out that it is for admission authorities to decide which criteria would be the most suitable according to the local circumstances, paragraph 1.10 then states: “The most common are set out below”. This makes clear that the list of possible oversubscription criteria in the paragraphs that follow is not exhaustive. Therefore, the LA is not precluded from employing the FSM indicator in the Arrangements.
- Other than for looked after children and previously looked after children (which must be given first priority on oversubscription), the Code does not mandate the order that admission authorities must list criteria chosen to prioritise admission in situations of oversubscription.
- It is, therefore, permitted for children eligible for FSM to be given a higher priority in admission than other criteria, such as those in the catchment area. It is also permitted for places to be prioritised to children in the catchment area who receive FSM over those who are out of catchment.

141. I go on in later sections to consider whether the implementation of the FSM indicator in criteria would be unreasonable (from the perspective of the second stage of the ‘reasonableness test’) or cause such a relative scale of disadvantage to any particular group that it could be considered unfair. However, from the perspective of what is permitted, I determine that the LA’s use of the FSM indicator to prioritise admission does not constitute a breach of the Code.

142. I, therefore, do not uphold this part of the objections.

143. In respect of matter c. (Objector 1), the Code requires all admission authorities (save for grammar schools) to admit to PAN. Therefore, where any oversubscription criteria specify a percentage or number that will be admitted under a particular criterion or criteria (such as the 30 per cent in respect of the FSM indicator in the Arrangements), and that is not reached by the number of applications eligible for priority under that criteria, then the places are filled by the children meeting the next oversubscription criteria and so on until the PAN is reached. That number or percentage of places cannot be ‘ring-fenced’. This means that in a scenario where, say, only 20 per cent of the places under oversubscription criteria 1 to 5 are filled by children who receive FSM, then the 10 per cent remaining are not left open; places would then be filled under criterion 6, and so on. Therefore, the Arrangements in this regard are clear in that oversubscription criteria 4 and 5 will admit ‘up to’ the city average and that ‘note d’ makes clear that the ‘city average’ figure is 30 per cent (which would be the limit to admissions under those criteria).

144. I, therefore, do not uphold this part of the objections.

145. Coming now to matter d. (Objector 1), the Objector stated that:

“This is confusing because the city average is lower than 30% and is forecast to fall over time due to changes in how eligibility for free school meals is defined.”

146. I asked the LA to explain why it had introduced a fixed percentage limit for the admission of children eligible for FSM rather than the dynamic figure calculated in previous years. It told me that:

“When the FSM priority was introduced for September 2025 the Council determined that it would calculate the city average of Free School Meals from the October 2024 census data for the Year 6 pupils. This would give the city average for the cohort starting secondary school in September 2025. When the arrangements were determined in January 2024, we gave an illustrative example of the city average for year 6 at that point which was 28% however when allocations were made in March 2024 this figure had increased to 30%.

The Council decided to consult on a proposal for the school admission arrangements for 2026/27 which provided that at any community secondary school the percentage of places for pupils eligible for Free School Meals within the oversubscription priorities 1-5 would be set at 30% of the Published Admission Number (PAN).

The Council did this for the following reasons:

- To provide greater certainty for applicants. It is hard for families to predict what the city average might be in any given year, so by setting the average (and using the most recent data therefore it being timely and proportionate) this would allow families to better understand how the arrangements would be implemented and how the oversubscription criteria apply to them.
- To provide secondary schools with greater certainty of their likely FSM allocation into year 7.
- It eliminates annual fluctuations that could cause confusion in the application process. However, the Council does consult on and determine school admission arrangements annually, therefore there is opportunity to consider a change in fixed percentage at a future date, if needed. ”

147. The LA has provided a credible explanation for how it arrived at the 30 per cent figure. I do not find this confusing; having a specified figure which sets a limit for the number of children eligible for FSM that will be admitted could be considered to be clearer for parents than the dynamic method used to calculate the percentage limit for the admission of children eligible for FSM in each catchment area under the 2025/26 arrangements. I consider this as being compliant with paragraph 14 of the Code. It is also the case that admission arrangements are determined each year and this figure is only applicable to the 2026/27 Arrangements; the LA told me it would review this percentage each year.

148. I, therefore, do not uphold this part of the objections.

149. Objector 1 raised matter e. concerning the application of the FSM criterion to in-year admission, stating:

“It is unclear whether the way the Council is applying the FSM priority would be compatible with this clause in the Code [paragraph 2.29]. The council would need to keep track of the number of children eligible for FSM who were admitted through this priority or a higher priority rather than the proportion of children at the school who are eligible for FSM.”

150. The Objector is concerned that children eligible for FSM could be admitted under other criteria in the Arrangements and that, consequently, there could be more than 30 per cent of the intake that could be classified as receiving FSM. Under matter v., the Objector is concerned that the LA will have to keep track of all children eligible for FSM in order to appropriately apply the oversubscription criteria to the waiting list. About these issues, I make the following points:

- As already quoted above, the LA in ‘note d’ of the Arrangements state that the number of places available at each school under criterion 4 will be calculated by applying the city average to the school’s PAN and subtracting the number of places offered to pupils eligible for free school meals under criteria 1, 2, and 3. The number of places available under criterion 5 will be calculated by applying the city average to the schools PAN and subtracting the number of places offered to pupils eligible for free school meals under criteria 1, 2, 3, and 4.
- I agree that children eligible for FSM will be admitted under higher priorities. However, the LA will subtract those children from the numbers to be allocated under oversubscription criteria 4 and 5 to keep to the 30 per cent limit.
- In the LA’s consultation FAQ document, it was made clear that more than 30 per cent of the intake may be made up of children eligible for FSM. This is because it might be that those children would be admitted under priorities 6, 7 or 8, under random allocation, which is used as the tie break for those priorities. However, these numbers are likely to be small; children eligible for FSM will have been admitted under a higher priority (oversubscription criteria 1 – 5). As the number to be admitted is based on the city average, most if not all will have already been allocated places. In any event, FSM will not have been used to prioritise admission under criteria 6 to 8. I do not see this situation being a breach of that which is permitted under the Code.
- The implementation of oversubscription criteria with admission limits is not unusual in admission arrangements (some church schools put limits on the admission of children meeting certain religious criteria for example).

151. I do not find this to be incompatible with paragraph 2.29 of the Code. The LA introduced the FSM priority in the 2025/26 arrangements and, doubtless, will already have an administrative system in place for applying the priorities against the waiting list which can be applied to the 2026/27 Arrangements.

152. I, therefore, do not uphold this part of the objections.

153. In respect of matter f., it would seem evident that if children would have a higher priority for admission to the schools for which their parents have expressed a preference, it would be less likely that they would 'opt out' with the effect that it would give their child a lower priority. If parents do 'opt out', then their places will either be allocated to other children eligible for FSM up to the limit of 30 per cent (that does not increase because of opting out) or, if the limit is not reached, to children admitted under a lower priority. Regardless, if they are admitted under oversubscription criteria 6 to 8, then the fact that they are eligible for FSM is incidental; they were admitted under other criteria so were eligible under those other lower priority criteria in any event. In respect of the 'uncertainty' which has concerned the Objector, it is not the function of admission arrangements to give certainty about whether a child will be admitted to a school. The requirement is that admissions arrangements must explain clearly how places are allocated. I will return to look at the function of admission arrangements in more depth in sub-section B.v.

154. I, therefore, do not uphold this part of the objections.

155. Finally in this sub-section, I address the following comment about the use of the FSM indicator made by Objector 5:

“[...] it is my belief that the real agenda of [the LA] in developing the Admissions Arrangements is to seek to promote the situation of disadvantaged families by removing what is perceived (by [the LA]) to be privileges of more affluent families [...].”

156. I have already found that the use of the FSM criteria is not a breach of the Code. The Code also permits this approach should any admission authority choose to employ it in its oversubscription criteria (as clearly indicated by the option of being able to prioritise admission by the pupil premium indicator under paragraph 1.41).

157. The concerns in this regard are that the disadvantaged are being given higher priority over the affluent. As set out in the 'Background' section of this determination, there are considerable levels of deprivation evident in Brighton and Hove in that 44.2 per cent of LSOAs are in the lower decile range; 15 LSOAs (nine per cent) are in the 10 per cent most deprived LSOAs in England and 28 (17 per cent) are in the 20 per cent most deprived. The LA seeking to promote educational opportunity to socio-economically and educationally disadvantaged groups is permitted by the Code.

B.ii. Giving priority to out of catchment children before in-catchment children

158. In this sub-section, I will consider what is permitted by the Code in respect of the Objectors' concern that admission is to be prioritised for children who live outside the relevant catchment area above those who live in-catchment. The Objectors raising concerns about this aspect of the arrangements assert that this is not compatible with the Code's requirements in terms of catchment areas.

159. Those Objectors listed in Table 2a who raised these concerns and a summary of the specific points made are:

Objector 1:

- a. "The Council defines catchment areas as "the geographical area around a secondary school" and says that "if more children apply for a school place than there are places available, children who live in the school's catchment area get offered a place first". This is at odds with the prioritisation of out-of-catchment applicants over those in-catchment.
- b. The implementation of the five per cent OAP and the higher priority given to children outside the catchment area who receive FSM frustrates parental preference for those applying from within catchment.
- c. The OAP does not comply with footnote 24 of the Code (referring to R v Greenwich London Borough Council, ex parte John Ball Primary School (1989) 88 LGR 589 [1990] Fam Law 469) in which it is stated: "pupils should not be discriminated against in relation to admission to the school simply because they reside outside the local authority area in which the school is situated".
- d. "The Council uses its catchment areas as its pupil planning areas and, historically, the Council has sought to ensure there are sufficient places within each catchment area."
- e. "The Council used to give a clear assurance that it would seek to provide enough places within each catchment area." Objector 1 cited the example that the LA had done so in the 2010/2011 booklet on 'Secondary School Admissions in Brighton & Hove'. "The Council now denies that it is possible to provide such an assurance."
- f. "At the time of consulting on the FSM priority for 2025, the Council provided assurances that it would not affect children's chances of obtaining a place at a school within their catchment area. The Council has subsequently gone back on this assurance and made it clear that it is no longer seeking to provide sufficient places within each catchment area."
- g. "We think that the introduction of the out of catchment FSM criterion with such high priority clashes with [the Code] [...] requirement that catchment areas should be "reasonable and clearly defined".

Objector 5:

- h. "I believe at the heart of fair and reasonable admission arrangements should be a system where families can understand where they stand and, within reason, make sensible plans for the future. [...] While I accept there can be no guarantees, it is fair that parents should be able to understand and plan for

where they are likely to be able to get a place. Again, this is a traditional benefit of a catchment system.”

- i. “One of the huge benefits of a catchment or locality-based oversubscription criteria is children are usually able to transition to secondary school with friends and peers”.

160. In one of its responses, the LA told me that:

“The council recognises that it is inevitable that not everyone will accept or be happy with the outcome of the consultation and the determined arrangements. There is no solution which will guarantee 100% satisfaction across the city. In the view of the council simply not being able to obtain a place at a school of preference, including where this is the catchment school, is not of itself unreasonable. It is inherent in the scheme of having oversubscription criteria which expressly may include catchment areas and other factors by which applicants are prioritised that children will not necessarily be able to attend either their catchment school or their parents’ preferred school. [...]

The final determined arrangements recognise that:

- Some families may face different school allocations than historically expected
- This change serves the greater good of city-wide educational equity
- There are enhanced choice opportunities for single school catchment area families which provide compensation
- The overall system becomes fairer for all communities”.

161. In respect of matter a. (Objector 1), I note that on the LA’s website, it states:

“About school catchment areas

A school catchment area is the geographical area around a secondary school.

The council decides the size of school catchment areas used for community schools run by the council, Brighton Aldridge Community Academy (BACA) and Portslade Aldridge Community Academy (PACA).

The catchment areas have changed for admission in September 2026.

Church voluntary aided and free schools don't use catchment areas.

Why school catchment areas are important

Children who live in a school's catchment area generally have a better chance of getting a place at this school than children who live outside the catchment area apart

from some pupils eligible for free school meals and for 2026 allocations, the places available to children living in a single school's catchment area. [...]"

162. The objector's concern is that the LA has stated that those applying for school places who live in the catchment area of the school applied for would be prioritised first and that is not the case in the arrangements, thereby breaching paragraph 14 of the Code. However, in the LA's information about catchment areas for 2026/27, I do not see that which Objector 1 is concerned about. In its information, the LA's explanation is one which I consider to be concordant with the Arrangements and the Code. In respect of matter a. (Objector 1), I do not uphold this part of the objections.

163. In the objections, a large proportion of the concerns expressed relate to the prioritisation of the admission of children outside of the catchment area over those in-catchment. As exemplified by matter h. (Objector 5), it appeared to me that there is a fundamental misunderstanding about the use of catchment areas in prioritising admission. When originally employed by local authorities to allocate children to schools after the 1944 Education Act, catchments (as in hydrology, where the term refers to the area in which all water in that area is collected into a river system) were drawn for each school and children within that area went to that school. However, whilst the same term is used today, the primacy of catchment areas in school admission has long since disappeared; a more representative term for what can be implemented in admission arrangements today would be 'priority admission areas'.

164. The Code permits that an admission authority can choose to use a catchment area as an oversubscription criterion to prioritise admission; it does not mandate its use. In line with paragraph 1.10, an admission authority can choose to employ any oversubscription criterion to prioritise admission in line with 'local circumstances' (other paragraphs of the Code require choices also to be reasonable and fair). When employed in the list of oversubscription criteria in any admission arrangements, the importance of a catchment area in prioritising admission is determined by its order in that list. In the Arrangements, the LA has prioritised admission by catchment area under oversubscription criteria 4 (in respect of FSM) and 7 (to any in-catchment child). This means that the LA has prioritised other admission criteria above the level of priority afforded to applicants who reside in a defined area. This is entirely permitted by the Code and I, therefore, do not uphold this part of the objections.

165. This finding segues into my consideration of the concern raised about the frustration of parental preference under matter b. by Objector 1. About this, I make the following points:

- I have already said that it is inevitable that admission arrangements will cause disadvantage to some applicants in situations where there is oversubscription. Some children will simply not be admitted because more children were prioritised for admission above them by virtue of the order of the criteria employed.

- Preferences, however, are just that; they are not choices. No parent can expect their child to be admitted to a particular school simply because they would like them to be admitted, nor are preferences any type of guarantee of being admitted. Parental preference can, therefore, be ‘frustrated’.
- In respect of oversubscription criterion 4, it is the case that children eligible for FSM are prioritised from the catchment area above those from outside the catchment areas (criterion 5) in any event.
- As I set out in various points made above, the LA has prioritised admission at points in the oversubscription criteria to children who do not reside in the relevant catchment area over those who do, such as it has with criterion 5. That is entirely permitted by the Code.

166. I do not, therefore, find that the frustrating of parental preference *per se* to be non-compliant with the Code, and do not uphold this part of the objections.

167. In the context of the LA's statutory duty to ensure there are enough school places for all children of compulsory school age in its area, in respect of matters c. to g. (Objector 1), I have considered the following to be determinative:

- Whilst parents can express a preference for schools in another area and the LA for those schools must take any such application into account when allocating places, it only has to ensure a sufficiency of places in its own area.
- Children from outside of the BHCC area can be admitted to the LA's six community schools at any time if not oversubscribed and under criteria 1, 2, 5, 7, and 8 if oversubscribed. In respect of matter c. (Objector 1), it does not appear that the criteria prevent children living outside of the BHCC area from being admitted to the schools.
- In addition to the point made by Objector 1 about the Greenwich Judgement under matter c., the Objector also stated in their objection:

“The Greenwich judgement clarifies that school choice should not be artificially constrained by the administrative boundaries of local authorities.”

The Greenwich Judgement only applies to the administrative boundary of the LA and not to the catchment areas within. In any event, paragraph 1.14 of the Code makes clear that: “Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school”.

- The LA can choose to ‘pupil place plan’ (the process of forecasting future demand for school places in a defined area or areas) in a variety of ways. The fact that BHCC has chosen to do so using the catchment areas is, more likely than not, a convenience (in that they are ready-made areas drawn around one or two secondary schools). Although I note that Objector 1 has, in respect of matter

d., said that the LA has, historically, worked to ensure enough places in each catchment area, its duty (and by 'duty' in this context I mean in law; a legal duty) is only to 'its area' (i.e. the entirety of the BHCC area) and not the catchment areas it employs to prioritise admission.

- The same point – that the LA only has a legal duty to its area and not the catchment areas – applies equally to matters e. and f. In respect of matter e., given that admission arrangements are determined annually and my jurisdiction is only for the 2026/27 Arrangements, I have disregarded the argument made about what Objector 1 stated the LA was reported to have said over 15 years ago.
- Paragraph 1.14 states that catchment areas must be 'reasonable and clearly defined'. I do not see, for all of the reasons already given, that the prioritisation of children eligible for FSM over those in-catchment has any bearing on the definition of catchment areas, which are defined clearly in the Arrangements.
- I note the point made by Objector 1 that "Since 2007, the Council has used a system of catchment areas to plan the number of places it needs at different schools and provide students with priority in accessing a school reasonably near where they live." I do not see any irrationality in the reasons for utilising catchment areas for prioritising admission or that the areas themselves have been designed / arranged for anything other than their intended purpose.
- Additionally, I have looked at how the catchment areas have been defined. There are maps showing the catchment areas which parents can access from the LA's website, the same website includes a list of the postcodes within each catchment area (as I have set out in Tables 4 and 5), the map for the boundary changes between CA-D and CA-F shows the new boundaries, and the LA has provided a list of which postcodes have moved between the catchments on its website (as I have set out in Table 5). I find that the catchment areas are reasonable and have been clearly defined and meet the requirements of paragraph 1.14 of the Code in that regard.

168. Consequently, I do not find that the Code has been breached and do not uphold these parts of the objections.

169. Whilst I understand matter i. (Objector 5) will be a consideration for parents / carers, it is not a requirement of the Code that the co-ordination responsibilities of the LA include that the Arrangements must take account of the desire for children to transfer to secondary school with members of their friendship group. I, therefore, do not uphold this part of the objections.

B.iii. The reasonable expectation that distance should be a consideration

170. In respect of his matter, Objector 5 states:

“There is a reasonable expectation that distance would be a consideration in school placement and we have built a life around this.”

171. In line with points I made above in respect of the choice to employ catchment areas, admission authorities are not mandated to use distance to prioritise admission. In the context of the requirements of paragraph 1.10 of the Code, admission authorities are permitted to choose to employ distance as a criterion for prioritising admission (as set out under paragraph 1.13), if it suitable for the local circumstances.

172. Objector 1 noted in their objection that the LA has not employed distance in its arrangements since 2007. It was not clear how Objector 5 could, therefore, argue that a reasonable expectation would exist for distance to be taken into account in the Arrangements when distance has not been employed to prioritise admission in the city’s admission arrangements for 18 years.

173. In any event, as arrangements are determined each year it would also be difficult to argue there to be any expectation would exist in this regard from one year to the next .

174. I, therefore, do not uphold this part of the objections.

B.iv. Priority for admission is afforded to children according to the financial status of parents

175. Objector 5 asserts that by prioritising children who receive FSM for admission over those that do not is a breach of paragraph 1.9 f) in that priority is given to children according to the financial status of their parents.

176. As I set out in sub-section B.i., there are situations when the Code permits that admission authorities can prioritise admission according to the financial status of parents. The use of pupil premium indicator and the children of UK service personnel and crown servants being examples.

177. Given that I have already found the use of the FSM indicator to be compliant with the Code, I am not of the view that paragraph 1.9 f) has been breached in that regard. Consequently, I do not uphold this part of the objections.

B.v. The use of random allocation as a tie breaker

178. Paragraph 14 of the Code requires that admission arrangements must be sufficiently clear so that parents are able to look at a set of arrangements and understand easily how places for that school will be allocated. Admission arrangements are defined under footnote 4 of the Code as:

“The overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is offered”.

179. Many of the objections raise that the use of random allocation for the tie-break does not allow a parent to know if their child(ren) will get into a school. However, paragraph 14 does not require admission arrangements to tell parents whether or not their child will get a place at a school, or even how likely this is as a prospect. It requires the arrangements to tell parents the factors which determine how places will be allocated in the event of oversubscription, and the procedure used to decide allocation. Of course, the procedure, practices, criteria and supplementary information must all be clear. I have not found anything so far that leads me to find that is not the case.

180. About the use of random allocation, the Arrangements (‘note f’) state:

“Where the random allocation tiebreak is used, every preference is assigned a unique random number by computer. The computer will then list the pupils using this random number. This computer allocation process is audited and overseen by a senior council officer not part of the school admissions team.”

181. The Arrangements do not tell parents whether they can be reasonably certain that their child(ren) will be offered a place through the use of random allocation as the tie-breaker, but there is no requirement that they must do so. I find that the explanation of how random allocation will work complies with paragraphs 14 and 1.34 of the Code in that it sets out clearly how it will operate.

182. Objector 1 was also concerned that the use of random allocation as the tie-breaker would breach paragraphs 1.34, 1.35 and 1.8 of the Code in the following ways:

- a. When combined with the other changes to the Arrangements, the tie-breaker “would [then] be the principal oversubscription criterion for many children”.
- b. The use of a random allocation tiebreak is not compliant with the requirements of the School Admissions Code for a tie-breaker to be “effective, clear, and fair”.
- c. “It is unclear to us whether a senior council officer can be considered independent in the way envisaged by the School Admissions Code.”

183. The LA’s response on these matters was:

“The admission arrangements make clear that the council only uses random allocation where there is a need for a tie breaker in any of the oversubscription criteria. It is not the principal oversubscription criterion for allocating places at schools. The use of random allocation in this way has been the subject of scrutiny in previous OSA decisions and has been found to be lawful.”

and

“The council’s arrangements explain that oversight is carried out by a senior council officer who is not part of the school admissions team. The council submits that the references in the Code are more applicable to schools who are their own admissions authorities and that the council, as a separate entity to the schools concerned, is sufficiently independent.”

184. In respect of matter a. (Objector 1), paragraph 1.34 of the Code requires that “Local authorities **must not** use random allocation as the principal oversubscription criterion”. This simply prohibits an admission authority from allocating every place randomly to applicants by random allocation (in the situation whereby it is the only oversubscription criterion). I note that this is not the case in the Arrangements; the LA employs a list of eight oversubscription criteria to prioritise admission. Random allocation is only used to break any tie under the criteria and is not a criterion in and of itself.

185. Matter b. refers to paragraph 1.8 of the Code which states that a tie-breaker must be “effective, clear and fair”. I will consider the effect of the operation of the random allocation tie-breaker (including whether it is ‘fair’) in Part 3 of this determination. I will consider whether the tie-breaker is effective and clear here.

186. Being ‘effective’ is not defined in the Code. An everyday definition of ‘effective’ is of something being ‘successful in producing a desired or intended result’. In the context of the compliance of this part of the Arrangements, I find that the tie-breaker is effective in that: it employs a method of breaking a tie which is permitted by the Code; the method chosen to break a tie is universally applicable to all situations requiring a tie-breaker; and the method of breaking a tie is compliant with its own requirements as set out in the Code (in this case, paragraph 1.34). For the same reasons, I also find that the tie-breaker is clear in line with paragraph 1.8.

187. In respect of matter c., the requirement under paragraph 1.35 of the Code is for the random allocation process to be supervised by ‘someone independent of the school’. The Arrangements make clear that the process will be carried out by a senior council officer who is not part of the school admissions team. I am satisfied that this is sufficiently ‘independent of the school’ to meet the requirement of the Code in this regard.

188. I, therefore, do not uphold these parts of the objections.

189. I note that Objector 1 made reference to the fact that “Brighton and Hove is the only local authority in the country to use a random allocation tie-breaker” (as put forward by an expert commissioned by the LA during the consultation period). A simple Google search would immediately disprove this; I found that Tower Hamlets, Hertfordshire and Trafford Councils use random allocation as a tie-breaker, to name the first three examples I came across. The inference, that the LA has chosen to do something ‘out of the ordinary’ and therefore ‘is doing something wrong’, is unfounded.

190. In this section, I have only considered those matters which pertain to what is permitted by the Code. I have not upheld any of the concerns. Applying the first stage of the ‘reasonableness test’ to the concerns that have been covered in section B, I find there to be

no irrationality; there is a clear rationale for the changes implemented by the LA and they are permitted by the Code.

191. Of course, criteria can be permitted by the Code for inclusion in admission arrangements, but can still be found to be unreasonable, unfair or indirectly discriminatory in their practical operation.

Part 3

192. I turn now to consider the effects of the Arrangements on admission to the six BHCC community secondary schools in the sections that follow.

193. Objectors have raised concerns about the disadvantage, reasonableness and unfairness of the arrangements. The assertions about these effects stem from the Objectors' concern that children in catchment areas will be 'displaced' (i.e. not able to get places at the school(s) in their catchment area) – and, therefore, disadvantaged – because of the prioritisation of: children eligible for FSM who do not reside in the relevant catchment area (under criterion 5); and children living outside the school's catchment area but within a single-school catchment area up to five per cent (under criterion 6).

194. About 'displacement', I reiterate / make the following points:

- That the LA's aims are to move and / or displace children from catchment areas and schools to: ensure the distribution of responsibility amongst all secondary schools for the education of disadvantaged children in the city; and to ensure the viability of Longhill High School.
- Catchment areas are not mandated; they are an option available to admission authorities as a method of prioritising admission.
- There is nothing in the Code that prohibits admission to schools to applicants who reside outside of the school's catchment area.
- There is nothing prohibiting 'displacement' in the Code. Indeed, the law on parental preference in admissions provides for parents to be able to apply to any school, anywhere, regardless of administrative boundaries.
- The LA has continued to prioritise admission by residence in a BHCC catchment area in the Arrangements as it has for many years. However, this has not been given a high level of priority in the Arrangements, unless it relates to a child receiving FSM which is given a higher priority.
- Given the nature of the way admission of those applicants resident in catchment areas will be prioritised under the Arrangements, and because it is the intention of the LA for there to be so, there will be displacement.
- This will also be the case as a result of parents being able to give four preferences when applying for places in 2026/27. Given only one catchment area

(CA-B) has four schools, parents are potentially going to be expressing preferences for schools in catchment areas in which they are not resident.

- It is the scale and effect of that displacement which affects whether the Arrangements are considered unreasonable or unfair to the groups the Objectors are concerned about. To be unreasonable or unfair to identified social groups or to children with SEND or an EHCP is prohibited by paragraph 1.8 of the Code.

195. I will consider the concerns in respect of each of the six community schools in sections C to H. In terms of reasonableness, I have already found the changes to the oversubscription criteria in the Arrangements to be reasonable in terms of the rationale (the first stage of the 'reasonableness test'); my focus will be the second stage of that test here. The 'process' for my consideration of each of these effects has been set out in Part 2, section B above.

196. I will only be considering the potential effects of the practical operation of the Arrangements. This is because the Arrangements have not yet been implemented and there is, consequently, no admission data indicating how they have worked such as there would be for past admission arrangements. However, I have used data from the current and previous sets of arrangements where they have helped me to understand how the Arrangements might operate in 2026/27.

C Blatchington Mill School

197. As set out in the 'Background' section, Blatchington Mill School is located in CA-B and shares that catchment area with Hove Park School; 56 per cent of the LSOAs in CA-B are in the upper decile range (see Table 13), meaning there are more affluent areas than there are areas of deprivation in the school's catchment area; the school currently has a PAN of 330; the school has admitted almost up to its PAN between 2023/24 and 2025/26 (as shown in Tables 6 to 8; it has since admitted to PAN such that there is 330 in each of the three year groups); the PAN is to be reduced in 2026/27 to 300; and Table 9 recorded the LA's forecast demand for 434 school places in CA-B in 2026/27.

Table 2c: Summary of the objections relevant to determination section C

Objections summary	Objection numbers
Blatchington Mill School	
i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school.	1, 2, 3, 5, 7

Objections summary	Objection numbers
ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas. iii. The reduction in the school's PAN will: a. frustrate parental preference; b. impact detrimentally on educational achievement; and c. impact detrimentally on the school's finances.	

C.i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly:

- a. any child who lives in the catchment area for this school who is not eligible for FSM; and
- b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

in that they are less likely to be offered a place at the school and will have to travel further to school.

198. The Objectors assert that the two groups of children set out in matters C.i.a. and b. will be displaced and therefore disadvantaged unreasonably and unfairly under the Arrangements.

199. In its response to the concerns raised by the Objectors, the LA told me:

“The council first introduced an FSM priority admission criterion in 2025/26. It was introduced as a measure to assist in tackling the inequalities within existing school admission arrangements, in particular the configuration of secondary school catchment areas, which had been created over a number of years. There was broad and general support for the intention behind its introduction and inclusion as an admissions priority.

The rationale behind the proposal to amend the FSM criteria to stipulate that the city average should be set at 30% was set out in some detail in both the Cabinet Report (paragraphs 3.33-3.35) and the Council Report (paragraphs 3.15, 24).

At the time of the Full Council report publication, the current catchment area for Blatchington Mill School (and Hove Park School) has a FSM rate of 19% which is below the below city average of 26.3%. The proposed 30% allocation, using oversubscription criteria 1-5, would bring the school closer to the city-wide proportion of free school meals.

The outcome of the consultation (Appendix 12 of the Council Report) details that 40.9% of respondents strongly disagreed or disagreed with the introduction of a 30% figure (rather than the city average) for the FSM priority admissions to schools,

whereas 35.4% strongly agreed or agreed. In the council's view this represents a reasonably even split.

In determining the arrangements, the council recognised that no one proposal would satisfy all participants to the consultation. The council strived to balance all the competing views expressed, carefully weighing up the impacts on different cohorts of pupils in order to evaluate fairness. In reaching the decision the council was of the view that the advantage to children eligible for FSM who would be offered places (or afforded a high priority for places) would outweigh the disadvantage caused to children who would not be offered places (or would not be afforded a high priority for places)."

200. I note that the headteachers and chairs of governors of all six community schools wrote to the LA during the consultation period. In that letter, it was said that:

"We acknowledge and commend Brighton and Hove City Council's commitment to addressing the attainment gap for disadvantaged children across the city.

As such, we applaud and support the introduction of the free school meal (FSM) admission priorities [...] which aim to ensure all schools have an FSM pupil proportion that aligns with the city average".

C.i.a. Any child who lives in the catchment area for this school who is not eligible for FSM.

201. Objector 1 asserts that:

"The out of catchment FSM priority creates an unfairness, because it gives some children priority in multiple catchment areas and in doing so could cause other children, chosen at random, to have priority in no catchment areas."

202. In its response, the LA told me that:

"It is important to note that Blatchington Mill School is in a dual school catchment area with Hove Park School. Whilst under the current admission arrangements (for 2025/26) parents are able to express a preference for one or other of the schools there is no guarantee that if their child falls within the catchment area priority they will be allocated a place at the school of first preference, unless it is undersubscribed. They may instead be offered the alternative catchment school or a school out of catchment if both schools are oversubscribed. Some element of chance has been implicit in the system for many years now."

203. As I have already stated, the Arrangements have not yet been implemented. Therefore, I will look at past data to assist me with my consideration of the Objectors' concerns. The LA provided data of the offers made for places at Blatchington Mill School on NOD broken down by the oversubscription criteria in place in the 2023/24, 2024/25 and 2025/26 arrangements. I have put that data into Table 16.

Table 16: Number of children with EHCPs offered places on NOD at Blatchington Mill School under each of the oversubscription criteria in place in the last three years

EHCP / Oversubscription Criteria²⁷	2023/24	2024/25	2025/26
EHCP	3	2	8
LAC / PLAC (oversubscription criterion 1)	0	3	1
Children with compelling medical or other exceptional reasons (oversubscription criterion 2)	2	0	0
Sibling link (oversubscription criterion 3)	93	92	65
Those eligible for FSM in catchment (oversubscription criterion 4)	-	-	38
Those eligible for FSM out of catchment (oversubscription criterion 5)	-	-	9
Children in catchment (oversubscription criterion 6)	232 ²⁸	233 ²⁸	209 ²⁸
Other children (oversubscription criterion 7)	0	0	0
Total:	330	330	330

Key:

²⁷ This is the list of criteria used in the 2025/26 arrangements. Criteria 4 and 5 were not used to prioritise admission in 2023/24 or 2024/25. To save confusion throughout sections C to H, I will refer to criterion 6 as the 'catchment criterion' in respect of offers made for places at the six community schools in 2023/24 and 2024/25, though this would, in fact, have been criterion 4. This aligns with the chart as presented by the LA and allows comparison with the arrangements in 2025/26.

²⁸ Allocation was determined by random allocation. There were children who had applied for places who were resident in CA-B who were not offered places. The LA gave the following data and reasons for this (information for Hove Park School is included as both admit children from the same catchment):

Year	Number of children	Reasons
2023/24	8	Both schools in CA-B filled with preferences. Blatchington Mill School had 300 first preferences and Hove Park School 158 first preferences.
2024/25	19	Blatchington Mill School filled with preferences (279 first preferences) and places at Hove Park School predominantly filled with preferences.
2025/26	29	Blatchington Mill School filled with preferences (258 first preferences) and places at Hove Park School predominantly filled with preferences.

204. The data in Table 16 show:

- In 2025/26, 47 children eligible for FSM were offered places under oversubscription criteria 4 and 5 (14.2 per cent of the PAN). The 38 children

offered places under criterion 4 amounted to 11.5 per cent of the PAN and 80.9 per cent of the total offers made under criteria 4 and 5. The nine children offered places under criterion 5 amounted to 2.7 per cent of the PAN and 19.2 per cent of the total offers made under criteria 4 and 5.

- The number of children offered places under criterion 6 reduced in 2025/26. However, when combined with those admitted under criteria 3 and 4, the total number admitted under criteria which explicitly required residence in CA-B was 312 (94.6 per cent of the total offers made).
- The number of children offered places from the catchment area will, of course, have been slightly higher given that a proportion of those admitted who have EHCPs / under criteria 1 and 2 will also have been resident in CA-B. I will consider that further, below.
- The number of children resident in CA-B not being offered places increased in 2025/26 by 13 from the previous years (admitting 325 from the catchment in both 2023/24 and 2025/26).
- Displacement can only be directly attributed to the nine children admitted under criterion 5 in 2025/26, as a result of those admitted under criterion 5 (amounting to 2.7 per cent of the PAN).

205. In 2026/27, there will be three changes to the Arrangements which will have a bearing on how many children resident in CA-B may not get places (the increase in the number of children eligible for FSM who can gain places when the limit becomes 30 per cent in CA-B and not the lower percentage currently calculated in the 2025/26 arrangements), the introduction of the OAP criterion and the reduction in the PAN). Table 17 shows the outcome of my calculation of the possible effect of the introduction of the revised criteria 4 and 5 on the admission of those applicants resident in CA-B in 2026/27. This does not include the introduction of the OAP criterion or the PAN reduction; I will consider the effect of their introduction in sub-sections C.ii. and C.iii. in order for a picture of the effect of these three changes to be built cumulatively.

Table 17: Potential offers for places at Blatchington Mill School in 2026/27 after the consideration of the impact of oversubscription criteria 4 and 5

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
EHCP	4	The average of the total of offers to children with EHCPs in the last three years.
1	1	The average of the total of offers made to (previously) looked after children in the last three years.

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
2	1	The average of the total of offers made to children with compelling medical or other exceptional reasons in the last three years.
3	83	The average of the total of offers made to siblings of children in the school in the last three years.
4	80	This is 80.9 per cent of the 99 places which would be available to children eligible for FSM across criteria 4 and 5 (with the current PAN of 330). I have taken the 80.9 per cent figure from the proportion of the admission of children eligible for FSM under criterion 4 in 2025/26.
5	19	This is 19.1 per cent of the 99 places which would be available to children eligible for FSM across criteria 4 and 5. I have taken the 19.1 per cent figure from the proportion of the admission of children eligible for FSM under criterion 5 in 2025/26.

206. Putting aside the OAP criterion and the PAN reduction, the number of places available to children resident in CA-B after calculating the totals under criteria 1 to 5 in Table 17 above (188), would be 142 (188 taken from the current PAN of 330). This, added to the 163 children already offered places under criteria 3 and 4, means that 305 children could be offered places from CA-B under the criteria in Table 17 which specifically require residence in the catchment area (92.4 per cent of PAN). Children can be offered places under criteria 1 to 3 who are eligible for FSM and these would be counted before determining the number to be admitted under criteria 4 and 5.

207. It is also the case that children who are resident in CA-B can be admitted who have EHCPs / under criteria 1 and 2. Supposing the number of children resident in the catchment area offered places who have EHCPs and under criteria 1 and 2 to be half of the total I have estimated for admission under those criteria in Table 17 (this is conservative; it is likely to be more given that the number admitted from CA-B has been much more than half on the last three years), results in the potential for 308 children to be offered places from the catchment area. This is 93.3 per cent of the current PAN. Using the data for places offered in 2023/24 and 2024/25 in Table 16, admission from the catchment area was 98.4 per cent of the PAN (in both years). The potential for offers of places to children in CA-B for 2026/27, as calculated from the data in Table 17, compares favourably with the offers made in the last three years at this point.

208. I make two further points about this calculation. First, I have taken no account of the fact that children eligible for FSM could be admitted under criteria 1 to 3. Were that to be the case then the number of children admitted under criteria 4 and 5 would reduce to meet the 30 per cent limit. The larger the proportion of children eligible for FSM admitted under criteria 1 to 3 the less would be admitted under criteria 4 and 5. I note that, admission would

be to criteria 4 first (in-catchment), leaving less to be admitted under criteria 5 (though some admission under criteria 1 to 3 could be to out of catchment children eligible for FSM).

209. Secondly, the 14.2 per cent (of the PAN) of children eligible for FSM admitted to Blatchington Mill School in 2025/26 under criterion 4 and 5 is around half of the average percentage of children eligible for FSM across the six community secondary schools in the city (28.1 per cent; as set out in the analysis from the data in Table 14 in the 'Background' section of this determination). If admitting children eligible for FSM up to 30 per cent of the PAN in 2026/27, this would be 15.8 percentage points more than 2025/26.

210. Turning to the second stage of the 'reasonableness test' in respect of this aspect of the objections, I find that my modelling of the practical operation of the admission of children eligible for FSM is likely to result in: an increase in the admission of those children to Blatchington Mill School; and the school taking on a greater share of the admission of children eligible for FSM from across the city. I noted earlier the support for this approach from local headteachers. My findings so far are entirely in line with the rationale for the change as set out by the LA in its consultation and, as such, I find no irrationality in the way these criteria will operate for Blatchington Mill School.

211. I also find there to be minimal displacement of children from the catchment area as a result of the practical operation of criteria 4 and 5. I turn to look at how other changes to the oversubscription criteria in the Arrangements will affect the displacement of those from CA-B in sub-sections C.ii. and C.iii. below.

212. As I intend to consider the cumulative effect of all of the changes on admission to Blatchington Mill School, I will determine whether I have to go on to consider fairness at the end of that process.

C.i.b. Children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

213. The Objectors raising this concern wrote about this as a city-wide issue in respect of all the community secondary schools. I, therefore, consider this in respect of the Arrangements for the whole city and then whether I can make any specific points about this matter in relation to Blatchington Mill School.

214. Although this concern relates to the displacement of children with SEND (without EHCPs) by the two FSM criteria 4 and 5, these concerns are largely based on this being a 'knock-on' effect of the practical operation of criterion 2. Conversely, the LA asserts that criterion 2 prioritises admission above the FSM criteria negates the Objectors' concerns. I will deal with that in this sub-section as they are interlinked.

215. I have taken account of the LA's Equality Impact Assessment (EIA) which formed part of the papers considered by the LA's Cabinet on 27 February 2025.

216. About this matter, Objector 7 stated:

“My objection concerns the disproportionate negative impact of these arrangements on children with Special Educational Needs and Disabilities (SEND) who do not have an Education, Health and Care Plan (EHCP). The changes to the admission criteria—including reductions in PANs, amendments to catchment boundaries, and the introduction of FSM and Open Admissions priorities—have the combined effect of lowering the relative priority of many SEND children and increasing the likelihood that they will not secure a place in their local catchment school.

This is in **breach of paragraph 1.8 of the School Admissions Code (2021)** [...]

While the accompanying Equality Impact Assessment (Appendix 9 of the Council’s policy pack) recognises that these changes could create stress, mental health impact, and logistical and emotional disruption for SEND families—particularly those without EHCPs—it fails to outline sufficient mitigation or reasonable adjustments.

Key issues supporting this objection:

- **Children with SEND but without EHCPs are not offered automatic priority**, yet the evidence shows that many will be displaced from catchment schools, with significant consequences for their emotional well-being, mental health, and learning stability.
- **Peer group continuity and proximity to services** are critical for many children with autism and other additional needs. These concerns were strongly raised in the public consultation and listening events, but no adjustments to Criteria 2 or additional protections were introduced.
- The **Equalities Impact Assessment acknowledges the risk of increased EHCP applications** as a result of these changes—highlighting a failure to design inclusive arrangements that do not trigger further strain on support services.
- The Council’s justification is primarily based on socioeconomic disadvantage (FSM eligibility), but this creates a hierarchy of need that overlooks children who are equally vulnerable due to neurodiversity or health conditions.
- [...]”

217. Objector 1 stated:

“The challenges of uncertainty, long journeys and disrupted friendship groups will be particularly acute for children with special educational needs and disabilities (SEND). These children are already being let down by a lack of resources, lack of diagnosis and lack of understanding of their needs. The Council has highlighted the role of Education Health and Care Plans (EHCPs) but these are difficult to secure. There are hundreds of children that either do not meet the criteria for a plan, do not know how to access one or are still waiting. Their education and wellbeing is likely to be particularly adversely impacted by the Council’s proposals, which are causing parents increased concern about their welfare and education. The resulting challenges are likely to impose a further strain on SEND services that are already overstretched.

Even where children with SEND have managed to secure an EHCP, their friendship network is often their safety net, and what gives them the confidence to attend school. Increasing uncertainty over whether this network will be able to attend a school in their catchment area will increase the stress and anxiety related to transition and potentially act as a barrier to attendance.

The Parent Carers Council [PaCC] provided a detailed response to the Council highlighting concerns about the impact on children with SEND [...]”.

218. I have seen the PaCC document in which the group’s concerns were expressed in detail to the LA in respect of the situation for children with SEND through the pre-consultation engagement and consultation processes. The issues raised were broadly as summarised by Objector 7 above.

219. About this matter, the LA responded:

“For those children with special educational needs but no EHCP, the council has retained the “Compelling medical or exceptional reasons” criterion (priority 2) which provides children with an opportunity to be allocated a higher priority place at a particular school.”

220. Dealing with criterion 2 at this stage, I note there is a substantial amount of information for parents on the LA’s website to assist with applications for admission under criterion 2, including a number of anonymised case studies (giving reasons for both successful and unsuccessful past applications). Under the ‘What is considered as exceptional circumstances’ section it states:

“The situation for each child and their family is unique, but to meet the exceptional circumstances criteria, it must have a significant impact on the life of the child or the family.

The Panel will objectively assess the evidence submitted on why the child can only attend a particular school. The Panel will make its decision in accordance with the Equalities Act 2010.

Based on previous decisions, the following conditions alone are not usually considered sufficient for exceptional circumstances:

- Asthma
- Autism Spectrum Conditions
- Eczema
- allergies
- Diabetes
- Dyslexia

- car or travel sickness
- dispensing of medication that may require some training, as this can be undertaken by any school
- gifted and talented young people who possess abilities or potential to develop significantly beyond their peers
- speech and language delay, use of a hearing aid or because an Education Health and Care plan has not been completed - all our schools are able to draw resources and experience to support pupils with these issues
- need for the child to stay in friendship groups
- attendance at a nursery and not obtaining a reception place
- care arrangements where the carer lives close to a particular school
- assistance required to travel to school - our Home to School Transport explains when we have a duty to provide home to school transport generally and for children with special educational needs.

If you feel that one of these examples should be considered, you can apply but your independent supporting evidence would be expected to demonstrate how this has a significant impact on your child and why only a particular school can meet your child's need."

221. Objector 1 asserted that historically very few children have been admitted under criterion 2 in schools across the city, citing the LA's response to a Freedom of Information (Fol) request from February 2025 in which it was recorded that:

- In 2022, 11 per cent of applications under this criterion were accepted (8 successful applications and 63 unsuccessful applications).
- The data for 2023 has been 'misplaced' by the LA. However, the Objector said that "we do know that only 4 successful applications via priority 2 were received". I have treated this data with caution; the source of that data was not cited and there was no figure provided for the number of unsuccessful applications.
- In 2024, seven per cent of applications under this criterion were accepted (7 successful applications and 90 unsuccessful applications).

222. About this, Objector 1 argues that:

"The Council has provided no evidence that this will change. The process is also likely to be overburdened if there are a lot more applications as parents seek to secure their child a place at a catchment area school. It is unreasonable to expect parents to need to obtain an EHCP or make a case for being considered under

Priority 2 simply in order to have a reasonable level of confidence of obtaining a place at a catchment area school.”

223. In the February 2025 FoI request response that the LA provided a list of reasons why applications were not successful:

“No existing report is produced detailing reasons for decline however a review of cases indicates the following as the types of reasons given. Case notes often contain personal identifiable content, so this has been removed:

- No compelling case for the preferred school above any other school
- All schools can support the child’s additional needs
- No reasons given for the preferred school above any other school
- Child has got an EHCP so school allocation dealt with under separate process
- Child has sibling link and therefore will be offered a place under that priority
- No independent evidence provided
- Case based on friendship group but they will go to both schools in the catchment area so no case for one school above another
- Whilst GP presents case about additional needs, no case made for attending preferred school above another
- Case made for not attending one school, but no case made for needing to attend preferred school above another
- Evidence provided over 3 years old
- Evidence provided inconclusive
- Cannot agree on basis of aptitude for particular subject area
- Supporting information is about a sibling and not compelling case made for this child.”

224. About criterion 2, I make the following points :

- As is evident from the objection documentation, this matter is a very real concern and an understandably emotional issue for those living and working with children with SEND in the city. There appears to be a genuine feeling that the LA ought to prioritise the admission of children with SEND in some way and there is resentment about the fact that the LA has not changed criterion 2 in response to the concerns raised during the consultation.

- I reiterate that the purpose of admission arrangements is to set out how places will be allocated. It is not their purpose to give parents confidence as to whether they will be allocated places at a particular school or to provide any guarantee of admission.
- The Code does not mandate a priority for the admission of children with SEND, unless they have an EHCP. However, there is provision for admission authorities to choose to prioritise those with a social or medical need under paragraph 1.16.
- There is no requirement for the LA to include criterion 2 at all. By doing so, it has signalled clearly that children who meet the requirements as to how the LA defines 'compelling medical or other exceptional reasons to attend a school' will be given high priority for admission.

225. The criterion is permitted by the Code and I find the LA's rationale for its employment in the Arrangements to meet stage 1 of the 'reasonableness test'.

226. Turning now to the second stage of the 'reasonableness test' in respect of criterion 2, the Objectors' concern – that so few of the applications for places under this criterion have resulted in admission to a school in the BHCC area – is relevant here.

227. From the data provided by Objector 1, I can see that only 11.2 per cent of applications under criterion 2 were successful in 2022/23. In 2024/25, only 7.2 per cent were successful. The February 2025 Fol request response also recorded that very few children have been admitted under criterion 2 to any school. For Blatchington Mill School in 2024/25, eight applications were considered and, as is evident in Table 16, none of those applications resulted in admission. In fact, only two children have been admitted to Blatchington Mill School under criterion 2 in the last three years.

228. Criterion 2 employs the terms 'compelling' and 'exceptional' need as requirements for admission to a particular school. These are not terms used in or mandated by the Code in respect of prioritising admission under paragraph 1.16. It is clear that by doing so, the LA has indicated that it has set a 'high bar' for admission under this criterion and this has been reflected in the admission figures in the years included in Table 16. There is nothing in the Code which prohibits the use of these terms in this context and nothing which prevents the LA setting a high bar, as long as that is clear to parents and fair. I find no irrationality in the way that the LA employs this criterion. In terms of fairness, the information provided for parents by the LA in respect of applications made under this criterion is detailed and clear. The LA has provided a number of examples (listed above) where applications have been rejected because they have not met the specified requirements. Clearly, admission under criterion 2 would likely have been higher had the requirements been met. I am not of the view that a low admission rate in that circumstance could be considered unfair.

229. I return to the concern raised by Objectors in respect of the displacement of children with SEND (without EHCPs) as a result of the implementation of criterion 5. The data provided by Objector 1 – of the numbers of successful and unsuccessful applications for admission under criterion 2 in 2022/23 and 2024/25 – show that the number of applications

for the six community secondary schools in the BHCC area amounted to only 3.9 per cent (in 2022/23) and 5.5 per cent (in 2024/25) of the number of places available. This is a small proportion of the total number of applications and is perhaps indicative of the relatively small number of children who would be affected. It is also the case that children with SEND (without EHCPs) can be admitted incidentally as a result of being afforded priority under oversubscription criteria 1 and 3 to 8. It is not, therefore, the case that children with SEND (without EHCPs) were only admitted under criterion 2, and so that data by itself is not conclusive evidence which justifies the concern with displacement as set out by the Objectors.

230. I took account of the report prepared for the LA's Cabinet meeting on 27 February 2025. The following points were made about the impact of the changes to the Arrangements on children with SEND:

“32.7. [...] Mainstream community schools are expected to meet the needs of all pupils without an EHCP and are required to make reasonable adjustments in line with equality duties. However, the proposals may negatively impact pupils with disabilities where mitigations in place to minimise the negative impacts of managing within a community school are affected. For example, being placed with a friendship group or trusted adults, or where journeys to secondary school are longer and/or undertaken using public transport.

32.8. Cumulative effects are likely to be experienced by those whose children have SEND as a result of the impact of managing a child's needs before and after formal schooling together with the demands that schooling itself places on the child. We know that there can be a high correlation between families with children with SEND and socio-economic disadvantage and this will be compounded when the family live in a dual catchment areas and where the family do not have a sibling link to one of their catchment area schools. This is as a result of those children having a lower ranking in the oversubscription criteria than they would do under the current arrangements.”

231. The LA has identified concerns (primarily those related to the effects on families and school transport or children not being placed in friendship groups) that it believes will need to be monitored in respect of effects of the changes to the Arrangements on families with children with SEND (without EHCPs). These are not areas that the Code requires admission authorities to include as part of admission arrangements. They are, therefore, beyond the remit of my role in considering the Objections.

232. In section 32.8. of the Cabinet report (quoted above), the LA identified that children with SEND (without EHCPs) are likely to find that their admission is affected by being in a lower priority caused by the changes to the Arrangements. However, I do not think the link was made between children with SEND and socio-economic disadvantage and priority for admission; clearly if there is a high correlation between families with children with SEND and disadvantage, then there will be a higher chance of children being eligible for FSM (as I set out when considering IoD 2019 and FSM data for the BHCC area in Maps 7 and 8 and

Tables 14 to 16 in the 'Background' section of this determination) and, therefore, being admitted under criteria 4 and 5.

233. I, therefore, find that the practical operation of this part of the Arrangements meets the second stage of the 'reasonableness test'.

234. As I have found this part of the Arrangements to be reasonable, I go on to consider fairness.

235. The objections do not provide any tangible data or other evidence that demonstrates that children with SEND (without EHCPs) will be subject to any greater chance of displacement than any other child from any other group and no more than has been the case in previous years or to increased displacement as a result of the Arrangements. The Code does not mandate that disadvantage must be overcome by requiring a specific priority be given to this group. I can find no other evidence of disadvantage to this group of children which goes beyond that which is not the ordinary, and perfectly legal, process of prioritising admission which is the purpose of admission arrangements.

236. Consequently, I find there to be no unfairness to this group in respect of C.i.b. and, therefore, no breach of paragraph 1.8 of the Code. I consider that decision, subject to anything I find in respect of its relevance to specific schools in the sections below, to be applicable city-wide.

C.ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas.

237. This concern is in respect of the introduction of the OAP criterion (oversubscription criterion 6) ahead of the prioritisation of those from within the catchment area (which was oversubscription criterion 6 in the 2025/26 arrangements, criterion 7 in the Arrangements).

238. In its response, the LA told me that:

"The council recognises a concern about not gaining a place at a catchment area school(s), however the data provided at paragraph 18.22 of the Full Council report forecasts no displacement now that open admissions reduced to 5%.

[...]

There are two schools which operate their own admission arrangements located within the catchment area of Blatchington Mill School, Cardinal Newman Catholic School and King's School. These schools do make provision for children being allocated on the basis of distance from the school either as a priority or by using distance as a tie breaker. This may result in children from the catchment area being offered a place at a school which is closer to their home address."

239. In sub-section C.i.a. I calculated that 188 children could be admitted to Blatchington Mill School under oversubscription criteria 1 to 5. I said that I would look cumulatively at the

impact of the changes to the Arrangements through the course of this section. In this sub-section I will consider the impact of the introduction of the OAP (oversubscription criterion 6), though will continue to consider this in the context of the current PAN of 330. The impact of the PAN reduction will be considered in the sub-section C.iii.

240. The OAP has a limit of five per cent of the PAN. For this school, this would be a limit of 17 places. This would have the effect of reducing the number of places available to children resident in CA-B to be admitted under oversubscription criterion 7 to 125 and the number offered places overall under the criteria explicitly requiring residence in the catchment area to 288. Again, accounting for the same proportion of places offered to children resident in CA-B who have EHCPs / under criteria 1 and 2 as I did in sub-section C.i.a., this means that 291 children could be offered places from the catchment area. This is 88.2 per cent of the PAN. The LA's February 2025 Cabinet report indicated no displacement from that figure in the context of the LA's forecast for the demand for places in CA-B.

241. I make three points about the impact of this criterion. First, the OAP was originally proposed to have a limit of 20 per cent, which would have allocated places for 66 children from outside CA-B. This, clearly, would have had a greater effect on the number of children being admitted from the catchment area. I noted earlier that the LA has listened to the concerns raised about this in the consultation, had reduced the limit on this criterion to five per cent, and this was supported by local headteachers in their joint letter dated 26 February 2025.

242. Secondly, there is no previous admission data I can use to say with any certainty that parents, who live in single school catchment areas, would want to apply for places for their children at Blatchington Mill School. It is possible, therefore, that the impact could be lessened by there being fewer admissions under criterion 6.

243. Thirdly, it is highly likely that children in CA-B will not get places in Blatchington Mill School in 2026/27, as has been the case for the last three years. Taking into account the forecast demand for places in CA-B from Table 9, it would appear that any displacement from the school is mitigated by the places available at Hove Park School (see section D). The LA is of the view that taking both PANs into account would negate the displacement from the catchment area.

244. Turning to the second stage of the 'reasonableness test' in respect of this part of the objections, I find that I cannot say with any certainty how 'popular' applications under this criterion will be. In modelling the practical operation of the admission of children under the OAP criterion to the limit of five per cent of the PAN, there will be less places available to be offered to catchment area children. However, despite this, I calculate that around 88 per cent of the places offered in Year 7 for 2026/27 at Blatchington Mill School would be for in-catchment children.

245. In any event, my findings so far are entirely in line with the rationale for the change as set out by the LA in its consultation and, as such, I find no irrationality in the way these criteria will operate for Blatchington Mill School.

246. The random allocation tie-breaker will likely have to be used to determine priority for catchment area children under criterion 7; I have found that to be a reasonable way of determining priority for admission (as set out in sub-section B.v.). As shown by the data for admissions in Table 16, this has had to be employed in the last three years to determine priority for admission under the criteria requiring residence in CA-B. I find this entirely reasonable. As will be shown in section D, there have been places available for children in CA-B at Hove Park School for the last three years and this could mean displaced children (whose parents have also expressed a preference for a place at Hove Park School) could be admitted to that school if not securing a place at Blatchington Mill School, thereby remaining in a catchment school.

247. As I am considering the cumulative effect of all of the changes on admission to Blatchington Mill School, I will determine whether I have to go on to consider fairness at the end of that process.

C.iii. The reduction in the school's PAN will:

- a. frustrate parental preference;
- b. impact detrimentally on educational achievement; and
- c. impact detrimentally on the school's finances.

248. The LA has determined that the PAN for Blatchington Mill School will be 300 in 2026/27. This is a reduction of 30 places from the current PAN of 330.

249. Prior to addressing matters a., b., and c., I will continue my consideration of the cumulative effect of the changes on the potential intake to Year 7 at Blatchington Mill School in 2026/27 taking into account the PAN reduction. To that end, I have recalculated admission data from Table 17 in sub-section C.i.a, and the calculations I made in sub-section C.ii. and added that to Table 18 with updated notes, based on a PAN of 300.

Table 18: Potential offers for places at Blatchington Mill School in 2026/27 after the consideration of the impact of the reduction in PAN to 300

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
EHCP	4	The average of the total of offers to children with EHCPs in the last three years.
1	1	The average of the total of offers made to (previously) looked after children in the last three years.
2	1	The average of the total of offers made to children with compelling medical or other exceptional reasons in the last three years.
3	83	The average of the total of offers made to siblings of children in the school in the last three years.
4	73	Using the 80.9 per cent of the 90 places which would be available to children eligible for FSM across criteria 4

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
		and 5 (the 90 places is calculated as 30 per cent of the reduced PAN of 300). The 80.9 per cent figure is the proportion of the admission of children eligible for FSM under criterion 4 in 2025/26.
5	17	This is 19.1 per cent of the 90 places which would be available to children eligible for FSM across criteria 4 and 5. The 19.1 per cent figure is the proportion of the admission of children eligible for FSM under criterion 5 in 2025/26.
6	15	Five per cent of the PAN of 300.
7	106	The number of places remaining for admission under this criterion.

250. Applying the same calculation as I did in sub-sections C.i.a. and C.ii., I find that offers made to children for places at the school under criteria 3, 4 and 7 (where residence in CA-B is a requirement) could be 262. Adding the three children, calculated from half the total who could potentially be offered places who have EHCPs / under criteria 1 and 2, I arrive at a potential for 265 places to be offered to applicants resident in CA-B (88.3 per cent of PAN). This means that around 29 children from CA-B would not be offered places at Blatchington Mill School. This is no more than were displaced from CA-B in 2025/26 (as shown in the key to Table 16).

251. My findings in respect of the cumulative effect of the changes to the Arrangements on the offers that could be made to children in CA-B for places at Blatchington Mill School in 2026/27 are in line with the rationale for the changes as set out by the LA in its consultation. It is also entirely appropriate that the LA is looking to ensure that its schools are prepared for the reduction in the number of children over time, as is its responsibility, and for the LA to be making the changes necessary to achieve the aims set out in the consultation.

252. I turn now to look at matters a., b., and c. in respect of the reduction of the PAN to 300.

253. The PAN is lower than the Governing Body would wish, and they are exercising their right to object as set out in paragraph 1.3 of the Code as set out at the beginning of this determination, the relevant part of which is:

“Community and voluntary controlled schools have the right to object to the Schools Adjudicator if the PAN set for them is lower than they would wish. There is a strong presumption in favour of an increase to the PAN to which the Schools Adjudicator **must** have regard when considering any such objection.”

254. This part of the objections falls squarely within the parameters set out under paragraph 1.3. This is a community school for which the PAN has been set lower than the school's Governing Body would wish and it has exercised its right to object.

255. About the frustration of parental preference (matter a.), Objector 3 said:

“The School has a strong demand from local families.

- The School is full in Year 7 and has been consistently at capacity in recent years.
- 21% of the School’s students qualify for Free School Meals (“FSM”), an increase of 8% over three years, demonstrating the vital role the School plays in supporting disadvantaged students.

A reduction in PAN would:

- Limit the ability of local families to access their preferred school, forcing students to travel further afield.
- Reduce the social and economic diversity of the student body, undermining the School’s ethos of inclusion.

Given that the council’s own projections show demand close to capacity for the foreseeable future, there is no clear rationale for limiting access to a thriving and high-achieving school.”

256. I note the objector states that the school is full in Year 7 (2024/25), though this was not the case at the point of admission in September 2024 (see Table 7) (albeit only by four children).

257. In its response, the LA told me:

“Paragraph 21 of the Council Report provides a detailed explanation of the rationale and reasons for the recommendation that the PAN of Blatchington Mill School should be reduced from 330 to 300.

When making a decision on the proposed reduction the council considered the forecast reduction in pupil numbers across the city, and the numbers of children living in this catchment in future years. [...]

The council was also aware of the recent pattern of preferences for the school. Paragraph 21.13 of the Council Report states as follows:

“The council has considered whether the pattern of parental preferences for Blatchington Mill School and within the catchment would be unreasonably adversely impacted by the proposal to reduce the PAN to 300. In the last two years and again in 2025 the pattern of parental preferences is such that a reduced PAN would still be able to accommodate first preferences, even with open admissions and the other priorities proposed. In recent years the allocation of places on National Offer Day for families who placed it as a first preference are as follows:

Year of Entry	Number of First Preferences Offered a Place / First Preferences Received
September 2021	284 / 400
September 2022	270 / 292
September 2023	260 / 300
September 2024	243 / 279"

The council does not therefore accept that a reduction in the PAN of the school to 300 will result in the frustration of parental preference."

258. In respect of matter b. Objector 3 asserted that:

"The School is a high-performing, inclusive, and community-focused institution. The School's commitment to academic excellence and student [wellbeing] is reflected in consistently strong Progress 8 and Attainment 8 scores.

The proposed PAN reduction would significantly impact the School's ability to:

- Sustain the high-quality teaching and broad curriculum that has driven the School's success.
- Maintain targeted interventions for disadvantaged students, including those on Pupil Premium funding and students with Special Educational Needs and Disabilities ("SEND").
- Provide the necessary resources and class structures to ensure all students continue to achieve at or above national expectations.

The School's Governors are bound by their statutory duty under Section 21(2) of the Education Act 2002, which requires them to act in the best interests of the School's educational achievement. The available independent data confirms that the School exceeding national and local benchmarks, and any reduction in PAN risks compromising these achievements."

259. In its response, the LA told me:

"The school provides no supporting evidence that a school which has undergone a reduction in PAN has, as a result of that change, experienced a detrimental impact on educational achievement. We do not accept that a reduction in PAN will cause a negative impact on pupil's progress and achievement."

260. Objector 3 told me about matter c. that:

"The financial consequences of reducing the School's PAN have been explicitly highlighted in the SRMA [school resource management adviser] report, jointly commissioned by the School and the council.

Key financial concerns include:

- A £180,000 per year funding shortfall, resulting from reduced pupil numbers.
- Limited opportunities to offset costs, as a reduction of 30 students per year does not equate to an automatic reduction in staffing costs.
- Increased financial strain at a time when the council has publicly acknowledged severe budgetary pressures and the need for financial prudence.
- Challenges in maintaining a viable staffing structure, particularly for specialist subjects, extracurricular activities, and targeted student support.

The SRMA report explicitly warns that a PAN reduction would create “economy of scale challenges”, making it both surprising and concerning that the council has proceeded with this proposal without addressing these risks.

As the Adjudicator will be aware, under The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, governors are legally required to ensure the “sound, proper, and effective use of the School’s financial resources.” Approving a PAN reduction in direct contradiction of an independent financial assessment would constitute a failure of governance and due diligence.”

261. In its response, the LA told me:

“It is the responsibility of a Governing Board to manage the finances of the school and the performance of the school. How schools are financed is determined separately and it is accepted that as it is broadly linked to pupil numbers a reduction in pupil numbers will lead to a reduction in funding. A PAN reduction could therefore bring about a reduction in budget allocation to the school and this will require reductions in central costs such as leadership and back-office charges as well as reductions linked to teacher numbers. It is the responsibility of the Governing Board to ensure that this change does not have a detrimental impact on the school. Most schools will encounter fluctuating income without detriment. The School Resource Management Adviser (SRMA) report as quoted by the school and referenced in paragraph 21.5 of the Council Report references the challenges the school faces but does not draw a conclusion that it will inevitably be detrimental to the school. It identifies the challenge the Governing Board will face.

“A proposal to reduce the PAN to 300 has been voiced by the LA as a strategy to distribute pupils to other schools with falling rolls. The school would need to undertake a full analysis on how to operate to a balanced budget with a reduced PAN, and the first step to allow this analysis is to agree on a model that operates to a balanced budget with the current PAN, as reducing PAN by 30 pupils would see income reduce by approximately £180K p.a. with a related teacher/TA staffing reduction unlikely to offset this income reduction. The net capacity of the school is calculated at 2016, therefore, any reduction

would create further economy of scale challenges around the maintenance of the premises. “

The school’s concerns were highlighted during the consultation period and were available to Full Council prior to the determination of the arrangements.”

262. I note that the LA’s response to matter a. does not take into account the equal preference system. Whilst the number of preferences has been falling over the period shown above in the LA’s response and in Tables 6 to 9, there are clearly more preferences expressed for places at Blatchington Mill School than there are places (Table 8 recorded 834 preferences for places in 2025/26). This is particularly pertinent as Tables 6 to 8 show that admission has been up to the PAN between 2023/24 and 2025/26, regardless of the reduction in first preferences.

263. In respect of matter c., schools are funded, in a large part, on a per child basis. A reduction in the number of children admitted, therefore, results in a reduction in income.

264. I noted from the DfE’s FBIT website that in the financial year 2024-25 (up to March 2025), the school had an in-year deficit of -£246,254 and a revenue reserve of £492,072. This shows that the school’s finances were under pressure in-year which, if it continued, could place pressure on the revenue reserve (taking into account the size of the in-year deficit) within one or two years. There is evidence that the governing body may have to make decisions which reduce staffing / resourcing in order to avoid a deficit budget situation. This may well have an impact on educational provision, though this is not likely to be in the short term.

265. For 2026/27, the LA has forecast the need for 434 places in CA-B (see Table 9). If 265 children are offered places at Blatchington Mill School, then there would be a need for 169 places in CA-B (with the PAN reduction to 300). I will find in section D, to follow, that that Hove Park School would offer 144 places to children in CA-B. This would be a shortfall of 25 places, resulting in children being displaced to schools outside of CA-B.

266. What has become evident to me from the data in respect of Blatchington Mill School, is that there remains a high demand for places such that the school remains full and oversubscribed, even in the current academic year. Whilst I find no irrationality in the way changes to the Arrangements will work to achieve the LA’s goals and in discharging its responsibilities to realign the school system in the city to meet the demands of falling rolls in the future, I find that: there is a strong argument that the reduction in the PAN in 2026/27 is premature in that there remains a high forecast demand for places from the catchment area; and the reduction in PAN will serve only to frustrate parental preference.

267. It is also the case that I must have regard to the “strong presumption in favour of an increase to the PAN” as set out in paragraph 1.3 of the Code.

268. In section C, I have shown how the changes to the Arrangements may affect admission to Blatchington Mill School. I find that reduction in PAN at the school in 2026/27 to be premature, likely resulting in the displacement of an unnecessary amount of children

from CA-B. The combined effect of all of the changes in this school in 2026/27 therefore does not meet the second stage of the 'reasonableness test'. Consequently, I do not have to go on to look at the fairness of this aspect of the arrangements.

269. I, therefore, uphold this part of the objections.

270. The PAN for 2026/27 will be 330.

D. Hove Park School

271. As set out in the 'Background' section, Hove Park School is located in CA-B and shares that catchment area with Blatchington Mill School; 56 per cent of the LSOAs in CA-B are in the upper decile range (see Table 13), meaning there are more affluent areas than there are areas of deprivation in the school's catchment area; the school currently has a PAN of 180; the school has not admitted to its PAN in the last three years (as shown in Tables 6 to 8); and Table 9 recorded the LA's forecast demand for 434 school places in CA-B in 2026/27.

Table 2d: Summary of the objections relevant to determination section D

Objections summary	Objection numbers
Hove Park School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school. ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas.	1, 4, 5, 7

D.i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly:

- a. any child who lives in the catchment area for this school who is not eligible for FSM; and
- b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

in that they are less likely to be offered a place at the school and will have to travel further to school.

272. Many of the points about these issues have been made in section C in respect of Blatchington Mill School and so I will not repeat information unless required. I will use the same method of calculating the potential offers for places in 2026/27 as I did in section C.

273. I note that the LA's response to the Objectors' concerns was largely the same for Hove Park School as it was for Blatchington Mill School (see sub-section C.i.a.).

D.i.a. Any child who lives in the catchment area for this school who is not eligible for FSM.

274. The LA provided data of the offers made for places at Hove Park School on NOD broken down by the oversubscription criteria in place in the 2023/24, 2024/25 and 2025/26 arrangements. I have put that data into Table 19.

Table 19: Number of children with EHCPs offered places on NOD at Hove Park School under each of the oversubscription criteria in place in the last three years

EHCP / Oversubscription Criteria²⁷	2023/24	2024/25	2025/26
EHCP	8	9	10
LAC / PLAC (oversubscription criterion 1)	2	3	1
Children with compelling medical or other exceptional reasons (oversubscription criterion 2)	0	0	1
Sibling link (oversubscription criterion 3)	33	18	27
Those eligible for FSM in catchment (oversubscription criterion 4)	-	-	19
Those eligible for FSM out of catchment (oversubscription criterion 5)	-	-	12
Children in catchment (oversubscription criterion 6)	113	75	72
Other children (oversubscription criterion 7) ²⁸	24	65	29
Total:	180	170	171

Key:

^{27 / 28} See key to Table 16.

275. The data in Table 19 show:

- In 2025/26, 31 children eligible for FSM were offered places under oversubscription criteria 4 and 5 (18.1 per cent of the total offers made / 17.2 per cent of the PAN). The 19 children offered places under criterion 4 amounted to 11.1 per cent of the total offers made / 10.6 per cent of the PAN / 61.3 per cent of the total offers made under criteria 4 and 5. The 12 children offered places under criterion 5 amounted to seven per cent of the total offers made / 6.7 per cent of the PAN / 38.7 per cent of the total offers made under criteria 4 and 5.
- The number of children offered places under criterion 6 has been reducing over the three year period in Table 19. However, when the number offered places under criterion 6 is combined with those admitted under criteria 3 and 4 in 2025/26, the total number admitted under criteria which explicitly required

residence in CA-B was 118 (69 per cent of the total offers made / 65.6 per cent of the PAN).

- The number of children offered places from the catchment area will, of course, have been slightly higher given that a proportion of those admitted under criteria 1 to 3 will also have been resident in CA-B.
- Given a number of ‘other children’ were offered places at the school under oversubscription criterion 7 between 2023/24 to 2025/26, it was evident that no child from CA-B who applied for a place at the school did not get offered a place.

276. About this, the LA told me:

“Hove Park School typically allocates up to criterion 8 (any other children) [the LA is referring to the equivalent criterion in the 2026/27 Arrangements here] within existing arrangements, therefore anyone living within the catchment area who wishes to gain a place at the school, has historically been able to do so. The council considers this to be likely going forward even with the reduced PAN across the catchment area.”

277. In 2026/27, there will be two changes to the Arrangements relevant to admission to Hove Park School which will have a bearing on how many children resident in CA-B may not get places (the increase in the number of children eligible for FSM who can gain places (when the limit becomes 30 per cent in CA-B and not the lower percentage currently calculated in the 2025/26 arrangements), and the introduction of the OAP criterion). Table 20 shows the outcome of my calculation of the possible effect of the introduction of the revised criteria 4 and 5 on the admission of those applicants resident in the catchment area in 2026/27. I have calculated potential offer numbers for each of the oversubscription criteria listed in Table 20 for the school for 2026/27. This does not include the introduction of the OAP criterion; I will consider the effect of the introduction of criterion 6 in sub-section D.ii. in order for a picture of the effect of these two changes to be built cumulatively.

Table 20: Potential offers for places at Hove Park School in 2026/27 after the consideration of the impact of oversubscription criteria 4 and 5

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
EHCP	9	The average of the total of offers to children with EHCPs in the last three years.
1	2	The average of the total of offers made to (previously) looked after children in the last three years.
2	1	The total of offers made to children with compelling medical or other exceptional reasons in the last three years (with no need to average in this instance).
3	26	The average of the total of offers made to siblings of children in the school in the last three years.

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
4	33	This is 61.3 per cent of the 54 places which would be available to children eligible for FSM across criteria 4 and 5 (with the PAN of 180). I have taken the 61.3 per cent figure from the proportion of admission of children eligible for FSM under criterion 4 in 2025/26.
5	21	This is 38.7 per cent of the 54 places which would be available to children eligible for FSM across criteria 4 and 5. I have taken the 38.7 per cent figure from the proportion of admission of children eligible for FSM under criterion 5 in 2025/26.

278. Putting aside the OAP criterion, the number of places available to children resident in CA-B after calculating the totals under criteria 1 to 5 in Table 20 above (92), would be 88. This, added to the children already offered places under criteria 3 and 4, means that 147 children could be offered places from CA-B under criteria which specifically require residence in the catchment area (81.7 per cent of the PAN). Children can be offered places under criteria 1 to 3 who are eligible for FSM and these would be counted before determining the number to be admitted under criteria 4 and 5. As for Blatchington Mill School, I have taken no account of the fact that children eligible for FSM could be admitted under criteria 1 to 3 (see sub-section C.i.a. for more information).

279. It is also the case that children who are resident in CA-B can be admitted who have EHCPs / under criteria 1 and 2. Applying again the calculation of half the total of the numbers offered places who have EHCPs and under criteria 1 and 2 results in the potential for 153 children to be offered places from in CA-B. This is 85 per cent of the PAN.

280. The 17.2 per cent (of the PAN) of children eligible for FSM admitted to Hove Park School in 2025/26 under criterion 4 and 5 (31) is just over half of the average percentage of children eligible for FSM across the six community secondary schools in the city (28.1 per cent; as set out in the analysis from the data in Table 14 in the 'Background' section of this determination). If admitting children eligible for FSM up to 30 per cent of the PAN in 2026/27, this would be 12.8 percentage points more than in 2025/26.

281. Turning to the second stage of the 'reasonableness test' in respect of this aspect of the objections, I find that my modelling of the practical operation of the admission of children eligible for FSM is likely to result in: an increase in the admission of those children to Hove Park School; and the school taking on a greater share of the admission of children eligible for FSM from across the city. I noted earlier the support for this approach from local headteachers. My findings so far are entirely in line with the rationale for the change as set out by the LA in its consultation and, as such, I find no irrationality in the way these criteria will operate for Hove Park School.

282. I also find there to be no displacement of children from the catchment area as a result of the practical operation of criteria 4 and 5 at Hove Park School. I turn to look at how the introduction of criterion 6 will affect the displacement of those from CA-B in sub-section D.ii.

283. As I am considering the cumulative effect of all of the changes on admission to Hove Park School, I will determine whether I have to go on to consider fairness at the end of that process.

D.i.b. Children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

284. In sub-section C.i.b., I set out my findings in respect of the disadvantage to children with SEND (without EHCPs) residing in catchment as a result of the introduction of criteria 4 and 5. I found that these findings were applicable city-wide.

285. I did not find that any of the objections included any concerns in this regard that were specific to Hove Park School which would change the findings made under C.i.b. The LA's response contained nothing that I have not already covered on this aspect of the objections in section C.

286. Consequently, and for the same reasons set out in sub-section C.i.b., I find no unfairness is caused to this group by the changes to criterion 4 and 5 in the Arrangements.

D.ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas.

287. In sub-section D.i.a., I calculated that 92 children could be admitted to Hove Park School under oversubscription criteria 1 to 5. In this sub-section, I will consider the impact of the introduction of the OAP (oversubscription criterion 6) on the potential places offered to those applicants resident in CA-B.

288. For Hove Park school, the limit of five per cent of places under the OAP criteria would amount to nine places. This would have the effect of reducing the number of places available to children resident in CA-B under oversubscription criterion 7 to 79 and the number offered places under the criteria explicitly requiring residence in the catchment area (criteria 3, 4 and 7) would, therefore, be 138. Accounting for the same proportion of places offered to children resident in CA-B who have EHCPs / under criteria 1 and 2 as I did in section D.i.a., this means that 144 children could be offered places from the catchment area. This would be 80 per cent of the PAN. The LA's February 2025 Cabinet report indicated no displacement.

289. Had the originally proposed limit of 20 per cent for the OAP been implemented, this would have made provision for 36 children from outside CA-B. This, clearly, would have had a greater effect on the number of children being admitted from the catchment area. I noted earlier that the LA has listened to the concerns raised about this in the consultation, had

reduced the limit on this criterion to five per cent, and this had been praised by local headteachers in their joint letter dated 26 February 2025.

290. There is no previous admission data I can use to say with any certainty that parents, who live in single school catchment areas, would want to apply for places for their children at Hove Park School. It is possible, therefore, that the impact could be lessened by there being fewer admissions under criterion 6.

291. Turning to the second stage of the ‘reasonableness test’ in respect of this part of the objections, I find that, having determined the PAN at Blatchington Mill School is to be increased to 330 in 2026/27, the changes to the Arrangements are unlikely to have any significant effect on the admission of children from CA-B to Hove Park School. Children applying from CA-B are likely to get a place at the school and consequently, the random allocation tie-breaker will only be needed to determine priority under criterion 8. As such, I find no irrationality in the way these criteria will operate for Hove Park School in the way that the Objectors assert.

292. As I have found the Arrangements in this regard to be reasonable, I have noted the need for me to go on to consider their fairness. I have found there to be no disadvantage to children resident in CA-B. Consequently, I find no unfairness to the Arrangements in respect of this part of the objections.

293. I, therefore, do not uphold this part of the objections.

E. Patcham High School

294. As set out in the ‘Background’ section, Patcham High School is located in CA-C and is the only school in that catchment area; 73 per cent of the LSOAs in CA-C are in the upper decile range (see Table 13), meaning there are more affluent areas than there are areas of deprivation in the school’s catchment area; the school has a PAN of 225; the school has not admitted to its PAN in the last three years (as shown in Tables 6 to 8); and Table 9 recorded the LA’s forecast demand for school places in CA-C in 2026/27 to be 205.

Table 2e: Summary of the objections relevant to determination section E

Objections summary	Objection numbers
Patcham High School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school.	1, 4, 5, 7

E.i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly:

- a. any child who lives in the catchment area for this school who is not eligible for FSM; and
- b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

in that they are less likely to be offered a place at the school and will have to travel further to school.

295. Many of the points about these issues have been made in sections C and D and so I will not repeat information unless required. I will use the same method of calculating the potential offers for places in 2026/27 as I did in previous sections.

296. I note that the LA's response to the objections to the arrangements for this school was largely the same as for Blatchington Mill and Hove Park Schools (see sections C and D).

297. Being a single school catchment area, oversubscription criterion 6 does not apply to admission to the school, though parents resident in CA-C can apply to any of the dual catchment schools and receive priority under criterion 6. I will consider the potential effect of this below.

E.i.a. Any child who lives in the catchment area for this school who is not eligible for FSM.

298. The LA provided data of the offers made for places at Patcham High School on NOD broken down by the oversubscription criteria in place in the 2023/24, 2024/25 and 2025/26 arrangements. I have put that data into Table 21.

Table 21: Number of children with EHCPs offered places on NOD at Patcham High School under each of the oversubscription criteria in place in the last three years

EHCP / Oversubscription Criteria²⁷	2023/24	2024/25	2025/26
EHCP	5	6	12
LAC / PLAC (oversubscription criterion 1)	2	2	0
Children with compelling medical or other exceptional reasons (oversubscription criterion 2)	0	3	1
Sibling link (oversubscription criterion 3)	47	53	56
Those eligible for FSM in catchment (oversubscription criterion 4)	-	-	10
Those eligible for FSM out of catchment (oversubscription criterion 5)	-	-	14
Children in catchment (oversubscription criterion 6)	137	161 ²⁹	83
Other children (oversubscription criterion 7)	34 ³⁰	0	26 ³⁰
Total:	225	225	202

Key:

²⁷ See key to Table 16.

²⁹ Allocation was determined by random allocation such that children were displaced who had applied for places who were resident in CA-C in 2024/25. However, by the time of admission in this year, as recorded in Table 7, the PAN had not been reached.

³⁰ Allocation was determined by random allocation.

^{29/30} There were children who had applied for places who were resident in CA-C who were not offered places. The LA gave the following data and reasons for this:

Year	Number of children	Reasons
2024/25	6	School was oversubscribed within the catchment area.
2025/26	2	Although the school was not oversubscribed, two children lived closer to an out of catchment area school with available space so were allocated to this school rather than Patcham High School.

299. I make the following observations about the data in Table 21:

- In 2025/26, 24 children eligible for FSM were offered places under oversubscription criteria 4 and 5 (11.9 per cent of the total offers made / 10.7 per cent of the PAN). The 10 children offered places under criterion 4 amounted to five per cent of the total offers made / 4.4 per cent of the PAN / 41.7 per cent of the total offers made under criteria 4 and 5. The 14 children offered places under criterion 5 amounted to 6.9 per cent of the total offers made / 6.2 per cent of the PAN / 58.3 per cent of the total offers made under criteria 4 and 5.
- The number of children offered places under criterion 6 increased by 24 in 2024/25 from 2023/24 and then decreased by almost half in 2025/26. However, when the number offered places under criterion 6 is added to the numbers admitted under criteria 3 and 4 (the other criteria requiring residence in the catchment area) in 2025/26, the total number admitted under criteria which explicitly required residence in CA-B was 149 (73.8 per cent of the total offers made / 66.2 per cent of the PAN).
- Table 13 shows that CA-C has a largely affluent population with 73 per cent of LSOAs in the upper decile range. This is likely to account for there being a lower number of offers for places under criterion 4 as opposed to criterion 5.
- The number of children offered places from the catchment area will, of course, have been slightly higher given that a proportion of those admitted who have EHCPs / under criteria 1 and 2 will also have been resident in CA-C.

- Given that a number of children were offered places at the school under oversubscription criterion 7 in 2023/24 and 2025/26, as recorded on Table 21, it was evident that no child from CA-C who applied for a place at the school in those two years was displaced. The LA told me that six children resident in CA-C were displaced because of oversubscription in 2024/25.
- The number of children displaced from CA-C has been very small; 2.6 per cent of the PAN in 2024/25 and 0.9 per cent of the PAN in 2025/26.

300. Table 22 shows the outcome of my calculation of the possible effect of the introduction of the revised criteria 4 and 5 on the admission of those applicants resident in CA-C in 2026/27.

Table 22: Potential offers for places at Patcham High School in 2026/27 after the consideration of the impact of oversubscription criteria 4 and 5

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
EHCP	8	The average of the total of offers to children with EHCPs in the last three years.
1	1	The average of the total of offers made to (previously) looked after children in the last three years.
2	1	The average of the total of offers made to children with compelling medical or other exceptional reasons in the last three years.
3	52	The average of the total of offers made to siblings of children in the school in the last three years.
4	28	This is 41.7 per cent of the 68 places which would be available to children eligible for FSM across criteria 4 and 5 (with the PAN of 225). I have taken the 41.7 per cent figure from the proportion of admission of children eligible for FSM under criterion 4 in 2025/26.
5	40	This is 58.3 per cent of the 68 places which would be available to children eligible for FSM across criteria 4 and 5. I have taken the 58.3 per cent figure from the proportion of admission of children eligible for FSM under criterion 5 in 2025/26.
6	-	Not applicable.
7	95	The number of places remaining for admission under this criterion.

301. The number of places available to children resident in CA-C after calculating the totals under criteria 1 to 5 in Table 22 above (130), would be 95. This, added to the children offered places under criteria 3 and 4, means that 175 children could be offered places (77.8 per cent of the PAN) from CA-C under criteria which specifically require residence in the catchment area. Children can be offered places under criteria 1 to 3 who are eligible for

FSM and these would be counted before determining the number to be admitted under criteria 4 and 5. I have taken no account of the fact that children eligible for FSM could be admitted under criteria 1 to 3 as I have been provided with no data to allow me to project figures for this with any certainty or validity.

302. It is also the case that children who are resident in CA-C can be admitted who have EHCPs / under criteria 1 and 2. Applying again the calculation of half the total of the numbers offered places who have EHCPs and under criteria 1 and 2 results in the potential for 180 children to be admitted from within catchment. This is 80 per cent of the PAN. Using the figures from Table 21, offers of places made to children in the catchment area ranged from 69.1 to 95.1 per cent of the PAN in the last three years. The 80 per cent I have calculated from data in Table 22, sits at the higher end of that percentage range.

303. The number of children eligible for FSM admitted to Patcham High School in 2025/26 under criterion 4 and 5 (10.7 per cent of the PAN) is only 38 per cent of the average percentage of children eligible for FSM across the six community secondary schools in the city (28.1 per cent; as set out in the analysis from the data in Table 14 in the 'Background' section of this determination). If admitting children eligible for FSM up to 30 per cent of the PAN in 2026/27, this would be 19.3 percentage points more than in 2025/26.

304. I find that where children resident in CA-C were displaced in 2024/25, this was equivalent to 2.7 per cent of the PAN. There was evidence in Table 21 that in 2023/24 and 2025/26 there was no displacement of children resident in CA-C. It is also the case that the LA has forecast a demand for 205 places in CA-C in 2026/27, leaving a surplus of 20 places at Patcham High School. It is more likely than not, therefore, that there will be no displacement of children from the catchment area as a result of the practical operation of criteria 4 and 5. The LA told me that:

"The council recognises that the chance of children in criterion 7 not being allocated a catchment area school has increased under the new arrangements. However, the table provided in 18.22 of the report to Full Council shows that this is greatly reduced under the determination of 5% of open admissions."

305. Of course, the introduction of criterion 6 (OAP) may reduce the number of children applying for places at Patcham High School as those children may be offered places at schools their parents have applied to in dual catchment areas. About this the LA told me:

"With the introduction of the new criterion 6, residents of the catchment area for Patcham High School can take up the opportunity to attend another school in the city. Therefore, any pressure on places within the catchment area may be further reduced."

306. However, as there is not yet any previous data on this aspect of the Arrangements, it will be difficult to project how 'popular' this criterion will be for parents in CA-C.

307. Turning to the second stage of the 'reasonableness test' in respect of this aspect of the objections, I find that my modelling of the practical operation of the admission of

children eligible for FSM is likely to result in: a substantial increase in the admission of those children to Patcham High School; the school taking on a greater share of the admission of children eligible for FSM from across the city; and a larger proportion of those admitted with eligibility for FSM are likely to be from out of catchment. Children applying from CA-C are more likely than not to secure a place at the school and consequently, the random allocation tie-breaker will more likely than not only be needed to determine priority under criterion 8. Where it might be used under criterion 7, it has only displaced six children. As such, I find no irrationality in the way these criteria will operate for Patcham High School.

308. As I have found the Arrangements in this regard to be reasonable, I go on to consider their fairness. I have found there to be limited disadvantage to children resident in CA-C arising from the implementation of criteria 4 and 5. Consequently, I find no unfairness to the Arrangements in respect of this part of the objections.

309. I, therefore, do not uphold this part of the objections.

E.i.b. Children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

310. In sub-section C.i.b., I set out my findings in respect of the disadvantage to children with SEND (without EHCPs) residing in catchment as a result of the introduction of criteria 4 and 5. I found that these findings were applicable city-wide.

311. I did not find that any of the objections included any concerns in this regard that were specific to Patcham High School or which would change the findings made under C.i.b. The LA's response contained no more information that I needed to take into account or had not already covered on this aspect of the objections in section C.

312. Consequently, and for the same reasons set out in sub-section C.i.b., I find no unfairness is caused to this group by the changes to criterion 4 and 5 in the Arrangements.

313. I, therefore, do not uphold this part of the objections.

F. Varndean School

314. As set out in the 'Background' section, Varndean School is located in CA-D and shares that catchment area with Dorothy Stringer School; 54 per cent of the LSOAs in CA-D are in the upper decile range (see Table 13), meaning there are currently slightly more affluent areas than there are areas of deprivation in the school's catchment area; the catchment area boundary will change in 2026/27 and this will decrease the number of affluent areas in the catchment by one percentage point; the school currently has a PAN of 300; the school admitted just under its PAN in 2023/24 and 2024/25 (as shown in Tables 6 and 7) and admitted two children over its PAN in 2025/26 (as shown in Table 8); and Table 9 recorded the LA's forecast demand for 624 school places in CA-D in 2026/27.

315. Out of the six catchment areas in the city, the forecast demand for places in 2026/27 is the highest in CA-D. As set out below, I find a larger potential displacement from this catchment than others considered in this determination. It will be necessary to consider the impact of the changes to the Arrangements for both Varndean and Dorothy Stringer before I consider whether those changes are reasonable and / or fair in the context of CA-D as a whole. I will, therefore, make my determination on such at the end of section G, save for where I can make additional relevant points on reasonableness in respect of Varndean and Dorothy Stringer Schools (in this section and section G respectively) as I consider the individual circumstances of both schools.

Table 2f: Summary of the objections relevant to determination section F

Objections summary	Objection numbers
Varndean School i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school. ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas. iii. The concerns are further exacerbated by the change to the school's catchment area boundary which will increase the number of children seeking a place at the school. iv. The LA has not given enough consideration to the legacy sibling link in the potential for oversubscription in schools in this catchment area.	1, 2, 4, 5, 7

F.i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly:

- a. any child who lives in the catchment area for this school who is not eligible for FSM; and
- b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority,

in that they are less likely to be offered a place at the school and will have to travel further to school.

316. The Objectors assert that the two groups of children set out in matters C.i.a. and b. will be displaced and therefore disadvantaged unreasonably and unfairly under the Arrangements.

317. Many of the points I made about these issues in sections C and D are relevant to the Varndean School, and so I will not repeat information unless required. The same method of calculating the potential offers for places in 2026/27 will be used as in sections C to E. I will follow the same process of cumulatively building up a picture of the potential impact of the changes to the Arrangements for Varndean School as I did for Blatchington Mill School in section C.

318. I note that the LA's response to the Objectors' concerns was largely the same as for the schools covered in sections C and D (see sub-section C.i.a. for this information), save for this specific point about Varndean School:

“At the time of the Full Council report publication, the current catchment area for Varndean School (and Dorothy Stringer School) has a FSM rate of 23% which is below the city average of 26.3%. The proposed 30% allocation, using oversubscription criteria 1-5, would bring the school closer to city-wide proportion of free school meals.”

F.i.a. Any child who lives in the catchment area for this school who is not eligible for FSM.

319. I asked the LA to provide data of the offers made for places at Varndean School on National Offer Day (NOD) broken down by the oversubscription criteria in place in the 2023/24, 2024/25 and 2025/26 arrangements. I have put that data in the last three years into Table 23.

Table 23: Number of children with EHCPs offered places on NOD at Varndean School under each of the oversubscription criteria in place in the last three years

EHCP / Oversubscription Criteria²⁷	2023/24	2024/25	2025/26
EHCP	10	18	15
LAC / PLAC (oversubscription criterion 1)	7	9	6
Children with compelling medical or other exceptional reasons (oversubscription criterion 2)	2	2	2
Sibling link (oversubscription criterion 3)	71	100	90
Those eligible for FSM in catchment (oversubscription criterion 4)	-	-	53
Those eligible for FSM out of catchment (oversubscription criterion 5)	-	-	35
Children in catchment (oversubscription criterion 6) ³¹	210	171	99
Other children (oversubscription criterion 7)	0	0	0
Total:	300	300	300

Key:

²⁷ See key to Table 16.

³¹ Allocation was determined by random allocation and consequently there were displacements of children who had applied for places who were resident in CA-D. The LA gave the following reasons for the displacements (information for the Dorothy Stringer School is included as both admit children from the same catchment):

Year	Number of children displaced	Circumstances
2023/24	8	Both schools in CA-D filled with preferences. Dorothy Stringer School had 260 first preferences and Varndean School had 409 first preferences.
2024/25	12	Both schools in CA-D filled with preferences. Dorothy Stringer School had 234 first preferences and Varndean School had 456 first preferences.
2025/26	6	Both schools in CA-D filled with preferences. Dorothy Stringer School had 215 first preferences and Varndean School had 427 first preferences.

320. The data in Table 23 show:

- Offers were made to PAN in the last three years, though Tables 6 to 8 show that up to three fewer children in 2023/24 and 2024/25 and two children more than PAN in 2025/26 were actually admitted. I will use the offered numbers in this section for consistency with sections C to E.
- In 2025/26, 88 children eligible for FSM were offered places under oversubscription criteria 4 and 5 (29.3 per cent of the PAN). The 53 children offered places under criterion 4 amounted to 17.7 per cent of the PAN and 60.2 per cent of the total offers made under criteria 4 and 5. The 35 children offered places under criterion 5 amounted to 11.7 per cent of the PAN and 39.8 per cent of the total offers made under criteria 4 and 5.
- The number of children offered places under criterion 6 reduced over the three years and markedly so in 2025/26. However, when combined with those admitted under other criteria requiring residence in CA-D (criteria 3 and 4), the total number admitted in 2025/26 from CA-D was 242 (80.7 per cent of the PAN). This was a reduction from the two previous years of between 29 to 39 children from CA-D. This will largely be down to the offers made for places under criterion 5.
- The number of children offered places from the catchment area will, of course, have been slightly higher given that a proportion of those admitted with EHCPs / under criteria 1 and 2 will also have been resident in CA-D. I address that below.

- The LA recorded six children were displaced from CA-D in 2025/26 (upon the introduction of the FSM criteria); this is two per cent of the PAN and a reduction on the previous year's high of 12 displacements.

321. In 2026/27, two changes to the Arrangements will have a bearing on how many children resident in CA-D may not get places (the increase in the number of children eligible for FSM who can gain places (when the limit becomes up to 30 per cent and the introduction of the OAP criterion). Table 24 shows the outcome of my calculation of the possible effect of the introduction of the revised criteria 4 and 5 on the admission of those applicants resident in the catchment area. This does not include the introduction of the OAP criterion. I will consider the effect of the introduction of the OAP in sub-section F.ii. in order for a picture of the impact of these changes to be built cumulatively.

Table 24: Potential offers for places at Varndean School in 2026/27 after the consideration of the impact of oversubscription criteria 4 and 5

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
EHCP	14	The average of the total of offers to children with EHCPs in the last three years.
1	7	The average of the total of offers made to (previously) looked after children in the last three years.
2	2	The average of the total of offers made to children with compelling medical or other exceptional reasons in the last three years.
3	87	The average of the total of offers made to siblings of children in the school in the last three years.
4	54	This is 60.2 per cent of the 90 places which would be available to children eligible for FSM across criteria 4 and 5 (with the PAN of 300). I have taken the 60.2 per cent figure from the proportion of the admission of children eligible for FSM under criterion 4 in 2025/26.
5	36	This is 39.8 per cent of the 90 places which would be available to children eligible for FSM across criteria 4 and 5. I have taken the 39.8 per cent figure from the proportion of the admission of children eligible for FSM under criterion 5 in 2025/26.

322. The number of places available to children resident in CA-D under criterion 7 after calculating the totals under criteria 1 to 5 in Table 24 above (200), would be 100. This, added to the children living in the catchment area that would be offered places under criteria 3 and 4, means that 241 children (80.3 per cent of the PAN) could be offered places from CA-D under criteria which specifically require residence in the catchment area. Children can be offered places under criteria 1 to 3 who are eligible for FSM and these would be counted before determining the number to be admitted under criteria 4 and 5.

323. It is also the case that children who are resident in CA-D can be admitted who have EHCPs / under criteria 1 and 2. Applying again the calculation of half the total of the numbers offered places who have EHCPs and under criteria 1 and 2 results in the potential for 253 children to be offered places from within CA-D. This is 84.3 per cent of the PAN. Looking at the data in Table 23, I can see that admission from the catchment area was 93.7 per cent of the PAN in 2023/24, 95.2 per cent of the PAN in 2024/25, and 84.5 per cent of PAN In 2025/26 (after the introduction of the FSM criteria). My calculation of the potential offers to children resident in CA-D in 2026/27 shows there would be a similar proportion to the offers made in 2025/26, though a decrease of around 10 per cent from years when there were no FSM criteria.

324. I make two further points about this calculation. First, I have taken no account of the fact that children eligible for FSM could be admitted under criteria 1 to 3. Were that to be the case then the number of children admitted under criteria 4 and 5 would reduce to meet the 30 per cent limit. The larger the proportion of children eligible for FSM admitted under criteria 1 to 3 the less would be admitted under criteria 4 and 5. I note that admission would be to criteria 4 first (in-catchment), leaving less to be admitted under criteria 5 (though some admissions under criteria 1 to 3 could be to out of catchment children eligible for FSM).

325. Secondly, the number of children eligible for FSM admitted to Varndean School in 2025/26 under criterion 4 and 5 (88) is 29.3 per cent of the PAN. This is a slightly higher percentage than the city average across the six community secondary schools in the city (28.1 per cent; as set out in the analysis from the data in Table 14 in the 'Background' section of this determination). If admitting children eligible for FSM up to 30 per cent of the PAN in 2026/27, this would be 0.7 percentage points more than would have been the case in 2025/26.

326. Turning to the second stage of the 'reasonableness test' in respect of this aspect of the objections, I find that my modelling of the practical operation of the admission of children eligible for FSM shows that: the school has already taken on its share of the admission of children eligible for FSM from across the city; there will be a slight increase in the admission of those children to Varndean School in 2026/27; and the data for 2025/26 is indicative of how future years might be in terms of offers made. I noted earlier the support for the approach to prioritise children eligible for FSM from local headteachers. My findings so far are entirely in line with the rationale for the change as set out by the LA in its consultation and, as such, I find no irrationality in the way these criteria will operate for Varndean School.

327. I consider how other changes to the oversubscription criteria in the Arrangements could potentially impact on the number of places for children from CA-D at Varndean School in sub-sections F.ii. to F.vi. below.

F.i.b. Children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

328. In sub-section C.i.b., I set out my findings in respect of the disadvantage to children with SEND (without EHCPs) residing in catchment as a result of the introduction of criteria 4 and 5. I found that these findings were applicable city-wide.

329. I did not find that any of the objections included any concerns in this regard that were specific to Varndean School or which would change the findings made under C.i.b. The LA's response contained no more information that I needed to take into account or had not already covered on this aspect of the objections in section C.

330. Consequently, and for the same reasons set out in sub-section C.i.b., I find no unfairness is caused to this group by the changes to criterion 4 and 5 in the Arrangements.

331. I, therefore, do not uphold this part of the objections.

F.ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas.

332. This concern is in respect of the introduction of the OAP criterion (oversubscription criterion 6) ahead of the prioritisation of those from within the catchment area (which was oversubscription criterion 6 in the 2025/26 arrangements, criterion 7 in the Arrangements).

333. In sub-section F.i.a. I calculated that 200 children could be admitted to Varndean School under oversubscription criteria 1 to 5. I said that I would look cumulatively at the impact of the changes to the Arrangements through the course of this section. In this sub-section I will consider the impact of the introduction of the OAP (oversubscription criterion 6).

334. The OAP has a limit of five per cent of the PAN. For this school, this would be a limit of 15 places. This would have the effect of reducing the number of places available to children resident in CA-D to be admitted under oversubscription criterion 7 to 85 and the number offered places overall under the criteria explicitly requiring residence in the catchment area to 226. Again, accounting for the same proportion of places offered to children resident in CA-D who have EHCPs / under criteria 1 and 2, this means that 238 children could be offered places from the catchment area. This is 79.3 per cent of the PAN. Regardless, admission of children from CA-D would remain the largest proportion of the admissions into the school.

335. I make two points here. First, the LA's February 2025 Cabinet report indicated a displacement of 144 children from CA-D as a result of the changes. However, this was based on the original proposal for OAP to be 20 per cent of the PAN. Had this proposal been approved, then this would have provided places for up to 60 children from outside CA-D at the school under criterion 6. This, clearly, would have had a greater effect on the number of children being admitted from the catchment area under criterion 7. I noted earlier

that the LA has listened to the concerns raised about this in the consultation, has reduced the limit on this criterion to five per cent, and this was supported by local headteachers in their joint letter dated 26 February 2025.

336. Secondly, there is no previous admission data I can use to say for any certainty that parents, who live in single school catchment areas, would want to apply for places for their children at Varndean School. It is possible, therefore, that the impact could be lessened by there being fewer admissions under criterion 6.

337. Turning to the second stage of the 'reasonableness test' in respect of this part of the objections, I find that I cannot say with any certainty how 'popular' applications under the OAP criterion will be. In modelling the practical operation of the admission of children under the OAP criterion to the limit of five per cent of the current PAN, there will be less places available to be offered to catchment area children. However, offers made for places to in-catchment children could still be around 79.3 per cent of the PAN.

338. In any event, my findings so far are in line with the rationale for the changes to the Arrangements as set out by the LA in its consultation and, as such, I find no irrationality in the way these criteria will operate for Varndean School.

339. As shown in Table 23, the random allocation tie-breaker was used to determine priority for admission under criteria 6 in the last three years (but not under criterion 4 in 2025/26). I found earlier that random allocation is a permitted and reasonable way of determining priority for admission (as set out in sub-section B.v.). As already determined from my analysis of the data in Table 24 above, there will be an increase on the small number displaced from the school in 2025/26. Even if this number doubled to the number displaced in 2024/25, it would be no more than was displaced before the introduction of the FSM criterion and would only amount to two per cent of the PANs (for 2026/27) of the Varndean and Dorothy Stringer Schools combined.

F.iii. The concerns are further exacerbated by the change to the school's catchment area boundary which will increase the number of children seeking a place at the school.

340. As set out in Maps 1 to 6 and Tables 4 and 5, the catchment boundaries of CA-D and CA-F have been changed for 2026/27. The Whitehawk area of the city will move from CA-F into CA-D and the Kemptown and Bristol Estate areas will move from CA-D to CA-F.

341. Maps 7 and 8 and Tables 13 and 15 show the effect of this on the levels of deprivation and affluence which the changes in catchment boundary will have in CA-D and CA-F. In CA-D, this has the effect of increasing the number of lower decile range LSOAs / decreasing the upper decile range LSOAs in the area by one percentage point. In CA-F, this has the effect of increasing the number of lower decile range LSOAs / decreasing the upper decile range LSOAs in the area by six percentage points, such that CA-F will have equal numbers of deciles from the lower / upper decile ranges. CA-D will have 47 per cent in the lower decile range and 53 in the upper decile range. In CA-D, this should have the effect of a slight increase in the number of children eligible for FSM from within the

catchment area; this may lead to an increase in admission under criterion 4 (and a consequent reduction in admission under criterion 5).

342. In the report for the LA's Cabinet meeting on 27 February 2025, it was recorded that:

"20.1. The council is proposing a change to the catchment area boundary of Varndean/Dorothy Stringer and Longhill High Schools. [...] The proposal seeks to both balance the number of pupils requiring school places with the proposed PANs of each school as well as addressing the profile of the proportion of FSM eligibility in each catchment area from September 2026. Based on the data in Appendices 3 and 4, the table below shows the potential total number of pupils in each catchment area with no change or if proposals are introduced.

Year /Proposal	LHS catchment area	DS/V Catchment area
2026/No change	197	598
2026/Proposed changes	175	624
Difference	-22	+26"

343. About this concern, Objector 1 stated:

"[...] the Council papers indicate that the change would actually create an imbalance by pushing the number of children in the Dorothy Stringer/Varndean catchment area above the number of places that are available. The Council's table indicates that the change would increase the numbers in the Dorothy Stringer/Varndean catchment area from 598 to 624 and reduce numbers in the Longhill catchment area from 197 to 175. It therefore adds 26 children to the Dorothy Stringer/Varndean catchment area and removes 22 children from the Longhill High School catchment area."

344. As can be seen from Table 9, the LA has taken the additional children that will be added to CA-D as a result of the change in the boundary between CA-D and CAF into account in its forecast for demand for places in CA-D.

F.iv. The LA has not given enough consideration to the legacy sibling link in the potential for oversubscription in schools in this catchment area.

345. In the report for the LA's Cabinet meeting on 27 February 2025, it was recorded that:

"20.3. The council will commit to maintaining a sibling link for families who are affected by the proposed changes in catchment area. The sibling link will continue to apply should there remain an elder sibling attending the school when the younger sibling starts. This includes elder siblings who were placed in the school under the sibling criteria prior to September 2026."

346. About this, 'Note c.' of the Arrangements states:

"For areas of the city where the catchment area school(s) have changed and a child is already attending a catchment area school, the sibling link will remain valid until the older sibling has left the school even though the address is no longer in that school's catchment area."

347. Objector 1 asserted:

"We believe that the extent of oversubscription in the Stringer/Varndean catchment area caused by the change in catchment area is actually likely to be greater due to the impact of the sibling link. [...]"

As far as we are aware, this has not been accounted for in the Council's numbers. This provision is likely to increase the number of children able to obtain a place within the Dorothy Stringer/Varndean catchment area. Past admissions data suggests that children in Kemptown and the Bristol Estate with a sibling link at Dorothy Stringer or Varndean are likely to choose to attend one of those schools rather than Longhill High School. We believe there are roughly 60 children in Year 5 in the Kemptown and Bristol estate area, which could mean an additional 15-20 children having access to the Dorothy Stringer/Varndean catchment area through the legacy sibling link. This could increase the number of children within the Stringer/Varndean catchment area unable to obtain a place at either of their catchment area schools.

We believe it is unreasonable to increase the size of the Stringer/Varndean catchment area when there are not sufficient places available to accommodate the number of children being added to the catchment area."

348. I pause to note here that Objectors also raised concerns about other impacts of the sibling link in CA-D and CA-F, including: how the sibling link will impact on families in the longer term; the fact that some children may get a high priority in two catchment areas through their sibling link and other children get priority in no catchment area; and that there will be no sibling link for those children displaced from their catchment area school(s) resulting in the possibility that siblings will not be able to attend the same school (this concern related to those admitted to a school in another catchment area under the FSM or OAP criteria). These issues go beyond my jurisdiction for the 2026/27 Arrangements as they will only be relevant from 2027/28 onwards. However, I note here that the LA has committed to considering whether to undertake a consultation on such issues as part of any proposed change to its admission arrangements from September 2027.

349. In respect of the matter relevant to the Arrangements for 2026/27, it is laudable that the LA has sought to maintain priority for admission to siblings at a school which may no longer be in the catchment area; this will be of great benefit to those families who will find it easier to have children in one school. I stress that the Code does not mandate that an admission authority prioritise admission for siblings and it is not incumbent upon the LA to

have committed to honouring the sibling link in circumstances where it has changed the boundary between two of its catchment areas.

350. 'Note c.' in the Arrangements also states: "A sibling link will apply if the sibling will be attending the school in September 2026." Therefore, for 2026/27, the only siblings that can be admitted are those of children who are already on roll. Had the catchment area boundaries not changed, they would have been admitted anyway had their parents applied for places and there were spaces available. The siblings of those joining the school from the areas added to the catchment will not be able to apply to the school until it is confirmed that their sibling would be on roll in September 2026 (i.e. for September 2027, though technically siblings could be admitted in-year / added to the waiting list under that criterion). Nevertheless, it is the case that this does not appear to me to be a concern that will have an impact on the normal round of admission for 2026/27.

351. For 2026/27, the LA has forecast the need for 624 places in CA-D (see Table 9). If 253 children are offered places at Varndean School from CA-D, then there would be a need to find 371 places for children in CA-D. In the context of this high demand for places, I will consider next not only the potential impact of the changes to the Arrangements on admissions to Dorothy Stringer School but also how the remaining demand for places in CA-D will be met, before considering reasonableness and fairness of the Arrangements in respect of both schools at the end of section G.

G. Dorothy Stringer School

352. As set out in the 'Background' section, Dorothy Stringer School is located in CA-D and shares that catchment area with Varndean School; 54 per cent of the LSOAs in CA-D are in the upper decile range (see Table 13), meaning there are slightly more affluent areas than there are areas of deprivation in the school's catchment area; the catchment area boundary will change in 2026/27 and this will decrease the number of affluent areas in the catchment by one percentage point; the school currently has a PAN of 330; the school admitted up to its PAN in 2024/25 and 2025/26 (as shown in Tables 7 and 8) and admitted one less than the PAN in 2023/24 (as shown in Table 6); the PAN is to be reduced in 2026/27 to 300; and Table 9 recorded the LA's forecast demand for 624 school places in CA-D in 2026/27.

Table 2G: Summary of the objections relevant to determination section G

Objections summary	Objection numbers
Dorothy Stringer School	
i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly: a. any child who lives in the catchment area for this school who is not eligible for FSM; and	1, 2, 4, 5, 7

Objections summary	Objection numbers
b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority, in that they are less likely to be offered a place at the school and will have to travel further to school. ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas. iii. The reduction in the school's PAN will: a. frustrate parental preference; and b. result in the unreasonable and unfair displacement of children who would otherwise have been admitted into the school. This is further exacerbated by the change to the school's catchment area boundary which will increase the number of children seeking a place at the school. iv. The LA has not given enough consideration to the legacy sibling link in the potential for oversubscription in schools in this catchment area.	

G.i. The higher priority given to those receiving FSM disadvantages unreasonably and unfairly:

- a. any child who lives in the catchment area for this school who is not eligible for FSM; and
- b. children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

in that they are less likely to be offered a place at the school and will have to travel further to school.

353. The Objectors assert that the two groups of children set out in matters C.i.a. and b. will be displaced and therefore disadvantaged unreasonably and unfairly under the Arrangements.

354. Many of the points I made about these issues in sections C to F are relevant to the Dorothy Stringer School, and so I will not repeat information unless required. The same method of calculating the potential offers for places in 2026/27 will be used as in sections C to F. I will follow the same process of cumulatively building up a picture of the potential impact of the changes to the Arrangements for Dorothy Stringer School as I did for Blatchington Mill School in section C.

355. I note that the LA's response to the Objectors' concerns was largely the same as for the schools covered in sections C and D (see sub-section C.i.a. for this information), save for this specific point about Dorothy Stringer School:

“At the time of the Full Council report publication, the current catchment area for Dorothy Stringer School (and Varndean School) has a FSM rate of 23% which is below the below city average of 26.3%. The proposed 30% allocation, using oversubscription criteria 1-5, would bring the school closer to the city-wide proportion of free school meals.”

G.i.a. Any child who lives in the catchment area for this school who is not eligible for FSM.

356. I asked the LA to provide data of the offers made for places at Dorothy Stringer School on National Offer Day (NOD) broken down by the oversubscription criteria in place in the 2023/24, 2024/25 and 2025/26 arrangements. I have put that data in the last three years into Table 25.

Table 25: Number of children with EHCPs offered places on NOD at Dorothy Stringer School under each of the oversubscription criteria in place in the last three years

EHCP / Oversubscription Criteria²⁷	2023/24	2024/25	2025/26
EHCP	9	5	7
LAC / PLAC (oversubscription criterion 1)	6	0	2
Children with compelling medical or other exceptional reasons (oversubscription criterion 2)	0	2	3
Sibling link (oversubscription criterion 3)	75	79	66
Those eligible for FSM in catchment (oversubscription criterion 4)	-	-	26
Those eligible for FSM out of catchment (oversubscription criterion 5)	-	-	23
Children in catchment (oversubscription criterion 6)	208	206	166
Other children (oversubscription criterion 7) ³²	32	38	37
Total:	330	330	330

Key:

²⁷ See key to Table 16.

³² Allocation was determined by random allocation.

357. The data in Table 25 show:

- In 2025/26, 49 children eligible for FSM were offered places under oversubscription criteria 4 and 5 (14.9 per cent of the current PAN). The 26 children offered places under criterion 4 amounted to 7.9 per cent of the PAN and 53.1 per cent of the total offers made under criteria 4 and 5. The 23 children offered places under criterion 5 amounted to seven per cent of the PAN and 46.9 per cent of the total offers made under criteria 4 and 5.
- The number of children offered places under criterion 6 reduced in 2025/26. However, when combined with those offered places under other criteria requiring

residence in the catchment area (criteria 3 and 4), the total number offered places from CA-B was 258 (78.2 per cent of the PAN).

- The number of children offered places from the catchment area will, of course, have been slightly higher given that a proportion of those admitted with EHCPs / under criteria 1 and 2 will also have been resident in CA-D.
- It is more likely that the displacement numbers should be attributed to Varndean School, which was clearly more popular with parents (given the number of first preferences reported by the LA) and, as shown in section F, has filled to PAN from the catchment area. In any event, the displacement of children in 2023/24 and 2024/25 cannot be attributed to the introduction of the FSM criteria and the displacement of the six children in 2025/26 amounted to only 1.8 per cent of the PAN.

358. In 2026/27, three changes to the Arrangements will have a bearing on how many children resident in CA-D may not get places at Dorothy Stringer School (the increase in the number of children eligible for FSM who can gain places (when the limit becomes 30 per cent and not the lower percentage currently calculated specifically for CA-D in the 2025/26 arrangements), the introduction of the OAP criterion and the reduction in the PAN). Table 26 shows the outcome of my calculation of the potential impact of the introduction of the revised criteria 4 and 5 on the admission of those applicants resident in the catchment area in 2026/27. This does not include the introduction of the OAP criterion or the PAN reduction; I will consider the effect of their introduction in sub-sections G.ii. and G.iii. in order for a picture of the effect of these three changes to be built cumulatively. I will also need to consider the concern raised under G.iv.

Table 26: Potential offers for places at Dorothy Stringer School in 2026/27 after the consideration of the impact of oversubscription criteria 4 and 5

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
EHCP	7	The average of the total of offers to children with EHCPs in the last three years.
1	3	The average of the total of offers made to (previously) looked after children in the last three years.
2	2	The average of the total of offers made to children with compelling medical or other exceptional reasons in the last three years.
3	73	The average of the total of offers made to siblings of children in the school in the last three years.
4	53	This is 53.1 per cent of the 99 places which would be available to children eligible for FSM across criteria 4 and 5 (with the current PAN of 330). I have taken the 53.1 per cent figure from the proportion of the admission of children eligible for FSM under criterion 4 in 2025/26.

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
5	46	This is 46.9 per cent of the 99 places which would be available to children eligible for FSM across criteria 4 and 5. I have taken the 46.9 per cent figure from the proportion of the admission of children eligible for FSM under criterion 5 in 2025/26.

359. Putting aside the OAP criterion and the PAN reduction, the number of places available to children resident in CA-D after calculating the totals under criteria 1 to 5 in Table 24 above (184), would be 146. This, added to the numbers of children offered places under criteria 3 and 4, means that 272 children (82.4 per cent of the PAN) could be offered places from CA-D under criteria which specifically require residence in the catchment area.

360. It is also the case that children who are resident in CA-D can be admitted who have EHCPs / under criteria 1 and 2. Applying the calculation of half the total of the numbers offered places who have EHCPs and under criteria 1 and 2 results in the potential for 278 children to be offered places from within catchment. This is 84.2 per cent of the current PAN. Looking at the offer data in Table 25, I can see that offers made to children from the catchment area was 88 per cent in 2023/24, 86.4 per cent in 2024/25, and 80 per cent in 2025/26. The percentage of potential offers from CA-D for 2026/27, so far, compares favourably.

361. I make two further points about this calculation. First, children can be offered places under criteria 1 to 3 who are eligible for FSM and these would be counted before determining the number to be admitted under criteria 4 and 5. I have taken no account of the fact that children eligible for FSM could be admitted under criteria 1 to 3 because the data is not available. However, were it to be the case that children eligible for FSM were admitted under criteria 1 to 3, then the number of children admitted under criteria 4 and 5 would reduce to meet the 30 per cent limit. I note that, admission would be to criteria 4 first (in-catchment), leaving less to be admitted under criteria 5 (though some admission under criteria 1 to 3 could be to out of catchment children eligible for FSM).

362. Secondly, the 14.8 per cent (of the PAN) of children eligible for FSM admitted to Dorothy Stringer School in 2025/26 under criterion 4 and 5 (49) is around half of the average percentage of children eligible for FSM across the six community secondary schools in the city (28.1 per cent; as set out in the analysis from the data in Table 14 in the 'Background' section of this determination). If admitting children eligible for FSM up to 30 per cent of the PAN in 2026/27, this would be 15.2 percentage points more than 2025/26.

363. Turning to the second stage of the 'reasonableness test' in respect of this aspect of the objections, I find that my modelling of the practical operation of the admission of children eligible for FSM is likely to result in: an increase in the admission of those children to Dorothy Stringer School; and the school taking on a greater share of the admission of children eligible for FSM from across the city. I noted earlier the support for this approach

from local headteachers. My findings so far are entirely in line with the rationale for the change as set out by the LA in its consultation and, as such, I find no irrationality in the way these criteria will operate for Dorothy Stringer School.

364. I will consider how other changes to the oversubscription criteria in the Arrangements could potentially impact on the number of places for children from CA-D at Dorothy Stringer School in sub-sections G.ii. to G.vi. below.

G.i.b. Children living in the catchment area for the school with needs such as SEND without an EHCP who not are afforded any priority.

365. In sub-section C.i.b., I set out my findings in respect of the disadvantage to children with SEND (without EHCPs) residing in catchment as a result of the introduction of criteria 4 and 5. I found that these findings were applicable city-wide.

366. I did not find that any of the objections included any concerns in this regard that were specific to Dorothy Stringer School or which would change the findings made under C.i.b. The LA's response contained no more information that I needed to take into account or had not already covered on this aspect of the objections in section C.

367. Consequently, and for the same reasons set out in sub-section C.i.b., I find no unfairness is caused to this group by the changes to criterion 4 and 5 in the Arrangements.

368. I, therefore, do not uphold this part of the objections.

G.ii. Disadvantage is caused to applicants from this school's (dual) catchment area when applying for places at this school because of the higher priority given to applicants from single-school catchment areas.

369. This concern is in respect of the introduction of the OAP criterion (oversubscription criterion 6) ahead of the prioritisation of those from within the catchment area (which was oversubscription criterion 6 in the 2025/26 arrangements, criterion 7 in the Arrangements).

370. In its response, the LA told me that:

"As Dorothy Stringer is a school in a dual school catchment area families will often have been impacted by allocation decisions and there is no certainty about how, through the use of random allocation a pupil would be placed at either of the catchment areas' schools. This aspect of uncertainty does not appear to have been considered in the objector's point.

In recent years the school has been able to admit pupils from outside the catchment area.

Year	Out-of-catchment Places Offered
2023	32
2024	38
2025	95

All catchment children listing both schools as their first two preferences were allocated places. Whilst the council accepts that the new criterion provides a higher priority for some of these applications, the school has nevertheless offered places to more than just those pupils from the school's catchment area."

371. In sub-section G.i.a. I calculated that 184 children could be admitted to Dorothy Stringer School under oversubscription criteria 1 to 5. In this sub-section, I will consider the impact of the introduction of the OAP (oversubscription criterion 6), though will continue to consider this in the context of the current PAN of 330. The impact of the PAN reduction will be considered in sub-section G.iii.

372. The OAP has a limit of five per cent of the PAN. For this school, this would be a limit of 17 places. This would have the effect of reducing the number of places available to children resident in CA-D to be admitted under oversubscription criterion 7 to 129 and the number offered places overall under the criteria explicitly requiring residence in the catchment area to 255. Again, accounting for the same proportion of places offered to children resident in CA-D with EHCPs / under criteria 1 and 2, this means that 261 children could be offered places from the catchment area. This is 79.1 per cent of the PAN.

373. There is no previous admissions data I can use to say with any certainty that parents, who live in single school catchment areas, would want to apply for places for their children at Dorothy Stringer School. It is possible, therefore, that the impact could be lessened by there being fewer admissions under criterion 6.

374. Turning to the second stage of the 'reasonableness test' in respect of this part of the objections, I find that I cannot say with any certainty how 'popular' applications under this criterion will be. However, in modelling the practical operation of the admission of children under the OAP criterion to the limit of five per cent of the current PAN, I find that there will be less places available to be offered to catchment area children. However, offers made for places to in-catchment children could still be at least 79 per cent of the PAN.

375. In any event, my findings so far are entirely in line with the rationale for the change as set out by the LA in its consultation and, as such, I find no irrationality in the way these criteria will operate for Dorothy Stringer School.

376. As shown in Table 25, the random allocation tie-breaker was used to determine priority for admission under criterion 7 (other children) in all three years 2023/24 to 2025/26. I found earlier that random allocation is a permitted and reasonable way of determining priority for admission (as set out in sub-section B.v.). In the last three years, random allocation was not used to determine priority for children residing in CA-D. Additionally in

2025/26, there was admission under criterion 5; this meant that there was no use of random allocation to determine admission under criterion 4. No children from CA-D were therefore subject to the random allocation process for admission to Dorothy Stringer School in the last three years.

G.iii. The reduction in the school's PAN will:

- a. frustrate parental preference; and
- b. result in the unreasonable and unfair displacement of children who would otherwise have been admitted into the school.

This is further exacerbated by the change to the school's catchment area boundary which will increase the number of children seeking a place at the school

377. The LA has determined that the PAN for Dorothy Stringer School will be 300 in 2026/27. This is a reduction of 30 places from the current PAN of 330.

378. Prior to addressing matters a. and b., I will continue my consideration of the cumulative effect of the changes on the potential intake to Year 7 at Dorothy Stringer School in 2026/27 taking into account the PAN reduction. To that end, I have recalculated admission data from Table 26 in sub-section G.i.a, and the calculations I made in sub-section G.ii. and added that to Table 27 with updated notes.

Table 27: Potential offers for places at Dorothy Stringer School in 2026/27 after the consideration of the impact of the reduction in PAN to 300

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
EHCP	7	The average of the total of offers to children with EHCPs in the last three years.
1	3	The average of the total of offers made to (previously) looked after children in the last three years.
2	2	The average of the total of offers made to children with compelling medical or other exceptional reasons in the last three years.
3	73	The average of the total of offers made to siblings of children in the school in the last three years.
4	48	This is 53.1 per cent of the 90 places which would be available to children eligible for FSM across criteria 4 and 5 (with the PAN of 300). I have taken the 53.1 per cent figure from the proportion of the admission of children eligible for FSM under criterion 4 in 2025/26.
5	42	This is 46.9 per cent of the 90 places which would be available to children eligible for FSM across criteria 4 and 5. I have taken the 46.9 per cent figure from the proportion of the admission of children eligible for FSM under criterion 5 in 2025/26.
6	15	Five per cent of the PAN of 300.

EHCP / Oversubscription Criteria	Potential offers for places in 2026/27	Notes on calculations
7	110	The number of places remaining for admission under this criterion.

379. I find that 231 offers could be made to children for places at the school under criteria 3, 4 and 7 (where residence in CA-D is a requirement). Applying again the calculation of half the total of the numbers offered places who have EHCPs and under criteria 1 and 2 results in the potential for 237 places to be offered to those applicants resident in CA-D. This is 79 per cent of the PAN of 300 children.

380. My findings in respect of the cumulative effect of the changes to the Arrangements on the offers that could be made to children in CA-D for places at Dorothy Stringer School in 2026/27 are in line with the rationale for the changes as set out by the LA in its consultation. It is also entirely appropriate that the LA is looking ahead to ensure that its schools are prepared for the reduction in the number of children over time, as is its responsibility, and for the LA to be making the changes necessary to achieve the aims set out in the consultation.

381. I turn now to look at matters a. and b. in respect of the reduction of the PAN to 300.

382. The governing body of Dorothy Stringer School is not an objector and the concern about the PAN reduction therefore did not come from the school. I note in the LA's report for the February 2025 Cabinet meeting that:

“22.4. In its response to the consultation the Governing Body of Dorothy Stringer stated that they support the council's proposal to reduce the PAN having already considered such a move, recognising that pupil numbers have grown over the years, which has had a detrimental impact on the logistical operation of the school, due to the geographical limitations of the site.

22.5. In addition, they acknowledge the falling pupil numbers across the city and are committed to supporting the wider family of schools across the city by a PAN reduction.”

383. About the PAN reduction at Dorothy Stringer School, Objector 1 stated:

“As pupil numbers are forecast to fall over the coming years, we therefore believe that it would make more sense for Dorothy Stringer to delay its PAN reduction until a time when there are sufficient places within the catchment area. [...] a PAN reduction at Dorothy Stringer could prevent some children living in the catchment area gaining a place at a catchment area school [...].”

384. For 2026/27, the LA has forecast the need for 624 places in CA-D (see Table 9). If 238 children from CA-D are offered places at Varndean School (as set out in section F), then there would be a need for 386 places in CA-B. I have found that Dorothy Stringer

School, after a PAN reduction to 300, could offer 261 places. This could leave 125 in-catchment children needing school places. This is 20 per cent of the places that the LA forecasts to be needed in CA-D.

385. CA-D has the greatest demand and potential for displacement out of the catchment areas in the city. However, I have taken into account that:

- The potential need for 125 places for children in CA-D is only 5.1 per cent of the places available in the 10 secondary schools in the city, and 8.1 per cent of the places available in the six community secondary schools (with the PAN at Blatchington Mill School at 330).
- There is capacity in the schools in the city. The central location of CA-D means that children residing in that catchment area have easier access to a number of schools in other catchment areas (Map 2 shows CA-B, CA-C, CA-E and CA-F border CA-D).
- There are potentially five places forecast in schools in CA-B (see sections C and D), 20 places in Patcham High School (see section E), 51 places at BACA in CA-E (Table 9 shows a forecast demand for 129 places in a school with a PAN of 180), and 35 places at Longhill High School (Table 9 shows a forecast demand for 175 places in a school with a reduced PAN of 210).
- The data of offers made to children under criterion 7 ('other children') in the last three years (Table 25) show that in years when there has been a higher demand for places in CA-D, Dorothy Stringer School has still not needed to fill to PAN under criterion 6, even after the introduction of the FSM criteria in 2025/26. This could indicate further capacity, tempered as this is by my findings in sub-section G.ii in respect of the potential impact of the introduction of the OAP.
- In the three years covered by Tables 6 to 8, 26 and 27, it is evident that there has been a considerable demand for places which although decreasing, remains forecast for 2026/27. Regardless, children in CA-D have been found places in schools in the city in times when there was greater demand than there will be in 2026/27.
- From 2026/27, the LA has increased the number of preferences that parents will be able to express for secondary school places for their children from 3 to 4.

386. I have covered issues related to the change in the boundary between CA-D and CA-F in sub-section F.iii. I have taken my findings into account in my consideration in respect of Dorothy Stringer School, but do not repeat them here.

387. The changes to the Arrangements, particularly in respect of the giving of increasing priority to out-of-catchment children and the catchment boundary change with CA-F, will increase the demand for places from within CA-D in 2026/27, whilst at the same time reducing the available places at Dorothy Stringer School by reducing the PAN. Whilst I find no irrationality in the way changes to the Arrangements will work to achieve the LA's goals and in discharging its responsibilities to realign the school system in the city to meet the demands of falling rolls in the future, I find that: there is a strong argument that the

reduction in the PAN in 2026/27 is premature in that there remains a high forecast demand for places from the catchment area at a time when boundary changes will add further pressure to that demand; and the reduction in PAN may serve only to frustrate parental preference.

388. It is also the case that I must have regard to the “strong presumption in favour of an increase to the PAN” as set out in paragraph 1.3 of the Code.

389. In section G, I have shown how the changes to the Arrangements may affect admission to Dorothy Stringer School. I find the reduction in the PAN at the school in 2026/27 to be premature, likely resulting in the displacement of an unnecessary amount of children from CA-D. The combined effect of all of the changes in this school in 2026/27 therefore does not meet the second stage of the ‘reasonableness test’. Consequently, I do not have to go on to look at the fairness of this aspect of the arrangements.

390. I, therefore, uphold this part of the objections.

391. The PAN for 2026/27 at Dorothy Stringer School will be 330.

G.iv. The LA has not given enough consideration to the legacy sibling link in the potential for oversubscription in schools in this catchment area.

392. In sub-section F.i.v., I set out my findings in respect of legacy sibling link.

393. I did not find that the concerns raised were relevant to admission to the schools in CA-D in 2026/27, but could be relevant to admission from 2027/28.

394. I, therefore, do not uphold this part of the objections.

395. For the avoidance of any doubt, through sections C to G I have not found any breaches of paragraph 1.8 of the Code in terms of there being any unfairness in respect of the use of random allocation as a tie-breaker.

H. Longhill High School

396. As set out in the ‘Background’ section, Longhill High School is located in CA-F and is the only secondary school in that catchment area; with the change in the boundary to the catchment with CA-D, 50 per cent of the LSOAs will be in the lower decile range and 50 per cent will be in the upper decile range (see Table 13); the school currently has a PAN of 270; the school has been undersubscribed between 2023/24 and 2025/26 (as shown in Tables 6 to 8 and Table 28 below); the PAN is to be reduced in 2026/27 to 210; and Table 9 recorded the LA’s forecast demand for 175 school places in CA-F in 2026/27.

Table 2h: Summary of the objections relevant to determination section H

Objections summary	Objection numbers
Longhill High School i. Those living in the Kemptown area will be disadvantaged by being in the catchment area of the worst performing school in the LA. ii. Children from the least affluent families in the areas affected by the boundary change will be disadvantaged unreasonably and unfairly. iii. The changes to the school's catchment area boundary will affect Queen's Park Primary School by detrimentally affecting admission.	2, 4

397. I asked the LA to provide data of the offers made for places at Longhill High School on National Offer Day (NOD) broken down by the oversubscription criteria in place in the 2023/24, 2024/25 and 2025/26 arrangements. I have put that data in the last three years into Table 28

Table 28: Number of children with EHCPs offered places on NOD at Longhill High School under each of the oversubscription criteria in place in the last three years

EHCP / Oversubscription Criteria ²⁷	2023/24	2024/25	2025/26
EHCP	3	1	3
LAC / PLAC (oversubscription criterion 1)	1	0	4
Children with compelling medical or other exceptional reasons (oversubscription criterion 2)	0	0	0
Sibling link (oversubscription criterion 3)	50	37	23
Those eligible for FSM in catchment (oversubscription criterion 4)	-	-	12
Those eligible for FSM out of catchment (oversubscription criterion 5)	-	-	2
Children in catchment (oversubscription criterion 6) ³³	91	50	43
Other children (oversubscription criterion 7)	7	6	10
Total:	152	94	97

Key:

²⁷ See key for Table 16.

³³ Although the school was not oversubscribed, I note here that some children were allocated to a school out of CA-F that was closer to their addresses than Longhill High School (six children in 2023/24, 11 children in 2024/25, and one child in 2025/26). I have not considered these 'displaced' children as the Objectors would see them as they could have been allocated places at Longhill High School.

398. The data in Table 28 show that offers made were for only between 34.8 and 56.2 per cent of the places available. The reduction in PAN at the school in 2026/27 is not the subject of any of the objections and I note that the responses on the reduction of the PAN at the school in the consultation were supportive of the proposal.

399. The LA has forecast demand for 175 places in 2026/27 at Longhill High School. This is substantially more than the number of places that were offered in 2025/26 (97). This is likely to include the LA's calculation of the likely displacement from other catchment areas and from the areas which will come into CA-F as a result of the boundary change in 2026/27. However, as I have determined that the PANs at Blatchington Mill and Dorothy Stringer Schools (sections C and G respectively) will be 330 in 2026/27, that creates an additional capacity for 60 children in CA-B and CA-D which will likely have a knock on effect on the forecast demand at Longhill High School.

400. I have also taken into account Table 11 which shows that the largest number of children who go to school outside the city are from CA-F, though this has decreased over the last three years.

401. The LA has been open (throughout the consultation period and since) in its aim to 'maintain a geographical spread of secondary schools' in the BHCC area. This means keeping Longhill High School open with the implication that children will have to be displaced from other schools to ensure the viability of that school. As I have already stated, the LA has a duty to ensure a sufficiency of places in its area. When looking at the spread of secondary schools in the city as a whole, the closure of Longhill High School and the loss of its 210 places would leave substantial parts of the south and east of the city without a secondary school, and would doubtless create considerable logistical issues for parents and the LA as well as a loss of children to schools in other areas outside and to east of the city. The latter would challenge the LA's aim to educate all of the city's children in the city's schools.

402. I have determined that the PANs at Blatchington Mill and Dorothy Stringer Schools should be 330 in 2026/27. This means that up to 60 more children may be offered places at those two schools, and this will more likely than not mean a reduction in the demand for places at Longhill High School in that year. In Table 9, the forecast demand at Longhill High School in 2026/27 is 175 places. If there is a direct correlation between the increase in PANs at Blatchington Mill and Dorothy Stringer Schools, then this could mean 60 less children for Longhill High School. However, that is still more children than have been admitted since 2023/24 (see Tables 6 to 8).

H.i. Those living in the Kemptown area will be disadvantaged by being in the catchment area of the worst performing school in the LA.

403. Kemptown is one of the areas that will move from being in CA-D to CA-F in 2026/27.

404. About this concern, Objector 4 stated:

“The academic performance gap between Longhill and the schools previously accessible to Kemptown families is deeply troubling:

- Varndean – 65.5% of pupils achieving Grade 5+ in English & Maths
- Dorothy Stringer – 58.2%
- Blatchington Mill – 61.3%
- Hove Park – 41.0%
- Longhill – only 27.2%

The citywide average for Brighton and Hove is 52.7%, meaning Longhill is performing well below average.

Furthermore, no credible School Improvement Plan for Longhill has been presented. The Council's dismissal of this as a "misplaced assumption" [...] offers no practical assurance to parents, especially given the short timeline before implementation of these changes.”

and

“The proposed 5% allocation for "open admission" across Dorothy Stringer and Varndean equates to just **30 places total**, to be shared among all students from single-catchment areas across the city (BACA, PACA, Patcham, Longhill). With competition from multiple areas, the chance of a Kemptown child securing one of these places is negligible and does not offer Kemptown parents with any meaningful choice outside of Longhill school.”

405. The LA responded:

“The performance of a school is a subjective matter and one that may fluctuate over time. The most recent Ofsted judgment for Longhill High School (19th March 2024) was that it requires improvement in all areas but previous to this it was judged to be a good school. It is currently the only secondary school in the city with that category after another secondary school recently improved to have no outcomes less than good. The school continues to be supported by the council to improve and is a school that receives first preferences from families each year and are content with that choice.

There are many different ways of determining the performance of schools and- Ofsted inspections are at a point in time. The lived experience of pupils can differ, regardless of the Ofsted rating, data or perceived performance.

Whilst the council strives for high achieving schools, we do not believe that a schools rating or the perception of the school is an indicator of whether a child would be disadvantaged or it's suitability for children to attend.

Objection 4 [...] states that no School Improvement Plan has been presented in relation to Longhill High School. This is not correct. The Council Report details at page 22, paragraph 11.4-11.5 the school has a robust development plan in place and that significant improvements had already been secured following recent leadership changes. A school improvement board has also been established by the council to support accelerated improvement and funded additional support from a school partnership adviser (an experienced headteacher), a local partnership school and provided additional consultancy. This work has focused on rapidly improving the quality of education, leadership and behaviour.

It is therefore a broad and unverified statement that those living in the Kemptown area will be disadvantaged by being in the Longhill High School catchment area. It is also important to note that, as for all areas of the city, living in the catchment area does not mean that children will necessarily attend the catchment school. They will also have the opportunity to use the oversubscription criteria 5 and 6 (FSM out of catchment and open admissions) or a higher criteria, if eligible, in order to apply for other schools using the council's admission arrangements."

406. Through my analysis of the impact of the changes to the Arrangements on the other five of the community secondary schools in earlier sections, I have found there will be the potential in 2026/27 for the number of children admitted under the FSM criteria to be increased from the number admitted under those criteria in 2025/26 in the following schools:

- Blatchington Mill School (section C) – an increase of 15.8 percentage points (52 places).
- Hove Park School (section D) – an increase of 12.8 percentage points (23 places).
- Patcham High School (section E) – an increase of 19.3 percentage points (44 places).
- Varndean School (section G) - an increase of 0.7 percentage points (two places).
- Dorothy Stringer School (section G) - an increase of 15.2 percentage points (50 places).

407. This totals 171 places in the five schools (10.9 per cent of the total number of places required in the six community secondary schools (with PANs at Blatchington Mill and Dorothy Stringer Schools at 330) and 1.7 times the total number of children offered places at Longhill School in 2025/26). Although places will be prioritised for eligible children in the relevant catchment, Tables 16, 19, 21, 23, and 25 evidence that offers were made in each one of the five other community secondary schools under criterion 5 in 2025/26. There is, therefore, clearly the potential for admission to those schools for children from CA-F under criterion 5. Table 14 shows that 43.8 per cent of the children at the school are eligible for FSM; there will clearly need to be some displacement from Longhill High School, should

future applications be from parents of a similar proportion of eligible children, to meet the 30 per cent limit for admission under criteria 4 and 5.

408. The OAP is also relevant here in that it will provide places in dual catchment schools for those applying from single school catchments such as CA-F. I find that there would be the following number of places under criterion 6 at each of these schools:

- Blatchington Mill School (section C) – 17 places (as a result of the PAN being returned to 330).
- Hove Park School – (section D) – nine places
- Varndean School – (section F) – 15 places
- Dorothy Stringer School (section G) – 17 places (as a result of the PAN being returned to 330).

409. In total, this provides 58 places in four schools under criterion 6 for parents of children in CA-F to apply for should Longhill High School not be a preferred option.

410. I find that criteria 5 and 6 provide ample mitigation for the concerns that the Objectors raise.

411. I, therefore, do not uphold this part of the objections.

H.ii. Children from the least affluent families in the areas affected by the boundary change will be disadvantaged unreasonably and unfairly.

412. In this objection, I see that Objector 2 asserts that a specific group is disadvantaged unreasonably and unfairly in breach of paragraph 1.8 by the changes to the CA-F boundary.

413. About this part of the objection, the LA told me :

“The council took seriously the concerns raised about the potential impact of the boundary change on children from less affluent families [...]. Equity and inclusion are central to the council’s values and decision-making. However it is a broad assertion to state that those living in the affected area and from less affluent [...] groups will be disadvantaged by being in the catchment area of Longhill High School.”

414. In sub-section F.iii., I set out the changes to the boundary between CA-D and CA-F (as shown in Maps 1 to 6 and Tables 4 and 5 in the ‘Background’ section) and how this affected the make-up of the LSOAs in each catchment area (as shown in Maps 8 and 9 and Tables 13 and 15, also in the ‘Background’ section). I will not repeat all of that information again here, but can summarise the changes as follows: the Whitehawk area of the city will move from CA-F into CA-D and the Kemptown and Bristol Estate areas will move from CA-D to CA-F.

415. Tables 13 and 15 show the IoD 2019 LSOAs contained within each of the six catchment areas in the BHCC area (Table 13 for 2025/26 and Table 15 shows the differences for 2026/27). For convenience, Table 29 below includes the parts of Tables 13 and 15 which show the changes to the LSOAs in CA-F before and after the boundary change.

Table 29: Changes to the LSOAs in CA-F before and after the boundary change.

Year	LSOAs (including any part LSOAs) ³³	Numbers in lower decile range ³⁴	Numbers in upper decile range ³⁴
2025/26	009A, 009D, 009E, 017A, 017B, 017C, 017D, 017E, 017F, 025A, 025B, 025C, 025D, 025E, 032B, 032C, 032D, 033A, 033B, 033C, 033D, 033E, 033F (Lewes 002C, 006A, 006D, 006E)	12 (44) (1 – 5, 2 – 4, 3 – 1, 4 – 2, 5 – 0)	15 (56) (6 – 5, 7 – 1, 8 – 7, 9 – 2, 10 – 0)
2026/27 ³⁵	009A, 009D, 009E, 017A, 017B, 017C, 017D, 017E, 017F, 025A, 025D , 025E, 030A , 030B , 031A , 031B , 031C , 031E , 032A , 032B, 032C, 032D, 033A, 033B, 033C, 033D, 033E, 033F (Lewes 002C, 006A, 006D, 006E)	16 (50) (1 – 5, 2 – 6, 3 – 2, 4 – 3, 5 – 0)	16 (50) (6 – 5, 7 – 2, 8 – 7, 9 – 2, 10 – 0)

Key:

³³ LSOAs do not follow the LA's administrative boundaries. Therefore, there are some LSOAs which sit in more than one area and have to be counted as such. Additionally, there are four LSOAs from the adjacent area of Lewes that are also included in the relevant catchment areas as drawn by the LA and are also counted.

³⁴ The total count is shown in bold with the percentage in brackets. Underneath each total count is the decile breakdown in brackets.

³⁵ Those LSOA names in bold are gained from CA-D, sometimes only in part.

416. As I point out above, whilst the LA has transferred 'areas' of the city from CA-D to CA-F and vice versa, these areas do not necessarily align with the LSOAs across those areas. It is the case that part of an LSOA which is in an area moved remains in the original catchment and would have to be counted in both. So, in terms of LSOAs it is not as simple as seeing which areas of deprivation and affluence have been moved from one area to another.

417. I can see from Maps 3, 4 and 8 that the Whitehawk area of the city is predominantly made up of four LSOAs of decile 1 (the highest level of deprivation). These have been moved to CA-D. From Maps 5, 6 and 8, I can see that the Kemptown and Bristol Estate areas have a number of LSOAs with a range of higher deciles, though parts of four decile 1 LSOAs are transferred to CA-F. Otherwise, CA-F gains mostly LSOAs which are of decile 2-4 and part of an LSOA of decile 7.

418. In the documentation, I note that the concern was expressed by the LA that the catchment area boundaries (as they are up to and including 2025/26) are increasingly not reflecting the changes in the levels of educational disadvantage in the city. In the report for the LA's Cabinet meeting on 5 December 2024, the rationale for the then-proposed change to the catchment area boundary was set out in section 3.13:

"It is proposed to address education disadvantage in one distinct area of the city by putting forward a change of catchment area. It is proposed that the BN2 5 north area above Manor Way and Manor Hill is moved to within the Dorothy Stringer & Varndean catchment area, moving from the Longhill catchment area. This proposed change seeks to address some of the systemic inequality that can be compounded by the boundaries of a school's catchment area."

419. The effect of the change, as shown in Table 29, has been that the number of LSOAs in both the lower and upper decile ranges has increased such that there are equal numbers of each. To that end, it would appear that there has been an 'equalisation' of sorts. However, I stress that my calculations do include part-LSOAs. From the Kemptown and Bristol Estate areas that will be inherited by CA-F in 2026/27, there are a number of decile 2-4 LSOAs which will remain partly / mostly in CA-D. The postcodes which form part of the definition of each catchment area, and which are recorded in Tables 4 and 5, provide the information necessary to determine how much of each LSOA will be 'in catchment' of which school(s). It appears that the transfer has meant that although there are the same number of decile 1 LSOAs in CA-F, these are made up of more part LSOAs which remain partly or mostly in CA-D. It is not enough to simply look at the change in the numbers in each of the lower / upper decile ranges; those figures provide a useful overview, but the detail is that there are more decile 2-4 LSOAs and the gain of a part-LSOA of decile 7 in CA-F which does in fact raise the level of affluence in the catchment area.

420. It is also the case that the most deprived area in the city, Whitehawk, has been transferred to CA-D and will no longer be in CA-F.

421. Objectors assert that the change to the boundary will cause disadvantage. By 'disadvantage', I have assumed this to be that which is laid out in the matter covered under H.i. I have already set out that the purpose of admission arrangements is to set out how places in a school will be allocated in situations of oversubscription. The corollary of that, is that arrangements cause disadvantage to those that do not meet the criteria therein.

422. The LA has set out a clear rationale for the changes to the boundaries. In respect of the 'reasonableness test', I can see there to be no irrationality in what will be effected by the change in the catchment boundaries; it does what the LA set out to achieve in CA-F.

423. Turning to the effect in terms of fairness, it is also the case that under H.i., I found there to be ample mitigation for any disadvantage that Objectors assert will be caused by the Arrangements in that part of the objections and which I also apply to this part of the objections. I, therefore, do not find there to be the scale of disadvantage which would indicate unfairness or a breach of paragraph 1.8 of the Code

424. Consequently, I do not uphold this part of the objections.

H.iii. The changes to the school's catchment area boundary will affect Queen's Park Primary School by detrimentally affecting admission.

425. Before considering this concern, I note there that, on reflection, I would have considered this part of the objections to be out of jurisdiction. However, if it had been within jurisdiction this would be my decision.

426. Objector 2 raised this concern, asserting that:

"As a result of the admission changes, the Queen's Park Primary school governing board has received seven letters from affected families [...] stating their intent to relocate to avoid their children's choice of secondary school being reduced. [...]"

Similarly, these admissions changes would likely deter many families from locating to the Kemptown area more generally, which would significantly impact our school's ability to enroll [sic] pupils from a diverse range of backgrounds, as well as negatively impacting the overall numbers of children in the local area requiring a primary school. This in turn would negatively impact funding for the school, and by extension its ongoing improvement journey."

427. The Objector quoted parts of six letters that Objector 2 states the school has received from families who have written about relocating because of the changes to the catchment area boundary between CA-D and CA-F.

428. About this part of the objection, the LA told me:

"The council does not operate a feeder school system to its secondary schools. As such there are no direct links between primary and secondary schools under the council's admission arrangements. The catchment area boundary for school admissions is based on resident home postcodes, not the primary school they attend.

QPPS is situated in the catchment area of Dorothy Stringer and Varndean Schools under both the current arrangements and the new arrangements for 2026 onwards.

The council is aware that QPPS mainly admits pupils from both the Dorothy Stringer/Varndean and Longhill High School catchment areas [...]"

Out of the 307 pupils on roll from October 2024 census 146 pupils are living in the area that has moved to the Longhill High School catchment area and 28 pupils live in

the area that has moved to the Dorothy Stringer and Varndean Schools' catchment area. [...]

The council were aware of the concerns expressed by the Governing Body of QPPS as they had submitted a detailed response during the consultation. An additional meeting during the consultation was held on 16 January 2025 to specifically discuss those concerns with governors, staff and parents.

The interaction between a child's primary education and a parent's preference for secondary education is a personal matter for individual families. The council does not recognise that there is a specific correlation between the changes in admission arrangements and a possible detrimental impact being caused to QPPS.

One of the Governing Board's particular concerns was that families might be less likely to remain in or move to the Kempton area if it became a single school catchment area with three schools currently deemed to be Requires Improvement (which is in fact incorrect as only Longhill High School currently has this grade within the Longhill High School catchment area). The council's view is that admission arrangements are designed to ensure that there is a transparent and procedurally fair process to allocate places to schools. Their purpose is not to promote any particular school or to secure it any sense of advantage or preference. The responsibility to ensure a good quality of education lies with the governing body.

However, the council recognises that a recent change in a catchment area boundary may raise questions for parents about the likelihood of their child moving to a secondary school with peers who might live in another catchment area. With six catchment areas across the city, this is a matter which has been well managed by the council and individual schools across the city since the introduction of catchment areas."

429. I have made the point throughout this determination that the purpose of admission arrangements is to set out how places will be allocated in situations of oversubscription. It is not their purpose to be concerned with many of the matters raised by Objectors, such as parents not being able to tell if their children will be admitted to a school, not being able to be guaranteed a school place, how children will get to the school they are admitted to and, in this case, whether admission to Queen's Park Primary School will be affected by the Arrangements for secondary schools.

430. I, therefore, do not uphold this part of the objections.

Part 4

a. Indirect discrimination

431. In Part 2, section B, I set out the test, in broad terms, that I must use to determine whether the matters raised by the Objectors as being indirectly discriminatory are so.

432. The specific concerns about indirect discrimination are set out in Table 2i.

Objections summary	Objection numbers
Indirect discrimination i. Indirect discrimination is caused to: a. female parents; and b. disabled children by being offered a school place much further than their local school. ii. Indirect discrimination is caused to specific racial groups by the change to the boundary of CA-D and CA-F.	2, 5

“4 The protected characteristics

disability;

sex;

6 Disability

(a)P has a physical or mental impairment, and

(2) A reference to a disabled person is a reference to a person who has a disability.

(3) In relation to the protected characteristic of disability—

(b)a reference to persons who share a protected characteristic is a reference to persons who have the same disability.

9 Race

(a) colour;

(b) nationality;

(c) ethnic or national origins.

(2) In relation to the protected characteristic of race—

- (a) a reference to a person who has a particular protected characteristic is a reference to a person of a particular racial group;
- (b) a reference to persons who share a protected characteristic is a reference to persons of the same racial group.

(3) A racial group is a group of persons defined by reference to race; and a reference to a person's racial group is a reference to a racial group into which the person falls.

(4) The fact that a racial group comprises two or more distinct racial groups does not prevent it from constituting a particular racial group.

11 Sex

In relation to the protected characteristic of sex—

- (a) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman;
- (b) a reference to persons who share a protected characteristic is a reference to persons of the same sex.

19 Indirect discrimination

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

- (a) A applies, or would apply, it to persons with whom B does not share the characteristic,
- (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,
- (c) it puts, or would put, B at that disadvantage, and
- (d) A cannot show it to be a proportionate means of achieving a legitimate aim.

(3) The relevant protected characteristics are—

disability;

race;

sex;

85 Pupils: admission and treatment, etc

(1) The responsible body of a school to which this section applies must not discriminate against a person—

- (a) in the arrangements it makes for deciding who is offered admission as a pupil;

- (b) as to the terms on which it offers to admit the person as a pupil;
- (c) by not admitting the person as a pupil”

434. Objector 2 had raised a concern that children eligible for FSM would be indirectly discriminated against by the changes to the catchment area boundaries between CA-D to CA-F. Children eligible for FSM are not a protected characteristic in the EA2010 and so I have not taken that concern any further. However, I have considered and made determinations earlier on the reasonableness and fairness of the arrangements in respect of this group, taking into account the points of concern raised by Objector 2.

435. I have read the EIA completed by the LA for the Cabinet meeting on 25 February 2025.

I.i. Indirect discrimination is caused to:

- a. female parents; and
- b. disabled children

by being offered a school place much further than their local school.

436. These concerns relate to the Arrangements as a whole and relate to any of the six community schools.

437. Objector 5 asserts about matters a. and b. that:

“I believe the Admissions Arrangements have strong potential for being unlawfully (indirectly) discriminatory on the grounds on sex and disability. For families of displaced children, the additional work of getting children to school over longer distances is more likely to fall to women, who are also more likely to be the ones to cut their hours at work to accommodate this (this would be the reality in our home given I am the higher wage earner). The logistical and emotional difficulties of being part of the displaced cohort may impact those with disabilities (which may intersect with children with children with special education needs) more acutely. I have not seen a credible case from B&H that shows that these indirect impacts can be proportionately justified. I have not seen any evidence of B&H’s adequate compliance with the public sector equality duty particularly in relation to grappling with these issues, and therefore I also believe they are in breach of this duty in terms of setting the Admission Arrangements.”

438. The LA responded:

“The council compiled a comprehensive EIA which was appended to the Council Report and so was available to Members when determining the proposals. The EIA did not identify any disadvantage in relation to gender identity or sex (page 113 Council Report) but did in relation to disabled children (pages 109-112).

No corroborating evidence was provided about the broad accusation that indirect discrimination will occur to female parents.

Section 6.2 of the EIA to the Council Report (page 111) sets out the adjustments which could be made for disabled children who might not be offered a place at a catchment school. These included:

- (i) making an application under Criterion 2 (compelling or exceptional reasons) which affords protection for children requiring a specific school placement,
- (ii) submitting an appeal to an Independent Appeal Panel, and
- (iii) applying for travel assistance from the Council where appropriate. The council's travel policy provides for a pupil's circumstances to be taken into account when they require assistance with travel. This may include the impact of distance travelled."

439. I will now consider the concerns about indirect discrimination under I.i. in turn. Both I.i.a. and I.i.b. refer to the disadvantage to female parents and disabled children displaced by the changes to the Arrangements being in respect of school transport. It is the LA's duty to provide transport to school as set out in the Education Act 1996. I have already noted that the LA has put into place a school transport review to consider how transport will be provided for children in the city from 2026/27. I reiterate here that school transport is a matter for LA transport policy which is outwith our jurisdiction and any concerns about this policy ought to have been raised through the LA's procedures.

I.i.a. Indirect discrimination is caused to female parents by being offered a school place much further than their local school.

440. The LA did not identify any issues in respect of female parents in its EIA.

441. Objector 5 further added, subsequent to the LA's response to the original objections:

"The fact that women in our society bear a greater burden for childcare is either self-evident or a readily ascertainable conclusion as a result of a simple google search. I note that this principle (i.e. the "childcare burden fact") has been a matter accepted by Courts since: Dobson v North Cumbria Integrated Care NHS Foundation Trust. This case established the fact that women disproportionately bear the primary burden of childcare as a matter of judicial notice, meaning courts can accept it as established without requiring specific evidence in every case. I would also argue that it is also self-evident that a policy that causes a more difficult home to school journey where one parent is likely going to need to accompany or drive a child to school is going to have the most significant impact on the person in any family home who bears the brunt of childcare. The childcare burden fact means that it therefore must be accepted by the Council that more women will be impacted by this. As set out in my original complaint, if this happens in our household, the additional work of getting our children to school over longer distances is more likely to fall to my wife, who would need to reduce her working hours, given I am the higher wage earner. The childcare burden fact is sufficient to accept that this pattern will be statistically more likely in other families as well.

The fact that the Council failed initially to even consider this fact in their EIA, and then, surprisingly, even when prompted by my complaint shows clear breach of PSED. It is for the Council to show how their policy can be objectively justified in view of its likely impact on women, which they have failed to do.”

442. As set out above, Section 19 (1) of the EA2010 reads:

“A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.”

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.”

443. In this context, ‘A’ is the LA and ‘B’ is a female parent of a displaced child. The ‘Bs’ are therefore all female parents of displaced children.

444. In relation to the stages of the analysis required by s.19(2)(a)-(c), the Objectors do or have to say that (a) the displacement caused by the changes to the Arrangements applies equally to all applicants; (b) that it would put the female parents of displaced children at a particular disadvantage when compared with male parents of such children, because female parents would disproportionately bear the burden of having to transport the displaced children further to school; and (c) the displacement caused by the Arrangements would put a greater proportion of female parents than male parents at that disadvantage.

445. I accept for the purpose of this determination that as a consequence of the Arrangements some children, albeit a small number, will attend schools further from their home. I also accept for this purpose that where this leads to greater difficulty in transporting children to school the burden of providing that transport will fall disproportionately on women compared to men.

446. However, I do not find there to be indirect discrimination to the ‘Bs’ in this context. I have found already that the levels of displacement that will result from the implementation of the changes to the Arrangements are not likely to be as high as the Objectors have asserted. The Objectors have made a broad assertion that female parents will be disadvantaged, which I have not found through my consideration of the case. I do not find that any more than a very small proportion of that protected characteristic would be disadvantaged by the Arrangements. I find that there are female parents who will be

advantaged by the changes to the Arrangements, through the higher priority afforded to children eligible for FSM and through the OAP criterion.

447. In any event, it is likely that, had I found there to be the disadvantage the Objectors assert, I would have gone on to find under s.19(2)(d) that any disadvantage would be justified as a proportionate means of achieving a legitimate aim, for the reasons that follow (applying the four stage objective justification test).

448. First, in respect of whether the objective of the measure (the rationale of the arrangements) is sufficiently important to justify the limitation of a protected right, I find that the rationale of the Arrangements is an important policy decision and that the limitation of the protected right is minimal. I find that this leg of the test is met.

449. Secondly, whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective. No less intrusive measure has been proposed by the Objectors. It may be that the Objectors consider that reversion to the former admission arrangements would be less intrusive. However, I find that any oversubscription criteria, when applied because schools are oversubscribed, would lead to some children attending more distant schools so leading to a greater burden which would fall disproportionately on women. Hence, broadly, any oversubscription criteria would be as likely to have this effect as any other oversubscription criteria. I find that this leg of the test is also met.

450. Whether, balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective, the former outweighs the latter. As I have found above the severity of the effect of the changes to the Arrangements is not high. It will not affect a great number of families and it will not affect a greater number of families than any other arrangements. I find that the Arrangements are an important policy of the LA, and that such importance substantially outweighs any severity in the effect of the changes of the Arrangements.

451. I find that any discriminatory effect of the Arrangements on the ground of sex is justified as a proportionate means of achieving a legitimate aim.

452. The objector asserts that the LA did not properly consider this issue in breach of its public sector equality duty (PSED). The LA conducted a detailed and thorough EIA. That EIA did not specifically consider this issue. I do not find that it was necessary to consider every possible outcome and, as I have found, the Arrangements will not lead to widespread disadvantage in this respect and no greater disadvantage than would arise from the application of any other oversubscription criteria, albeit to different individuals. Consequently, I do not find that the LA is in breach of the PSED or that in not considering this specific point it is unable to justify the Arrangements.

I.i.b. Indirect discrimination is caused to disabled children by being offered a school place much further than their local school.

453. In respect of this concern, 'A' is the LA and 'B' is a disabled child without an EHCP who would be displaced by the changes to the Arrangements. The 'Bs' are therefore all displaced disabled children .

454. In relation to the stages of the analysis required by s.19(2)(a)-(c), the Objectors do or have to say that (a) the displacement caused by the changes to the Arrangements applies equally to all applicants; (b) that it would put those disabled children who would be displaced at a particular disadvantage when compared with other applicants, because disabled children would not be able to be transferred to secondary school with their peers or trusted adults and because they would have to take longer journeys to school; and (c) the displacement caused by the Arrangements would put all disabled children at that disadvantage.

455. The LA's EIA found that its analysis of the changes to the Arrangements indicated a disproportionate impact relating to disability. The EIA recorded that the disproportionate impact would be only in the following areas:

"being able to be placed with a friendship group or trusted and recognised adults. Or where journeys to secondary school are longer and/or undertaken using public transport."

And that the following mitigations would be in place:

"The EHCP process identifies when a child's SEND requires additional support determined within the content of a statutory document.

Criteria 2 of the admission arrangements allows for priority to be applied where there is supporting evidence to indicate that a child must attend a school because of compelling or exceptional reasons.

After the allocation of a school place, the appeal process, overseen by an independent panel, can examine the reasons as to why a child should be considered for a place at an alternative school and this can be agreed outside of the published arrangements.

The Council has responsibility to ensure pupils receive travel assistance when their needs determine it, in line with statutory guidance and the Council's own home to school transport policy.

All schools are expected to be accessible to all pupils, including those with SEND in line with duties under the Equality Act.

Outside of criteria 2 (which allows the consideration of individual circumstances) the School Admission Code does not allow for consideration to be taken of friendship groups, pupil or parent needs or family logistics in the school admission process.

As per the current arrangements, it is possible that a child with additional needs does not gain a place at a school of preference / at a catchment area school. As above, all

community schools in the city are able to support a range of child's needs and so if children do have to attend a school which is not the school of parental preference, they will receive the necessary support."

456. I do not find there to be indirect discrimination to the 'Bs' in this context. I have found already that the levels of displacement that will result from the implementation of the changes to Arrangements are not likely to be as high as the Objectors have asserted. The Objectors have made a broad assertion that disabled children will be disadvantaged, which I have not found through my consideration of the case. The Objectors have provided no evidence or data which would prove any greater disadvantage to children who share this protected characteristic in the city. Some disabled children may be disadvantaged under the Arrangements and it might be the case that they may have longer journeys to school. However, there is no evidence that this would impact disproportionately on disabled children compared to any other children. I find that it is likely that there will be advantage to some disabled children, through the higher priority afforded to children eligible for FSM and through the OAP criterion. Additionally, oversubscription criterion 2 provides a higher priority for admission, and is a criterion under which parents of disabled children could apply.

457. In any event, it is likely that, had I found there to be the disadvantage the Objectors assert, I would have gone on to find under s.19(2)(d) that any disadvantage would be justified as a proportionate means of achieving a legitimate aim for much the same reasons as are set out above. My findings throughout this determination set out that the changes to the Arrangements constitute a legitimate aim.

I.ii Indirect discrimination is caused to specific racial groups by the change to the boundary of CA-D and CA-F.

458. This concern relates specifically to CA-F.

459. Objector 2 asserts that:

"We believe that this catchment area change, which reduces choice of secondary schools for children in Kemptown by moving them from a dual school catchment area to a single school catchment area, indirectly discriminates against Global Majority and EAL pupils at our school without reasonable justification. The catchment change moves one group of predominantly white British pupils from Whitehawk into a dual school catchment area, while moving a group of ethnically diverse pupils from Kemptown into a single school catchment area in their place."

and

"We believe the proposed admission changes are indirectly discriminatory, as they disproportionately impact Global Majority and English as an Additional Language families who have built strong, supportive communities within Queen's Park Primary School. Many carers—often women with limited English—rely on these trusted networks to navigate daily challenges and support their children's education. Forcing

children to move risks breaking these vital connections by placing them in a receiving school that is not a school of choice for over 95% of Queen's Park Primary families [see paragraph 2.4, below]. This not only undermines parental agency but also creates additional barriers to inclusion and achievement. Furthermore, the receiving school and local authority appear unprepared to meet the increased demand for targeted support services like EMAS, compounding disadvantage for affected children.

Research indicates that relocating non-white children into predominantly white schools can lead to adverse outcomes for these students. In such environments, minority pupils often experience isolation and a lack of culturally responsive support, which can negatively impact their educational attainment and well-being. A House of Commons Education and Skills Committee report highlighted that minority ethnic pupils in mainly white schools may feel isolated, and teachers may lack experience working with pupils from diverse backgrounds [...].

Additionally, underrepresentation of Black, Asian, and Minority Ethnic (BAME) teachers—46% of English schools have no BAME teachers—can deprive minority pupils of relatable role models, affecting their aspirations and sense of belonging [...]

Furthermore, schools with limited diversity may struggle to provide adequate cultural development, as noted in an Ofsted report where a school's lack of firsthand experience with the diverse makeup of modern British society impacted pupils' cultural development. These factors underscore the importance of considering the cultural and emotional needs of non-white children when making decisions about school placements [...]"

460. I note from the LA's website that:

"Brighton & Hove is continuing in becoming a more ethnically diverse city. While the overall number of residents has only increased by 1% between the last census the number of Black and Racially Minoritised residents has increased by 35% or 18,921 people.

More than a quarter of residents (26%, 72,272 people) are Black and Racially Minoritised under the definition used by Brighton and Hove City Council, which is, all ethnic groups apart from White British.

The proportion of Black and Racially Minoritised residents in Brighton and Hove (26%) is significantly higher than seen in the South East (21%) but similar to what is seen in England (26%).

More than a quarter (27%, 21,775 households) of multi person households in the city are multi ethnic households. This is significantly higher than in the South East (16%) and England (15%) and the highest in England outside of London"

461. The LA's EIA, produced for the Cabinet meeting on 27 February 2025, stated that 32.2 per cent of children in the city are recorded as being from an ethnic group other than White British (or refused or not known). The percentage of children with English as an Additional Language (EAL) was recorded to be 16.4 per cent.

462. The EIA form recorded the LA's assessment in respect of race:

"The common application form [CAF] does not ask any questions on a child's ethnicity, race or ethnic heritage. The school census in January 2024 (we await data for 2025) highlighted that 31.8% of the primary phase were categorised using DfE terminology as BAME. In secondary schools the percentage was 30.4%.

The primary schools with the highest levels of BAME pupils were: St Mary Magdalen's, St Paul's, Queen's Park, St John the Baptist and West Blatchington. The lowest percentage were at Mile Oak, St Nicolas, Rudyard Kipling, Patcham Infant and Peter Gladwin schools.

The highest proportion in secondary schools were at: Blatchington Mill, CNCS and Hove Park. The lowest being at Patcham High, PACA and Longhill.

The admission criteria do not prioritise places in accordance with these characteristics. From information gathered about pupils attending primary schools it would be possible to determine the context of a secondary school's catchment area but as parents are not compelled to apply for their catchment area school any examination of a possible outcome is difficult to achieve.

In relation to children from minority ethnic backgrounds the responses to the consultation commenting upon this suggests that the council should consider the mix of pupils in areas of the city and how any change to the proportion of pupils attending a secondary school may affect pupil's sense of belonging and academic performance.

Where there are catchment areas served by one school with a greater proportion of children and families from different ethnic groups the proposed arrangements will provide them with a greater opportunity than they would have previously had to attend a school outside of their catchment area. Where those from different ethnic groups are in two school catchment areas if they are not eligible under Criteria 1-6 they will be negatively affected by the implementation of the proposals due to greater priority being available to others if seeking a school in their local catchment area.

Random allocation is used as a tie-break and therefore takes no account of ethnicity or other protected characteristics.

In January 2024, a total of 1363 pupils entitled to FSM had English as an additional language and they have an opportunity to be prioritised for a school place above other groups and therefore can be considered to have a greater priority under the proposed arrangements than currently."

463. About this concern, the LA responded:

“Objection 2 [...] sets out the belief that the catchment area change indirectly discriminates against Black, Global Majority and EAL pupils at Queen’s Park Primary School by moving them from a dual school catchment into a single school catchment area without reasonable justification.

Indirect discrimination occurs when a policy or practice, though equally applied to all applicants, disproportionately disadvantages a particular racial group, unless it can be objectively justified. Indirect discrimination is not always unlawful and can be justified on the basis that it is a proportionate means of achieving a legitimate aim.

The legitimate aim of the new school admissions arrangements was to address both the demographic challenge of falling pupil numbers in the city and the long standing issue of educational inequality in the city due to the configuration of secondary school catchment areas. The council considered that adjusting catchment areas in certain parts of the city was a proportionate measure to assist in achieving these aims, would manage oversubscription fairly and continue to ensure access to local education for children in the catchment area.

[...] the impact of the proposal to adjust the catchment areas was fully and carefully considered in the [...] EIA. It specifically considered the potential impact on race at section 6.3 of the assessment (pages 112-113 of the Council Report). As noted in that assessment whilst it is possible to gather information about the ethnicity, race or ethnic heritage of primary school pupils it is difficult to provide more than a projection of outcome for a secondary school as parents are not compelled to express a preference for their catchment school.

Children affected by this boundary change will have moved from a dual school catchment area into a single school catchment area. As such they will have increased opportunities available to them to either attend their catchment school or to apply for a place at a dual school catchment area school under the new open admissions [criterion].

The council believes that all secondary schools in the city are well equipped to meet the varying needs of all their pupils. Schools are able to buy in to specialist council services where they believe this would be helpful to address particular issues relating to their pupil population.”

464. For the sake of my analysis, I am prepared to assume that ‘Black’, ‘Global Majority’, and ‘EAL children’ identified by Objector 2 who attend Queen’s Park Primary School and who reside in the area of the city which has been transferred to CA-F in 2026/27, constitute the ‘Bs’. I shall refer to this group as the ‘racial group’.

465. In relation to the stages of the analysis required by s.19(2)(a)-(c), the Objectors do or have to say that (a) the displacement caused by the changes to the Arrangements applies equally to all applicants; (b) that it would put children from the racial group who would be

displaced at a particular disadvantage when compared with other applicants, because those from the racial group have been placed into the catchment area for an underperforming school which could not cope with their specific needs; and (c) the displacement caused by the Arrangements would put a disproportionate percentage of children from that racial group at that disadvantage as compared to white British children.

466. I do not find there to be indirect discrimination to the 'Bs' in this context. I have found already that the levels of displacement that will result from the implementation of the changes to Arrangements are not likely to be as high as the Objectors have asserted. This significantly minimises the argument that this is an issue that affects those in any particular racial group to a greater extent than it effects members of any comparator group. The Objectors have made a broad assertion that all in the racial group will be disadvantaged, but have not provided evidence or data which would establish a disproportionate impact on children who share this protected characteristic in the city. The higher priority for children eligible for FSM and under the OAP criterion provide examples of how the changes to the Arrangements can advantage those in such racial group or groups. I have also found that the Objectors have misunderstood the priority that should be given to catchment areas, which ought to be seen more as 'priority admission areas' than catchment areas in their historical usage. The change from CA-D to CA-F does not, therefore, have the scale of disadvantage that Objectors have asserted. In the EIA, the LA has listed factors which it says will mitigate disadvantage to those from the racial group. Whilst some children in the racial group may be disadvantaged under the Arrangements, there is no evidence that this would impact disproportionately on children in the racial group or groups.

467. In any event, it is likely that, had I found there to be the disadvantage the Objectors assert, I would have gone on to find under s.19(2)(d) that any disadvantage would be justified as a proportionate means of achieving a legitimate aim for much the same reasons as are set out above. My findings throughout this determination set out that the changes to the Arrangements constitute a legitimate aim.

Summary

468. For 2026/27, the LA have made a number of changes to the Arrangements, including:

- Changes to the oversubscription criteria:
 - 4 – the 'city average' percentage of children eligible for FSM has been applied to the criterion.
 - 5 – the 'city average' percentage of children eligible for FSM has been set at 30 per cent and is no longer dynamically linked to the percentage of children with FSM in Year 6.
 - 6 – the LA has introduced this priority (to prioritise five percent of places at community secondary schools for children living outside a school's catchment area and in a different catchment area within the city where that catchment

area has only one school). This is referred to as the 'open admission priority' (OAP). This has the effect of lowering the priority for those in catchment (previously oversubscription criterion 6 in the 2025/26 arrangements and oversubscription criterion 7 in the Arrangements).

- Alterations to two catchment areas (CA-D and CA-F), to:
 - Move the Whitehawk area from CA-F into CA-D.
 - Move the Kemptown and Bristol Estate areas from CA-D to CA-F.
- Reducing the PANs at the following schools:
 - Blatchington Mill School (from 330 to 300).
 - Dorothy Stringer School (from 330 to 300).
 - Longhill High School (from 270 to 210).

469. The Objectors raised concerns that the consultation on these changes did not confirm to the Gunning Principles and that many of the changes to the Arrangements will cause disadvantage and will be unreasonable, unfair and indirectly discriminatory.

470. I find that the consultation process met the requirements as set out in the Code and the four Gunning Principles.

471. In considering the concerns about the changes to the Arrangements, I did not find the Arrangements to be unreasonable. Neither did I find there to be any unfairness or that that the Arrangements would be indirectly discriminatory to female parents and disabled children who would be displaced or to the identified racial group in CA-F.

472. I find the reduction in the PANs at Blatchington Mill and Dorothy Stringer Schools to be premature. The LA's data show a continuing demand for places in 2026/27 which would be round the same level as the 2025/26 PANs for both schools. My analysis of the data provided by the LA also showed that other changes to the Arrangements would be likely to increase the demand for places, particularly in CA-D. Whilst reducing the PANs at these two schools appears to be needed in the longer term, doing so in 2026/27 is premature in that it the practice operation of the Arrangements in those two schools is likely to frustrate parental preference.

473. I, therefore, partially uphold the objections.

Determination

474. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2026 determined by Brighton and Hove City Council.

475. I determine that the PANs at both Blatchington Mill and Dorothy Stringer Schools will be 330 in 2026/27. 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised as quickly as possible and, in any event, by 31 October 2025, which is the closing date for secondary school place applications for 2026 admissions.

Dated: 20 October 2025

Signed:

Schools Adjudicator: Dr Robert Cawley