



Office of
the Schools
Adjudicator

Determination

Case references: ADA4622, ADA4631, ADA4633 & REF4730

Objectors: multiple objectors

Referrer: a parent

Admission Authority: Brighton and Hove City Council

Date of determination: 19 October 2026

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection(s) to the admission arrangements for September 2027 determined by Brighton and Hove City Council.

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 this determination unless an alternative timescale is specified by the schools adjudicator. In this case, I determine that the arrangements must be revised as quickly as possible and, in any event, by 31 October 2026, which is the closing date for secondary school place applications for 2027 admissions.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), objections have been referred to the adjudicator by multiple objectors about the admission arrangements (the Arrangements) for September 2027 determined for community secondary schools by Brighton and Hove City Council (the Local Authority).

2. Table 1 below sets out the case reference numbers, the date each objection was submitted, the reference for each objection in this determination, and a summary of the objection.

Table 1: Information about the objections received

Case reference number and date objection submitted	Reference in this determination	Objection summary
ADA4622 (25 April 2026)	Objector/Objection 1	• The sibling criterion (the sibling criterion or criterion 3) in the Arrangements is unreasonable, leads to procedural unfairness and/or indirect disadvantage (especially to those receiving Free School Meals (FSM)). • As no restrictions are placed on the number of siblings to be admitted under criterion 3, it circumvents the five per cent out of catchment cap in criterion 6 of the Arrangements (the open admission criterion or criterion 6) for children resident in the Brighton Aldridge Community Academy (BACA), Portslade Aldridge Community Academy (PACA), Patcham High School, and Longhill High School single school catchments. This is because siblings of out of catchment pupils enter above in priority via the sibling criterion. • The Arrangements do not make clear that criterion 3 lifts the out of catchment entry of children above the five per cent cap in the open admission criterion. • The failure of the Local Authority to disclose modelling in relation to the impact of criterion 3 contributes to the lack of clarity in the Arrangements.
ADA4631 (12 May 2026)	Objector/Objection 2	• The sibling criterion in the Arrangements is unfair and unreasonable as it: - undermines the catchment system; - disadvantages unfairly in catchment FSM children; and - creates double disadvantage for children living in the Dorothy Stringer and Varndean catchment area (CA-D on Map 1 below). • The Arrangements are unclear and difficult for

Case reference number and date objection submitted	Reference in this determination	Objection summary
		parents to understand. • The Arrangements contradict Council policy. • The Arrangements are unclear as they do not clarify: - whether the FSM criterion is open to all FSM eligible children (Targeted and Expanded) or just Targeted; or - how the “30% city-wide average” figure is calculated.
ADA4633 (10 May 2026)	Objector/Objection 3	• The provisions relating to Waiting lists in the Arrangements do not comply with the Code as: i. the automatic withdrawal of a previous offer when a reallocation pool place is offered does not fall within the permitted grounds for withdrawal of an offer or place set out in paragraph 2.13 of the Code; ii. after a child has started school, paragraph 2.14 of the Code prohibits withdrawal of children entirely; and iii. the requirement for parents to opt-in to waiting lists is incompatible with paragraph 2.15 of the Code. • The Admission Authority is currently publishing two conflicting versions of the reallocation pool arrangements on its website, which is unclear for parents and therefore the Arrangements do not comply with paragraph 14 of the Code. • The Admission Authority does not appear to have published, by the 15 March deadline, information on how to refer objections to the Office of the Schools’ Adjudicator (OSA) in respect of the Arrangements, as the Code requires.

Case reference number and date objection submitted	Reference in this determination	Objection summary
		• Parents cannot easily read and understand the Arrangements in relation to FSM eligibility as currently published. • The Arrangements are unclear as Note (c) of the Arrangements refers to a sibling link applying “if the sibling will be attending in September 2026.” This implies that a sibling link only applies where a sibling attended a full year before. The note then goes on to say that a sibling link should only be “taken into account if children live at the same main address and the sibling has already been allocated a place at the school.”
REF4730 (4 June 2026)	Referrer/Referral	• Criterion 6 of the Arrangements is unfair as children who live in the Dorothy Stringer/Varndean catchment area are excluded from applying for a place at Patcham High School under criterion 6. • This creates unfairness as displaced pupils living in the Dorothy Stringer/Varndean catchment area are then given low priority in applying for a place at Patcham High School even though this would be the next closest school.

3. For reasons that are explained in the ‘Jurisdiction’ section, the objection raised by the Referrer cannot be treated as an objection. The objector will therefore be called the ‘Referrer’ and the objection will be the ‘Referral’ in this determination.

4. The Local Authority is a party to this objection. Other parties to the objection are Objector 1, Objector 2 and Objector 3 (collectively the Objectors) and the Referrer.

5. The Objectors and the Referrer are concerned that the Arrangements do not comply with the School Admissions Code (the Code). The objections primarily concern whether:

- a. the extension of the sibling criterion in the Arrangements (criterion 3) to all applicants, regardless of catchment area residence is reasonable, fair and objectively justified for the purposes of the Code;
- b. criterion 3 subverts the five per cent cap on open admissions in criterion 6;

- c. the interaction between criterion 3 and criterion 6 in the Arrangements is sufficiently clear to parents and therefore complies with the Code;
- d. the Arrangements unfairly disadvantage catchment children, particularly children resident in the Dorothy Stringer/Varndean (CA-D on Map 1 below) and the Patcham High School (CA-C on Map 1 below) catchment areas and children eligible for FSM contrary to the Code;
- e. the Arrangements continue to operate with reasonable catchment areas for the purposes of the Code;
- f. the waiting-list and re-allocation pool provisions comply with the Code; and
- g. the Admission Authority has complied with the Code in relation to the publication of information concerning the Arrangements and objections to the OSA.

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

Jurisdiction

7. The Arrangements were determined on the 29 January 2026 under section 88C of the Act by the Local Authority, which is the admission authority for community secondary schools in its area.

8. A consultation period took place prior to the determination of the Arrangements between 14 November 2025 and 9 January 2026.

9. The Objectors and the Referrer 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.

10. I am satisfied that Objections 1, 2 and 3 have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

11. In terms of the Referral, I have concluded that I do not have jurisdiction to consider this under section 88H(4) of the Act. This is because the objection was sent to the OSA after the statutory deadline for making objections which was 15 May 2026. However, as the objection raises similar issues to the other objections, I have decided to exercise my

discretion to consider the matters raised under section 88I(5) of the Act and will treat the objection as a referral.

Matters outside my jurisdiction

12. In respect of the Referral, the Referrer has raised a concern that the Local Authority has changed its approach to how historic school admission data is provided for all maintained schools in its area. I will not be considering this matter. This is because my jurisdiction under section 88I(5) relates purely to the content of the Arrangements and does not extend beyond that.

13. For the reasons outlined in the final section of this determination, I have also concluded that the other matters raised by the Referrer are the same as, or substantially the same as, matters determined by the adjudicator in the 2025 determination. It therefore constitutes an objection proscribed by Regulation 22 of the School Admissions (Admission Arrangements and Coordination of Admission Arrangements) (England) Regulations 2012 and paragraph 3.3(e) of the Code. Accordingly, it is outside of my jurisdiction.

14. Objector 1 has requested that I “require the admission authority to redraft the sibling link so that the 5% cap is not circumvented” and suggested two drafting options. My role is to consider whether the Arrangements are compliant with the Code. If I find that there are breaches of the Code then the Local Authority is required to change the Arrangements, however I cannot direct them to change it in any particular way. It is for them to set the Arrangements whilst of course ensuring that any revised arrangements are amended such that they comply with the provisions of the Code.

15. 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 Local 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.

16. As part of my deliberations, I have read the previous adjudicator’s findings in the determination dated 20 October 2025 (case references ADA4423, ADA4452 to ADA4454, ADA4456 and ADA4458) (the 2025 determination). The determination for these cases can be found on the OSA website. A number of the Objectors, the Referrer and the Local Authority have referred to this previous determination. It is important to note that although previous determinations by other schools adjudicators may be relevant and informative, they do not set precedents on future cases.

17. Under section 88K(2) of the School Standards and Framework Act, a determination is binding on the admission authority, which is required to revise its admission arrangements

where there is any non-compliance with the Code. That is 'binding' in the context of the specific case under consideration – the admission authority must comply. However, this is not then 'binding' as a precedent on future cases. There is no doctrine of 'stare decisis' ('to stand by things decided') in adjudicator determinations and I have, therefore, considered the Arrangements in accordance with the requirements set out in legislation and the Code and in the light of the facts and circumstances as they are now.

18. My jurisdiction is solely for the determined Arrangements only, that is the Arrangements for entry in September 2027. I will therefore only be considering the matters raised by Objector 1 in respect of the potential impact for future admission years, as they are relevant to my deliberations relating to the reasonableness and fairness of the Arrangements. The Local Authority will need to keep any future impact under review when determining future admission arrangements. Reference is made to previous arrangements where necessary to provide context or background to the Arrangements.

The consultation

19. I have not sought to determine whether the consultation process was conducted appropriately or whether consultees were provided with sufficient information to enable them to respond to the proposals. Those matters fall outside the scope of this determination.

20. Nonetheless, I have taken account of Objector 1's submissions that insufficient evidence about the likely effect of the extension of the sibling criterion was provided as part of the consultation or considered by the Local Authority in so far as they relate to the reasonableness, fairness and clarity of the Arrangements themselves and I will consider this below.

21. As part of my enquiries into the Objections, I have fully reviewed the consultation process for the purposes of ensuring that I have all the relevant facts when considering the matters before me that are within my jurisdiction.

22. Admission authorities are required to determine their admission arrangements annually. Where changes such as a decrease in the published admission number (PAN) are proposed the admission authority must first publicly consult on those proposed arrangements. The Code sets out those groups and individuals who must be consulted. These include parents of children between the ages of two and eighteen, other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admission arrangements, all other admission authorities such as governing bodies within the relevant area and any adjoining local authorities.

23. The obligations set out in the Code in respect of consulting on admission arrangements are for the admission authority to: consult on a copy of the proposed arrangements (as set out under paragraph 1.45 of the Code), within the required consultation

window (as set out under paragraph 1.46 of the Code, 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).

24. The Arrangements were changed for September 2027 in relation to the six community secondary schools by applying the sibling criterion regardless of the catchment area where families live and by changing the way that waiting lists (which the Local Authority term as 'reallocation pools' in relation to the secondary schools) operate.

25. The consultation in relation to these changes was conducted between 14 November 2025 and the 9 January 2026, a period of eight weeks with the Local Authority taking into account the Christmas and New Year holiday period.

Procedure

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

27. The information I have considered in reaching my decision includes:

- the Objectors' and Referrer's forms of objection and accompanying documentation and data;
- a copy of the documentation and minutes from meetings of the Local Authority's Cabinet at which the consultation for the Arrangements was decided and the Arrangements were finally determined;
- a copy of the determined Arrangements;
- the consultation materials and recordings of the consultation meetings;
- the additional contributions from the Objectors and the Referrer throughout the information gathering stage, along with any supporting documents;
- the response of the Local Authority to the Objections and the Referral, along with supporting documents;
- copies of previous determinations by the OSA;
- the Local Authority's online composite prospectus for admissions to secondary schools;
- Google Maps and Open Street Maps; and

- information available on the websites of the Local Authority, relevant schools in the area, Ofsted, 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).

28. I have been provided with a substantial amount of information/data by the Objectors, the Referrer and the Local Authority. While I have considered all of this material in reaching my determination, I have referred only to that which has a bearing on my determination.

Background

29. 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. The Local Authority 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).

Local context

30. According to GIAS, there are 10 secondary schools in the Local Authority area. All schools are mixed gender (co-educational) and non-selective. Table 2 lists the schools with their characteristics.

Table 2: Secondary schools in the Local Authority area

School name (number on Map 1)	Type of School	PAN September 2026 (2027)	Religious character	OFSTED
PACA (1)	Academy	220(220)	No	Good
Blatchington Mill School (2)	Community	330(330)	No	Good
Hove Park School (3&4)*	Community	180(180)	No	Good
King’s School (5)	Free School	180(180)	Church of England	Good
Cardinal Newman	Voluntary aided	360(360)	Roman Catholic	Outstanding

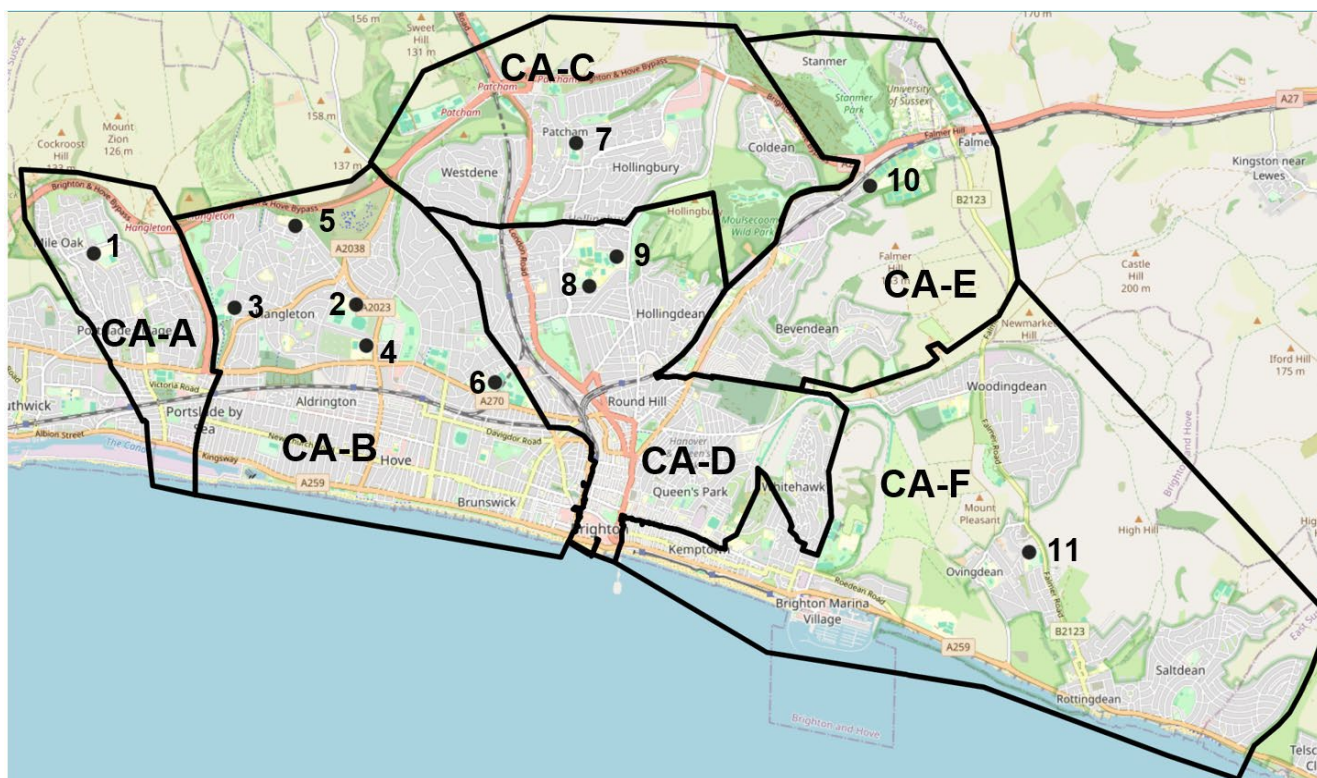
School name (number on Map 1)	Type of School	PAN September 2026 (2027)	Religious character	OFSTED
Catholic School (6)				
Patcham High School (7)	Community	225(225)	No	Good
Dorothy Stringer School (8)	Community	330(330)	No	Good
Varndean School (9)	Community	300(300)	No	Good
BACA (10)	Academy	180(180)	No	Good
Longhill High School (11)	Community	210(210)	No	Requires Improvement

* Currently on two sites - Valley Campus (3) is due to close with consolidation onto the Neville Campus (4)

31. In the Local Authority area in both the academic years 2026-2027 and 2027-2028, there are 2,515 places available in the 10 secondary schools. The Local Authority uses a catchment area system for the six community schools. In addition, both BACA and PACA also use catchment areas as defined by the Local Authority. Cardinal Newman Catholic School and King's School do not use catchment areas.

32. Map 1 shows the location of each school and also identifies the relevant catchment area (CA-A to CA-F) for the eight secondary schools in the Local Authority area that use catchment areas. Four schools (PACA, Patcham High School, BACA and Longhill High School) serve single school catchment areas (CA-A, CA-C, CA-E and CA-F (the single school catchment areas)). There are two dual catchment areas (CA-B and CA-D (the dual catchment areas)), where there is more than one community school in the catchment area.

Map 1: Catchment areas and location of secondary schools in the Local Authority area



33. The objections relate to the six community schools only. PACA, the King's School, Cardinal Newman Catholic School and BACA have their own separate admission arrangements for September 2027.

34. As part of my preliminary information requests, I asked the Local Authority to provide data showing, the PAN, numbers admitted (actual or forecast) and any surplus for the years 2023/24 to 2028/29 at all the schools. In response, the Local Authority provided actual and forecast numbers.

35. The Local Authority advised that for the purposes of the response it had taken its planning area assumptions for 2027/28 and 2028/29. In dual school catchment areas, the Local Authority also included a forecast for each individual school taking into account the previous year's allocation numbers both from within and outside of the catchment area, alongside each school's respective popularity as impacted by current parental preference. This is comprised in Table 3 below.

Table 3: Secondary schools in the Local Authority area with numbers admitted to Year 7 or forecast to be admitted 2023/24 to 2028/29

School name	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
PACA						
PAN	220	220	220	220	220	220
Numbers admitted or forecasted	214	173	201	191	178	194
Surplus	6	47	19	29	42	26
Blatchington Mill School						
PAN	330	330	330	330	330	330
Numbers admitted or forecasted	328	326	324	330	330	300
Surplus	2	4	6	0	0	30
Hove Park School						
PAN	180	180	180	180	180	180
Numbers admitted or forecasted	178	150	188	129	108	90
Surplus	2	30	-8	51	72	90
King's School						
PAN	165	165	165	180	180	180
Numbers admitted or forecasted	181	180	180	181	180	180
Surplus	-16	-15	-15	-1	0	0
Cardinal Newman Catholic School						
PAN	360	360	360	360	360	360
Numbers admitted or forecasted	366	370	372	371	360	360
Surplus	-6	-10	-12	-11	0	0
Patcham High School						
PAN	225	225	225	225	225	225

School name	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
Numbers admitted or forecasted	213	224	188	204	222	200
Surplus	12	1	37	21	3	25
Dorothy Stringer School						
PAN	330	330	330	330	330	330
Numbers admitted or forecasted	329	330	330	331	330	323
Surplus	1	0	0	-1	0	7
Varndean School						
PAN	300	300	300	300	300	300
Numbers admitted or forecasted	297	297	302	304	300	300
Surplus	3	3	-2	-4	0	0
BACA						
PAN	180	180	180	180	180	180
Numbers admitted or forecasted	122	119	115	165	135	138
Surplus	58	61	65	15	45	42
Longhill High School						
PAN	270	270	210	210	210	210
Numbers admitted or forecasted	170	103	103	98	100	100
Surplus	100	167	107	112	110	110

36. As can be seen from Table 3, 1975 of the places available for admission in September 2027 are in the eight secondary schools which use catchment areas to determine priority for admission (being the six community secondary schools, BACA and PACA). There are 1,575 places available in the six community secondary schools alone.

37. As can also be seen from Table 3, a number of schools continue to be oversubscribed or operating at full capacity, while others have significant and growing surplus places. The

Local Authority is forecasting surplus places totalling 272 (11%) in 2027/28 rising to 330 (13%) in 2028/29. A large proportion of that surplus is at Longhill High School.

38. Some level of overcapacity is prudent, but too much may lead to financial difficulties for schools. A balance, therefore, needs to be struck by local authorities to ensure that they have enough capacity to satisfy their statutory duty to provide sufficient school places, but not too much as to lead to budget deficits in schools. 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. This helps to support parental choice, pupil population movement, and general manageability of the system.”

39. It is clear from Table 3 that there is not a shortage of places across the city as a whole, but an uneven distribution of demand between the schools. The Local Authority is only expecting three of the community schools to be oversubscribed in 2027 with additional spare capacity projected at both BACA and PACA.

40. I also asked the Local Authority to provide parental preference data for the schools for September 2026 and this is comprised in Table 4 below. From September 2026, parents may express a preference for up to four schools. The number in brackets shows the places offered at the school.

Table 4: Number of on time preferences received for each school for September 2026

School name	No. 1st Pref	No. 2nd Pref	No. 3rd Pref	No. 4th Pref	Total number
PACA	163 (163)	79 (19)	59 (1)	59 (0)	360 (183)
Blatchington Mill School	259 (244)	267 (61)	232 (23)	151 (2)	910 (330)
Hove Park School	103 (103)	171 (19)	206 (8)	249 (6)	729 (136)
King’s School	218 (163)	262 (16)	216 (1)	158 (0)	855* (180)
Cardinal Newman Catholic School	498 (352)	221 (8)	305 (0)	197 (0)	1221 (360)
Patcham High School	158 (158)	77 (23)	224 (17)	164 (6)	623 (204)
Dorothy Stringer School	301 (264)	412 (59)	238 (4)	144 (3)	1095 (330)
Varndean School	370 (274)	464 (23)	214 (3)	72 (0)	1120 (300)

School name	No. 1st Pref	No. 2nd Pref	No. 3rd Pref	No. 4th Pref	Total number
BACA	128 (128)	48 (9)	68 (6)	106 (3)	350 (146)
Longhill High School	72 (72)	31 (8)	30 (0)	18 (1)	151 (81)
Total	2270 (1921)	2032 (245)	1792 (63)	1318 (21)	2270 (1921)

41. This shows that 84.6% of pupils received their first preference school for the September 2026 allocation round. If we also include the number of applicants securing their second preference, this increases the number of applicants receiving either their first or second preference to 95.4% with the vast majority of families being matched to their preferred schools.

42. Strong parental preference is concentrated in a small number of schools, Cardinal Newman, Varndean, Dorothy Stringer, Blatchington Mill and King's School. These are the same schools that remain at or close to capacity in Table 3. As previously mentioned, Cardinal Newman and King's School have their own admission arrangements. In contrast, three schools: Longhill, Hove Park and BACA attract relatively few first preferences correlating to where surplus places are shown in Table 3.

43. For September 2026, parental preference meant that Varndean School had around 100 first preference applicants who were unable to secure their first preference school, Blatchington Mill had 15, and Dorothy Stringer had 30. The expectation of the Local Authority is that the schools will be oversubscribed again in 2027 by a similar number. However, the Local Authority advises that it is estimated that there are sufficient places at both Blatchington Mill School and Hove Park School to accommodate all pupils living in that dual school catchment area (CA-B). In the dual school catchment area for Dorothy Stringer and Varndean schools (CA-D), there are sufficient places to accommodate nearly all pupils.

The Arrangements

44. The Arrangements set out that children with education, health and care (EHC) plans will be admitted first. Then, in times when schools are oversubscribed, children will be prioritised according to the oversubscription criteria. These can be summarised as follows:

1. Looked after children and all previously looked after children, including those children who appear (to the Local Authority) 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.

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.

45. Random allocation is then used as the tie breaker in each admission criteria in the event of oversubscription.

46. The Local Authority has made various changes to the oversubscription criteria in the Arrangements over the last few years. These are relevant to my deliberations, and can be summarised as follows:

- a. **FSM criterion** – for children starting Secondary School in Year 7 in September 2025 onwards, new admission priorities were introduced by the Local Authority for the community schools for children eligible for FSM. This gave higher priority for children eligible for FSM and living within the school’s catchment area and for other children eligible for FSM, up to the city average (criterion 5 in the Arrangements).

This was further changed in September 2026 where the city average cap was also applied to children eligible for FSM and living within the school’s catchment area (criterion 4 in the Arrangements).

The city average is 30%. 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 school's PAN and subtracting the number of places offered to pupils eligible for free school meals under criteria 1,2,3 and 4.

- b. **Open admissions criterion** – for children starting secondary school in Year 7 in September 2026 onwards, the Local Authority introduced a new priority (criterion 6 in the Arrangements) to prioritise five percent of places for children living outside the school's catchment area but within one of the single school catchment areas. This is known as the 'open admission criterion.'

The open admission criterion was introduced to address a concern in the Local Authority that "young people in different areas have unequal options for accessing secondary education within the city." This is because some catchment areas in the area include only one community secondary school, while others have two, and one catchment area (CA-B) has two community schools as well as a Free School and Voluntary aided school.

This criterion is therefore for children living outside the school's catchment area but within the catchment area for BACA, PACA, Patcham or Longhill. This priority does not apply for pupils living in the Patcham catchment area applying for Patcham High School, or pupils living in the Longhill catchment area and applying for Longhill High School.

- c. In addition, the Local Authority altered two catchment areas (CA-D and CA-F).

47. The Local Authority has now made further changes to the Arrangements for September 2027 such that the criterion 3 has been extended to apply irrespective of catchment residence. Previously the sibling criterion only applied to siblings in the designated catchment area. This change is the principal subject of Objections 1 and 2. In addition, the provisions relating to Waiting lists in the Arrangements have also been changed. These changes are the subject of Objection 3.

Relevant paragraphs of the Code

48. The following paragraphs of the Code were cited by the Objectors/Referrer 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."

1.8 (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, [...]”

1.11: “Admission authorities must state clearly in their arrangements what they mean by ‘sibling’ (e.g. whether this includes step siblings, foster siblings, adopted siblings, and other children living permanently at the same address or siblings who are former pupils of the school). If an admission authority wishes to give some priority to siblings of former pupils, it must set out a clear and simple definition of such former pupils and how their siblings will be treated in the oversubscription criteria (bearing in mind the restrictions set out in paragraph 1.9 above).”

1.14 “Catchment areas must be designed so that they are reasonable and clearly defined. Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school.”

2.13: “An admission authority must not withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application. Where the parent has not responded to the offer, the admission authority must give the parent a further opportunity to respond and explain that the offer may be withdrawn if they do not. Where an offer is withdrawn on the basis of misleading information, the application must be considered afresh, and a right of appeal offered if an offer is refused.”

2.14: “A school must not withdraw a place once a child has started at the school, except where that place was fraudulently obtained. In deciding whether to withdraw the place, the length of time that the child has been at the school must be taken into account. For example, it might be considered appropriate to withdraw the place if the child has been at the school for less than one term.”

2.15: “Each admission authority must maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority must not be given to children based on the date their application was received, or their name was added to the list. Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol must take precedence over those on a waiting list.”

49. I have identified the following paragraphs of the Code which I believe are also relevant:

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.”

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.”

1.41: “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. Admission authorities should clearly define in their arrangements the categories of eligible premium recipients to be prioritised.”

1.50: “Once admission authorities have determined their admission arrangements, they must notify the appropriate bodies and **must** publish a copy of the determined arrangements on the school’s website or their own website (in the case of a local authority) by **15 March** in the determination year and continue displaying them for the whole offer year (the school year in which offers for places are made). Admission authorities **must** also send a copy of their full, determined arrangements to the local authority as soon as possible before **15 March** in the determination year. Admission authorities for schools designated with a religious character must also send a copy of their arrangements to the body or person representing their religion or religious denomination.”

“1.52: Local authorities **must** publish on their website..... information on how to refer objections to the Schools Adjudicator. Local authorities **must** publish these details by **15 March** in the determination year.”

Consideration of the Case

50. I now set out my consideration of the matters raised by the Objectors. Where I state that I uphold an aspect of the objections, that does not necessarily imply that I fully endorse the reasoning expressed by the Objectors, nor that the Objectors have necessarily correctly interpreted which Code provision applies. Rather, it means that I have found that the particular aspect of the Arrangements drawn to my attention by the Objectors does not conform with a requirement of the Code identified by me and is in breach of the Code for the reasons I have given.

51. The principal issue in Objections 1 and 2 is whether the expanded sibling criterion, operating without any numerical restriction and outside the five per cent open admission criterion cap, results in Arrangements that are unfair, unreasonable and/or causes disadvantage, particularly to those seeking a place at their catchment school and/or in receipt

of FSM and whether the Arrangements clearly and accurately explain how that priority will operate in practice.

52. In addition, Objector 2 alleges that the Arrangements are unclear, difficult for parents to understand and inconsistent with the Council's stated policy objectives. Concerns are also raised that the Arrangements do not clearly explain the operation of the FSM criterion. This includes whether it applies to all FSM eligible pupils or only those eligible for Targeted FSM and that the Arrangements do not explain how the "30% city-wide average" used within the criterion is calculated.

53. Objection 3 relates to various non-compliances in the Arrangements relating to Waiting lists. Objector 3 also contends that inconsistent and unclear information has been published by the Admission Authority, and that aspects of the Arrangements lack clarity for parents, particularly in relation to FSM eligibility and the operation of the sibling criterion. Objector 3 also raises concerns about the publication of information on the right to refer objections to the OSA.

54. The Referral is in connection with criterion 6 of the Arrangements, with the Referrer contending that criterion 6 is unfair because children living within the Dorothy Stringer and Varndean (CA-D) catchment area are unable to apply for places at Patcham High School under the open admission criterion. It is argued that this disadvantages pupils who are unable to secure a place at their catchment school, as they are subsequently afforded low priority for admission to Patcham High School despite it potentially being their nearest alternative school.

Reasonableness and fairness of the expanded sibling criterion

55. 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.

56. The purpose of admission arrangements, therefore, 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, to provide any guarantee of admission or detail how children will get to the school they are admitted to.

57. The Local Authority has made a policy decision to extend the sibling criterion beyond the catchment boundaries so that it applies city wide. In order to comply with the provisions of the Code that policy decision needs to be fair and reasonable.

58. Paragraphs 1.11 and 1.12 of the Code contemplate the ability of admission authorities to include a sibling criterion in its admission arrangements and previous arrangements have included such criterion but limited to those within the designated catchment area only.

59. In terms of the ‘mandatory’ requirements in the Code relating to a sibling criterion, that being, what the Local Authority **must** state or make clear in its Arrangements relating to a sibling criterion, other than the issue highlighted in the paragraph 160 below, no issues have been raised in respect of this by the Objectors.

60. In addition to the ‘mandatory’ requirements of the Code, admission arrangements being both “reasonable” and “fair,” in various respects, is a key feature of the Code. Objectors 1 and 2 argue that criterion 3 is both unreasonable, unfair and/or causes unfair disadvantage.

61. The key paragraph in the Code relating to a requirement for reasonableness in this matter is paragraph 1.8 as set out in paragraph 48 above.

62. As the Code requires that oversubscription criteria be ‘reasonable,’ I must consider whether or not the revised criterion 3 is reasonable. However, that does not mean that it must be a criterion that I would have chosen. There may be a range of reasonable criteria that could be selected by the Local Authority, or reasonable grounds for adopting a particular criterion. It is only if the criterion selected (or grounds adopted) fall outside that range that I should conclude that the requirements of the Code are not met.

63. The Code uses the term ‘reasonable’ but does not define it. An everyday definition is of having sound judgement; being sensible and rational. It is the requirement of public bodies, including admission authorities, that they must act reasonably in adopting any policy or making any decision taking into account relevant factors.

The rationale for criterion 3

64. To determine whether a part of the Arrangements identified within the objections is reasonable or not, I first need to consider the rationale for adoption. Has the Local Authority articulated logical reasons, taken into account relevant factors and avoided irrational conclusions.

65. I asked the Local Authority to outline its rationale for making the sibling criterion city wide as well as any benefits it saw in this approach and it responded as follows:

“The Council have changed the sibling link priority so that it applies to all pupils, regardless of the catchment area where they live, to correspond to the potential of younger siblings now seeking a place at the same school the elder child has been placed at which is not their catchment area school.

It allows families who have obtained an out of catchment area place through the Free School Meals or the 'open admission' criteria to benefit from the continuity where younger siblings will be able to attend the same school as the older sibling, if they are still attending that school.

This was previously only a benefit that applies to families who had an older sibling in the designated catchment school.

During the consultation exercise undertaken for admission arrangements in September 2026 it was identified as a proposal that a number of respondents wanted the council to implement, when applicable, in the consultation on admission arrangements for September 2027.

The modification of the sibling link is designed to ensure families utilising the new priority criterion have an equivalent degree of prioritisation to those living in a catchment area. As a result, this provides families with further clarity about the ability to ensure siblings attend the same school to ensure benefits such as efficient transport arrangements, sustainable use of uniform as well as, where applicable, the supportive nature of having an older sibling at the school and the familiarity and awareness that comes from the establishment of a relationship between a school and a family. The Council has sought to minimise factors that would limit a family when considering taking up the opportunity of benefitting from the newer priority criterion."

66. Sibling priority is a longstanding and widely accepted feature of school admission arrangements and the benefits associated with siblings attending the same school are well recognised. As families derive both practical and educational benefits from siblings attending the same school, the Local Authority is arguing that it would be inequitable if younger siblings of children admitted to schools via the FSM criterion or the open admission criterion could not benefit from sibling priority.

67. The Local Authority's reasons for widening the scope of criterion 3 are, therefore, plainly capable of being regarded as legitimate and logical as it is pursuing aims such as family unity and continuity of education for families where a child has obtained an out of catchment place. Although the changes may be controversial, it is my view that it cannot be said that the reasons given are arbitrary, irrational or fall outside the range of reasonable criteria that could have been adopted. I therefore do not consider criterion 3 to be unreasonable in this regard.

Was it reasonable for the Local Authority to adopt criterion 3?

68. Both Objector 1 and 2 have raised issues relating to the underlying decision making process of the Local Authority when it adopted the revised sibling criterion in the Arrangements.

69. In terms of Objector 1's objection, the concerns principally relate to the modelling used by the Local Authority as part of its decision making process to understand the implications of widening criterion 3 city wide. Objector 2 raises issues in respect of the conflict between the Local Authority's corporate plan and its stated priorities and the impacts of the revised sibling criterion.

70. As part of its consideration of the proposed changes to the Arrangements, the Local Authority undertook modelling on the potential impacts of the increased scope of the sibling criterion in the Arrangements. The output from this original modelling (original modelling) was referred to in the Cabinet Report 'School Admission Arrangements 2027-28' considered at the Cabinet meeting of the 29 January 2026 when the changes to the Arrangements were determined.

71. The original modelling estimates that in the Dorothy Stringer and Varndean catchment area (CA-D), 22 additional sibling admissions would be due to the revised criterion 3 in September 2027. This includes out of catchment sibling links created either by the FSM criterion or the open admission criterion. This would mean a total projected displacement of 20 pupils in that catchment area deriving from either the FSM criterion, the sibling criterion or the open admission criterion.

72. In the Blatchington Mill and Hove Park catchment area (CA-B), there would be an additional 14 out of catchment sibling pupil admissions but there would be no displacement outside the catchment area due to the surplus capacity at Hove Park School. In addition, in the Patcham catchment area (CA-C), the original modelling shows there would be an additional ten out of catchment sibling pupil admissions and total number of 32 pupils displaced out of catchment due to effects of either the FSM criterion, the sibling criterion or the open admission criterion. The Longhill catchment (CA-F) was not assessed by the Local Authority due to the significant levels of surplus places.

73. Paragraph 3.32 of the Cabinet Report states as follows:

"Modelling of pupil numbers with the expanded sibling link definition have indicated that a small number of pupils in 2027 living in the catchment areas for Patcham High School (32 pupils) and the catchment area for Dorothy Stringer & Varndean (20 pupils) may not be able to secure a place at their catchment area school on National Offer Day. Although the operation of the reallocation pool and waiting lists has meant, historically, that places will often become available for pupils after the initial allocation and before the start of the new academic year."

74. Particular reliance is placed by Objector 1 on the original modelling, which was available during the consultation, not being released by the Local Authority. Objector 1 argues that this modelling should have been made available during the consultation process,

and the Local Authority's failure to release the modelling, even though it was available, leads to issues of procedural unfairness in the Arrangements.

75. I asked the Local Authority to confirm the dates when it was first commissioned, when it was completed and why it had not been released as part of the consultation process. The Local Authority responded by confirming that it had "undertook further calculations in response to some of the questions that had been received following the start of the consultation, regarding the sibling link" and that the "modelling information was requested on the 6 November 2025 and was completed, subject to checking, on 11 November 2025."

76. It went on to say that it had not released the original modelling as part of the consultation as it "was incomplete and only provided a worst-case scenario. While it calculated the impact of additional sibling links coming into a catchment area, it did not show the corresponding number of potential sibling links going out of the catchment areas, as there was no secure way to forecast this." At this point, the impact of the changes in eligibility for FSM, which is discussed below, had also not been taken into account by the Local Authority in its modelling.

77. I have previously stated that a challenge to the adequacy or conduct of the consultation falls outside the scope of this determination. The relevance of the modelling is, therefore, whether the Local Authority had before it sufficient information at the time the Arrangements were determined to understand the likely effects of the proposal to amend the sibling criterion in order to make a reasoned policy decision.

78. In relation to the original modelling, Objector 1 argues that the Local Authority "has not modelled the cumulative effect of all the changes" and that insufficient consideration was given to what it describes as the longer-term impact of "sibling stacking". It is concerned that over time, the operation of the extended sibling criterion will alter the distribution of places available to catchment children. This is something I will also consider further below.

79. Objector 1 also challenges the Local Authority's demand forecasting methodology, particularly in relation to projected future demand for places at certain schools. Objector 1 argues that the Local Authority's projections are based upon "optimistic forecasts" and contends that alternative forecasting methodologies would produce materially different outcomes, particularly in relation to future demand for places at Longhill and other schools. Therefore, it argues that the Local Authority's assessment of the proposed changes is based on an unreliable evidential foundation.

80. Objector 1 further submits that the Local Authority did not satisfactorily evaluate alternative policy options and did not provide comparative modelling demonstrating why other approaches to sibling priority were rejected.

81. I asked the Local Authority to explain the methodology and the assumptions it adopted in the original modelling exercise undertaken and it responded as follows:

“Exercise 1 - Initial modelling

There are 4 key assumptions that were used when the initial modelling was undertaken for when the proposed arrangements for September 2027 were being consulted upon and then determined. These assumptions were:

- 24% of all applications received would have a sibling link under the new definition that proposed priority irrespective of being in the catchment area. The new definition of a sibling link applies to all pupils regardless of the catchment area where they live as opposed to the old definition which only applied to pupils living in the school's catchment area.
- All pupils living in a school's catchment area will apply for their catchment area schools.
- Levels and patterns of parental preference will be similar to those in the September 2025 allocations.
- All parents with a sibling link for an oversubscribed school will apply for that school.

Methodology and reason for initial modelling:

This modelling was intended to identify the worst-case scenario and quantify the potential number of pupils that would not gain a place from the city's catchment areas. This was a key theme that was raised during the consultation process for setting the 2026 arrangements because the modelling at the time of this consultation indicated that between 35 pupils (with 5% open admissions) to 125 pupils (with 20% open admissions) from within the Dorothy Stringer and Varndean schools' catchment area would potentially be unable to secure a place at their catchment area school.

- The methodology for calculating the potential displacement involved:
 1. Taking the number of pupils living in a school's catchment area who would require a catchment area school place from the council's secondary school pupil forecast data.
 2. Calculating the potential number of FSM pupils to be allocated by using the last year's allocation information and the number of FSM eligible pupils living in each catchment area. These numbers were used to forecast the future number of FSM pupils who would be considered under each FSM criterion and this figure was

then used to calculate the potential number of sibling links these FSM pupil allocations would generate.

3. Assuming that the maximum number of pupils who could be allocated places under the Open Admissions criteria would be used as the figure to inform an estimate as to the potential number of additional sibling links into each catchment area.
 4. Adding the number of pupils who could be offered places from outside the catchment area to the number of pupils living in the catchment area who were expected to require a place at a community school, PACA or BACA.
 5. Subtracting the number of available places in each catchment area.
- This gave the potential number of pupils who could be displaced from each catchment area.”

82. From the above, the Local Authority has modelled the potential impacts on the basis of the information it had at the time. It considered and was clearly aware that there would be some displacement due to the revised sibling criterion. The levels of displacement were then weighed against the policy objectives it was pursuing in relation to the widening of criterion 3 and Cabinet decided that those policy objectives outweighed the impact of any displacement of pupils due to the revised criterion.

83. Admission authorities are entitled to make policy choices between competing options provided those choices are made rationally and for legitimate reasons. The evidence before me indicates that the Local Authority considered the competing considerations and reached a policy judgment in pursuit of stated objectives relating to family cohesion and the practical benefits of enabling siblings to attend the same school. I therefore do not consider criterion 3 unreasonable.

84. Objector 1’s criticisms also highlight uncertainty regarding the scale of future impacts and its interaction with other criteria in the Arrangements. I am not persuaded that the absence of further or more sophisticated modelling demonstrates that the decision making process was procedurally unfair or undermines the policy objectives being pursued by the Local Authority. The evidence does not demonstrate that the Local Authority’s approach was irrational or so flawed that reliance upon it rendered the process of determining the Arrangements or the Arrangements themselves unreasonable.

85. Objector 2 submits that criterion 3 is inconsistent with the Local Authority’s wider policy objective of promoting attendance at local schools. It argues that the Arrangements directly contradict the Brighton & Hove City Council Plan 2023-2027 (Refresh 2025), which explicitly pledges that the Council will:

“Work to enable children to receive their education locally, avoiding the need to attend schools far from their homes, families and friends.”

86. Objector 2 maintains that extending sibling priority city-wide will ensure the opposite of that, displacing more children to schools further from home.

87. The Local Authority responded to my enquiries in relation to this by stating that the Local Authority corporate plan is:

“ a high level document that outlines the Council’s wider aims and objectives with the reference to educating children locally is not simply an intention about school admission arrangements. It should also be understood as a commitment to ensure that children and young people needing specialist or complex provision can be placed as locally as possible, when such placements may currently be further afield outside of the city. There are a number of ways in which the council is working to ensure children are able to receive their education locally, within the city boundaries, for example our SEND sufficiency plan which looks to increase specialist provision. Colleagues in our children’s social care teams also seek to ensure placements including education are focussed wherever possible close to the city. The Council’s secondary school admission arrangements still retains [sic] a strong focus on geographical position within the city, by maintaining catchment areas.”

88. The Local Authority estimates that the vast majority of children (79%) were allocated places at schools related to catchment areas in September 2026 and as can be seen from Table 4 above, the vast majority of children achieve a place at their higher preference schools. Objector 1 argues that this figure will be diluted when the new sibling criterion (unlinked to catchment) takes effect. It says that the figure will be much lower than this if we take no account of admission via criterion 3 which no longer has a catchment area link. However, whilst criterion 3 may facilitate attendance outside a child’s catchment area, the Arrangements continue to operate primarily through catchment-based priorities.

89. In addition, Admission Arrangements themselves frequently seek to balance a number of legitimate objectives, including facilitating attendance at local schools, maintaining family connections and supporting practical family arrangements. The fact that a criterion advances one objective may inevitably result in some tension with another.

90. In my view, the existence of such tension does not of itself render the Arrangements unreasonable. Neither does the evidence before me demonstrate that the introduction of criterion 3 materially undermines the core objectives of the Local Authority or the continued role of catchment areas within the Arrangements. Catchment priority continues to apply across the Arrangements and still remains a significant factor in the allocation of places.

91. I therefore do not find that any perceived tension between criterion 3 and the Local Authority's broader aspiration to promote attendance at local schools demonstrates that the Arrangements are unreasonable.

92. Objector 1 also argues that if the Local Authority's wider objective is to address historical inequities affecting schools such as Longhill, then a city-wide sibling criterion is a poor instrument for achieving that objective. It argues that the criterion is not properly targeted at the issues identified by the Local Authority. However, admission authorities are afforded a degree of discretion in determining how legitimate policy objectives are pursued and the question for me to determine is not whether an alternative policy might have achieved those objectives more effectively, but whether the adopted criterion is itself reasonable and otherwise compliant with the Code.

Fairness of criterion 3

93. The Objectors' primary concerns relate to the effects of criterion 3 and its potential to increase displacement of other children, particularly catchment area children and children in receipt of FSM. In terms of these effects, this is where arguments relating to reasonableness start to 'bleed into' and overlap with the concept of fairness, particularly in the context of paragraph 14 of the Code.

94. Fairness is used extensively but also not defined in the Code. The relevant paragraphs of the Code relating to fairness are paragraphs 14 and 1.8. Paragraph 14 provides that "admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective." Paragraph 1.8 provides that oversubscription criteria "must be reasonable, clear, objective, procedurally fair" and 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."

95. Non-compliance with the Code in the context of paragraph 1.8 would therefore arise either from procedural unfairness or from disadvantage arising from an oversubscription criterion that is unfair to one or more identified groups. This is in contrast to unfairness envisaged in paragraph 14, which concerns unfairness of a more general nature.

96. In terms of procedural unfairness, this is concerned with whether the Arrangements operate in a way which is transparent, predictable and consistently applied. The Arrangements would be procedurally unfair if parents could not understand the basis upon which places will be allocated, it could lead to arbitrary decision-making or inconsistent application.

97. I understand 'fairness' in the context of paragraph 14 of the Code to mean substantive fairness and that is about the impact of the Arrangements on different children. Any

consideration of the fairness of the Arrangements pursuant to paragraph 14 focuses on the effect of the Arrangements.

98. All admission arrangements create advantage for some applicants and disadvantage to others; indeed, their purpose is to give higher priority to some applicants than to others. If disadvantage alone were enough to render a criterion unfair, almost no oversubscription criterion could survive scrutiny. The question is whether the disadvantage suffered is unfair and/or disproportionate when balanced against the legitimate objectives being pursued by the criterion.

99. Admission authorities are entitled to pursue legitimate objectives through their admission arrangements, provided the resulting arrangements remain clear, objective and compliant with the Code. A criterion will not necessarily be unfair simply because it alters admission outcomes or reduces the likelihood of admission for some applicants who might otherwise have secured a place.

100. It is also necessary to distinguish between demonstrated disadvantage and asserted disadvantage. Whilst the Objectors have identified a number of ways in which criterion 3 might adversely affect particular groups of applicants, the weight which can be attached to those concerns depends upon the evidence available regarding the nature, scale and practical consequences of those effects. Where the evidence establishes significant disadvantage, that will weigh in favour of a finding of unfairness. Conversely, where the evidence demonstrates only a theoretical possibility of disadvantage, or where the scale of any impact cannot reliably be established, that will limit the weight which can properly be attached to the concern.

Effects of criterion 3

101. As mentioned above, the Local Authority considered the impact of the sibling criterion by undertaking the original modelling and this showed that 32 pupils living in the catchment areas for Patcham High School (CA-C) and 20 pupils living in the catchment area for Dorothy Stringer and Varndean (CA-D) may not be able to secure a place at their catchment area school on National Offer Day.

102. In response to my questions in relation to the original modelling, the Local Authority submitted further updated modelling (the updated modelling), which it said had been revised “to answer the Adjudicator’s additional questions by using the September 2026 allocation details along with an assessment of potential sibling links out of each catchment area. This revised modelling also takes into account that only 56% of pupils previously eligible for the FSM criteria are eligible for “targeted FSM” and will no longer be eligible for the admission criteria 4 (FSM eligibility in catchment) or 5 (FSM eligibility outside the catchment).”

103. The updated modelling shows a materially different picture with only seven pupils displaced from the Dorothy Stringer and Varndean catchment area and no pupils displaced from any other catchment area.

104. Objector 1 had detailed and extensive criticism of the reliability of the updated modelling and I therefore asked the Local Authority to explain the methodology and the assumptions it adopted and it responded as follows:

“Revised modelling to respond to the Adjudicator’s questions

There are 5 key assumptions that were used when considering how best to respond to the questions posed by the Adjudicator in response to the objections received for the arrangements determined for September 2027. Alongside further clarity about how the FSM criterion would be applied after the DfE released details of the changes and how these relate to qualifying for eligibility in the school admission arrangements. One other significant difference was the availability of preference data for the September 2026 allocations that allowed an update to the methodology. These assumptions were:

- 24% of applications would have a sibling link under the new definition. The new definition of a sibling link applies to all pupils regardless of the catchment area where they live as opposed to the old definition which only applied to pupils living in the school’s catchment area.
- All pupils living in a school’s catchment area will apply for their catchment area schools
- Parental preference will be similar to the pattern for September 2026 and numbers allocated under each criteria [sic] would be similar.
- 56% of pupils previously eligible for FSM will be eligible for targeted FSM and can be given priority under criteria 4 and 5.
- All parents with a sibling link will apply for that school

Methodology and reason for adapted modelling:

The second modelling was performed in response to the questions raised by the Adjudicator. The methodology for this modelling was similar to the process outlined for exercise 1 but it also took into account the number of pupils in each catchment area who would likely secure a sibling link to a school outside their catchment area.

The actual numbers of pupils placed under each of the admission priorities for September 2026 was also used to project the September 2027 allocation numbers.

Given the recent changes to Pupil Premium and the implications this has had for the council's admission arrangements, with no further change to the School Admissions Code, the modelling was adjusted to account for the fact that only 56% of pupils previously eligible for FSM (who had been reassessed for FSM eligibility at that time) would likely be eligible for targeted FSM which is the qualifying criteria for the Council's admission arrangements."

105. I went on to ask the Local Authority which modelling it now considered the most reliable estimate of the likely impact of the Arrangements and it responded by saying that the "recently revised figures will provide the more reliable impact of the arrangements as these have been updated with the most recent information taking account of the impact of the September 2026 allocations." That means that according to the Local Authority forecasts, there would be a seven pupil displacement in the Dorothy Stringer and Varndean catchment area (CA-D) only due to the revised sibling priority.

106. As can be seen from its explanation above, the Local Authority adapted its modelling to reflect the estimate that only 56% of current FSM eligible pupils will likely qualify under the new Targeted FSM, but also by including an offset for pupils in each catchment area who would likely secure a sibling link to a school outside their catchment area (outbound siblings). It also included data taken from the September 2026 allocations, which of course was not available at the time of the original modelling.

107. Objector 1 raises a number of concerns with the updated modelling and in particular, how the offset of outbound siblings will work in practice. The Local Authority argues that this "criticism seems to stem from a misunderstanding of the term sibling link and how that has been applied in the modelling." The Local Authority goes on to say that it "is confident that although basic, the modelling conducted to answer the Adjudicator's questions does give reliable numbers based upon the given assumptions."

108. I have considered Objector 1's reservations carefully and while there are potential limitations to the modelling, I do not see it as so unreliable that no weight at all can be attached to any of it. I have therefore taken both the original and updated modelling into account alongside the wider evidence available, whilst recognising its limitations.

109. Both sets of modelling indicate that displacement of pupils from catchment area schools will likely occur under the Arrangements. It is my assumption for the purposes of this determination that the actual displacement impact is in the range of possible outcomes modelled, such that there will be no impact on the Blatchington Mill and Hove Park catchment area, displacement of up to 20 pupils in the Dorothy Stringer and Varndean catchment area and displacement of up to 32 pupils in the Patcham catchment area.

110. However, the existence of displacement does not of itself demonstrate unfairness as any oversubscription criterion which affords priority to one group of applicants will inevitably affect the relative prospects of admission for the others. The next step, therefore, is to determine whether that displacement is unfair or disproportionate when balanced against the legitimate objectives pursued by the criterion.

111. Oversubscription criteria only apply where more places are sought than are available at a school. In those circumstances, the oversubscription criteria operate to allocate places. The Local Authority only anticipates three community schools will be oversubscribed in 2027.

112. On the information provided by the Local Authority in Table 3 above, the evidence indicates a declining pupil population with spare capacity across the secondary system in the Local Authority area.

113. The statutory guidance for local authorities 'Travel to school for children of compulsory school age' published in May 2026 outlines statutory walking distances which are used to determine whether a child is eligible for free travel to school. They are the distance beyond which a child who is attending their nearest suitable school is eligible for free travel arranged by their local authority. Where a child lives within the statutory walking distance (and is not eligible for free travel on any of the other grounds set out in this guidance) the parent is responsible for arranging their child's travel to school. There is no expectation that the child will walk. It is for the parent to determine what arrangements would be suitable for their child.

114. A child aged 8 years or over is eligible for free travel to their nearest suitable school if it is more than 3 miles from their home. This must be the shortest route along which a child, accompanied as necessary, may walk in reasonable safety. This is not necessarily the shortest distance by road. The route may also include footpaths, bridleways, other pathways and alternative entrances to the school.

115. This gives useful context and having reviewed walking distances between the schools which could be impacted by displacement due to the revised criterion 3 (Dorothy Stringer, Varndean and Patcham) to the nearest suitable school, there are two schools within the statutory walking distance with surplus places projected in September 2027. These are BACA (45 surplus) and Hove Park (72 surplus). Even taking into account the full range of displacement in the Local Authority's modelling and recognising that the full effects of the criterion may not yet be capable of precise measurement, I am satisfied that there is sufficient spare capacity at schools within reasonable proximity for any displaced pupils.

116. This means that displaced pupils will still be able to obtain a place at a secondary school. It just might not be at the school which is their catchment area school or one of their higher preferences. Even on very pessimistic assumptions, the numbers of pupils displaced by the revised sibling criterion can still be accommodated. Whilst attendance at an alternative

school may not be the outcome preferred by those families, the practical consequences of displacement in an urban setting such as this are mitigated by the availability of nearby provision.

117. In my view, criterion 3 therefore does not lead to impacts of such magnitude as to render the Arrangements unfair in light of the policy objectives being pursued by the Local Authority. Rather, it illustrates the predictable consequences of giving additional priority to a defined group of applicants in pursuit of legitimate policy aims. The Local Authority has identified clear objectives for the criterion, including supporting family logistics, reducing the risk of siblings attending different schools and promoting family cohesion. I am satisfied that these objectives are legitimate and that the projected adverse impacts identified are not, on the evidence currently available, sufficient to outweigh them.

Interaction of criteria 3 and 6

118. I am conscious also that Objector 1 argues that there will be a compounding effect experienced which over time may lead to the numbers of out of catchment children being admitted to schools outside of their catchment area being well above the five per cent cap included in the open admissions criterion. This is the 'sibling stacking' effect referred to earlier and I have therefore considered the concern that the cumulative effect of criteria 3 and 6 may become more significant over time.

119. I asked the Local Authority whether it accepts that criterion 3 can result in admissions above the five per cent cap through the sibling route, and if so, is that an intended consequence of the Arrangements. It responded as follows:

"Criterion 3 and criterion 6 are separate criteria.

Criterion 3 will allow pupils who have an older sibling who will be attending one of the community secondary schools in the city to secure a place at that school, given the benefits this entails for these families.

Criterion 6 gives pupils who live in a single school catchment area greater "choice" and a realistic opportunity to secure a place at a school outside of the catchment area where they live.

The council have capped the percentage for Criterion 6 at 5% for September 2027 however, in future years this percentage could be increased or reduced through the annual consultation process as demographics in the city change.

As a result of these two criteria the council agrees it does allow admissions of pupils, eligible for criterion 6 to be admitted under criterion 3 and therefore exceeding a 5% proportion. However, the arrangements are in place to operate 2 different priorities."

120. The Local Authority also confirmed that it intended that the five per cent cap in the open admissions criterion would “be kept under review in future years” and when setting the Arrangements “the council considered that the benefit to families by allowing the sibling link to apply to all pupils regardless of the catchment area where they lived would outweigh the impact on up to 52 pupils (taken from the initial worst case scenario modelling) who could potentially not be offered a place at their catchment area school(s).”

121. The Local Authority position is therefore that these criteria pursue two different policy objectives and operate independently. Criterion 3 confers priority on children with an eligible sibling, whereas criterion 6 provides a limited opportunity for children in single school catchment areas to obtain places at an alternative school. The fact that admission under criterion 6 may subsequently generate additional admissions under criterion 3, does not alter the distinct purpose or operation of either criterion or make criterion 3 unfair or unreasonable.

122. Accordingly, I do not accept Objector 1's submission that criterion 3 operates as a means of circumventing the five per cent cap contained within criterion 6.

123. I also do not believe the current evidence base allows a proper assessment of whether such effects are likely to occur or, if they do occur, the extent to which they may lead to any unfairness. Any assessment at this point would necessarily involve a significant degree of speculation, particularly in light of declining pupil numbers, existing surplus capacity, changes to eligibility under other admission criteria and the possibility of future amendments to the Arrangements.

124. The Objectors also contend that the Arrangements are unclear as although parents are informed that entry under criterion 6 is capped at five per cent, parents are not informed that criterion 3 may generate future admissions arising from admissions originally under criterion 6 admissions that could lift the out of catchment entry of children above that five per cent cap. Therefore, the true operation of the Arrangements is not fully clear.

125. Before considering this issue, I repeat the point made earlier that the Code does not require admission arrangements to indicate whether a particular child will obtain a place at a school, or even how likely that outcome may be. Rather, it requires the arrangements to tell parents the factors which determine how places will be allocated in the event of oversubscription, and the procedure by which that allocation is made.

126. When I asked the Local Authority to explain how a parent reading the Arrangements would be expected to understand the interaction between criterion 3 and criterion 6 and that sibling linked admission can arise from pupils originally admitted under the open admission criterion, they responded as follows:

“It is expected that should a parent want to consider what priority their child would receive when applying to a particular school, they would look down the list of criteria to

identify under which priority criterion their child would fall. Initially they may match criterion 3 if they have an older sibling, and/or they may match for criterion 6. As such a parent would then know that they may possibly receive a place under various criterion the highest priority being that of being a sibling.

The simplest explanation for the application of the sibling link is that the qualification exists where there is an elder sibling at the school in September 2026. To have explained that this includes those qualifying under the previous use of an open admission criterion could place further doubt in a parent's mind and require the council to list all criterion under which an elder sibling was admitted, to show that the younger pupil still qualifies as a sibling. As a result, the arrangements do not explicitly reference that sibling linked admission can arise from pupils originally admitted under the open admission criterion."

127. I agree with the Local Authority's position. A parent need only identify which oversubscription criterion applies to their child. Subject to the issue discussed below at paragraph 160, the sibling criterion is self-contained and sufficiently clear.

128. I do not consider that the requirements of the Code extend to explaining the potential consequences of the interaction between different oversubscription criteria. The Arrangements clearly identify the factors that determine priority and the order in which they are applied. They are not required to explain the effects of those criteria, including the possibility that a child admitted under criterion 6 may subsequently establish a sibling link for a younger sibling under criterion 3.

129. Criterion 6 was introduced, at least in part, to widen access to schools for children in single school catchments who might otherwise have limited opportunities to secure a place outside their catchment school. It will therefore be important for the Local Authority to keep the operation of criteria 3 and 6 under review, as it has indicated it intends to do.

130. In particular, the Local Authority should monitor whether, over time, their cumulative effect materially alters access to places for children without sibling connections or materially diminishes the policy objective which criterion 6 was intended to achieve. Whilst there is insufficient evidence before me to conclude that this is occurring, or is likely to occur, at present, it is clearly a matter that should be taken into account when the Local Authority evaluates the future operation of its Arrangements.

131. I therefore do not find that the interaction between criteria 3 and 6, or the lack of an explanation that the sibling criteria sits outside the five per cent cap, renders the Arrangements unfair or otherwise non-compliant with the Code.

FSM children

132. The Objectors also identify children in receipt of FSM who they believe will be specifically adversely impacted by criterion 3. By placing out of catchment siblings within criterion 3, ahead of in-catchment FSM applicants (criterion 4), it is argued by Objector 2 that the Local Authority is creating a 'priority collision'. This is because there is a risk that the 30% FSM quota applied is exhausted with "non-local" children, thereby displacing dual catchment disadvantaged children that the 30% quota was intended to protect.

133. Objector 2 says that this "constitutes a potential breach of Section 1.8 regarding indirect disadvantage to a particular social group" as the "introduction of a city-wide sibling link could end up displacing disadvantaged FSM eligible children from their catchment area schools."

134. Objector 1 also refers to the relatively high proportion of children eligible for FSM in certain single school catchment areas, particularly BACA and Longhill, and submits that the operation of criterion 3 may contribute to pupil outflow from those catchments over time.

135. I accept that BACA and Longhill have substantially higher proportions of pupils eligible for FSM than the dual catchment secondary schools. Current published data indicates FSM eligibility rates of approximately 50.8% and 43.2% respectively at BACA and Longhill, compared with rates of between approximately 22.7% and 26.7% at Blatchington Mill School, Varndean School, Patcham High School and Dorothy Stringer School. It is also not in dispute that some children will be displaced due to the revised criterion 3 and that admissions under criterion 3 may reduce the number of places subsequently available under lower oversubscription criteria.

136. While that evidence demonstrates a potential pathway by which FSM eligible children may be affected by the operation of criterion 3, it does not establish that FSM applicants will in fact experience any material reduction in access to places, nor does it quantify the scale of any such effect. The evidence before me therefore demonstrates a theoretical possibility of disadvantage rather than a demonstrated disadvantage.

137. I have not seen any specific evidence demonstrating the number of FSM eligible applicants who would be affected, the extent of any such impact, or that any impact would be materially greater than that experienced by other applicants. In those circumstances, I am not persuaded that the operation of criterion 3 gives rise to any specific unfair disadvantage for FSM eligible children. The Arrangements contain specific priorities for FSM eligible applicants which operate ahead of ordinary catchment priority. While it is possible that some FSM eligible children may be affected, no evidence has been provided to quantify that effect or to establish that FSM pupils as a group are unfairly disadvantaged.

138. The Local Authority's projected 2027 allocations also indicate that substantial numbers of places are still expected to be allocated under criteria 4 and 5 at oversubscribed, largely dual catchment area, schools. Whilst these projected allocations do not determine the issue, they tend to indicate that substantial numbers of places remain available to applicants qualifying under the FSM criteria notwithstanding the operation of criterion 3.

139. In arriving at this conclusion, I have also borne in mind that the Local Authority will need to amend its Arrangements relating to priority for children eligible for FSM. The Local Authority estimates that approximately 56% of FSM eligible children would now qualify under the FSM priority criterion due to the changes to free school eligibility implemented this September. In those circumstances, assessing the future impact of criterion 3 on FSM eligible applicants is further complicated. This does not mean that potential disadvantage can be disregarded. However, it does add a further level of uncertainty to predictions about the future operation of the Arrangements.

140. To summarise, in the absence of any real evidence demonstrating that applicants eligible under the FSM criterion are likely to be disproportionately displaced by out of catchment sibling admissions as a consequence of criterion 3, I am not persuaded that the Arrangements give rise to unfair disadvantage for that group.

Dorothy Stringer and Varndean catchment area

141. In addition, Objector 2 introduces the concept of double disadvantage which it says children living in the Dorothy Stringer and Varndean catchment area (CA-D) will suffer. It argues that by removing the catchment residency requirement for sibling criterion, the Council is choosing to 'doubly disadvantage' children living in the Dorothy Stringer and Varndean catchment area. This is on the basis that a dual catchment child who does not get a place at their catchment school, lacks catchment priority for any other school. It refers to the 2025 determination in support of this position.

142. As already explained above, the fact that an oversubscription criterion disadvantages some applicants does not of itself mean that it is inconsistent with the Code. The question is whether any disadvantage operates unfairly, either directly or indirectly, upon a particular group of children.

143. I accept that extending the sibling criterion beyond catchment boundaries may benefit some children who also have priority for admission elsewhere and that children displaced from their catchment schools may not enjoy a corresponding advantage. However, the evidence before me does not demonstrate that criterion 3 places children resident in the CA-D catchment area at a material disadvantage compared with other applicants, nor that any disadvantage experienced is disproportionate to the policy objectives pursued by the sibling criterion.

144. The Code does not prescribe any particular ordering between sibling and catchment priorities and admission authorities are entitled to adopt different approaches provided the resulting arrangements are reasonable, fair and otherwise compliant with the Code. Indeed, the whole rationale for the open admission criterion was to seek to level the playing field for applicants who only had one school in its catchment area and those who lived in dual catchment areas where they had more than one school in its catchment area.

145. Whilst previous adjudicators have observed that certain combinations of sibling and catchment priorities may strike an appropriate balance between competing interests, those observations were made in the context of different admission arrangements and different factual circumstances. They do not establish that alternative arrangements are necessarily unreasonable or unfair. Accordingly, I do not uphold this aspect of the Objector 2's objection.

Single school catchment area

146. I have also considered the position of children resident in single school catchment areas, particularly Patcham. Whilst some displacement may occur as a consequence of criterion 3, the evidence before me does not establish that such children are likely to suffer unfair disadvantage. As stated above, although some of the modelling demonstrates displacement for children resident in the Patcham catchment, this is in the context of declining pupil numbers and available capacity elsewhere in the system.

147. Whilst I accept that the evidence suggests the criterion may affect some catchment communities differently from historic patterns, paragraph 1.8 does not require that historic admission outcomes remain unchanged. The relevant question is whether the Arrangements operate fairly as between applicants applicable in the year concerned. I therefore also do not find that criterion 3 gives rise to unfair disadvantage for children resident in single school catchment areas.

Catchment areas

148. A further point raised by Objector 2 relates to the "unreasonable and unclear definition of catchment areas" in the Arrangements. Objector 2 states that it "is fundamentally unreasonable to define a catchment area only to design multiple admission criteria that intend to displace children living within the catchment and prevent them from attending their local schools."

149. The Code defines a 'catchment area' as a "geographical area, from which children may be afforded priority for admission to a particular school." Paragraph 1.14 of the Code requires that catchment areas be "reasonable and clearly defined." The catchment areas in the Arrangements are defined according to a map and note (h) of the Arrangements also specifies the postcodes/addresses falling in each catchment area. I am therefore satisfied that the catchment areas are clearly defined in the Arrangements. The remaining question

raised by Objector 2 is whether they are unreasonable because of the way in which the oversubscription criteria operate.

150. The central point raised in this part of the objection was considered in the 2025 determination. In particular, the adjudicator considered the contention that the operation of the oversubscription criteria, including criteria capable of displacing some children from their catchment schools, rendered the catchment areas unreasonable for the purposes of paragraph 1.14 of the Code.

151. In that determination, the adjudicator explains that the Code permits, but does not require, admission authorities to use a catchment area as an oversubscription criterion. The determination further explained that catchment areas do not guarantee any child living within it a place and that admission authorities are free to assign greater priority to other lawful oversubscription criteria.

152. The 2025 determination expressly considered oversubscription criteria that would result in some children being displaced from their catchment schools and expressly accepted that such displacement was an intended consequence of the arrangements.

153. The adjudicator concluded that catchment areas are a mechanism for prioritising admission rather than guaranteeing admission and that an admission authority may give higher priority to other categories of applicants where permitted by the Code. The adjudicator further concluded that the displacement effects of the oversubscription criteria did not undermine the reasonableness or clarity of the catchment areas and that the catchment areas complied with paragraph 1.14 of the Code. Accordingly, I do not believe this part of the objections raises a materially new issue and concerns matters that were already considered in the 2025 determination.

Conclusion

154. I am satisfied that:

- a. criterion 3 falls within the range of reasonable policy choices available to the admission authority and pursues legitimate and reasonable policy objectives;
- b. the Local Authority considered the potential effects of criterion 3 before its adoption and concluded that the benefits of an expanded sibling priority justified its introduction;
- c. whilst there remains some uncertainty as to the precise extent of any displacement, the evidence does not establish that criterion 3 gives rise to unfair disadvantage and the practical consequences of any displacement are mitigated by the availability of alternative places nearby; and

- d. when weighed against the potential disadvantages identified by the Objectors, the benefits of enabling siblings to attend the same school, reducing burdens on families and promoting continuity of education are sufficient to justify the operation of the criterion.

155. For those reasons, I do not uphold the objections relating to criterion 3.

Clarity of the Arrangements

156. The Objectors have raised issues relating to the clarity of the Arrangements. Paragraph 14 of the Code states that:

“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

157. Objector 2 argues that the Arrangements are difficult for parents to understand. The Arrangements are more complex than some other admission arrangements. However, this alone does not make them non-compliant with the Code. I raised this with the Local Authority who in response stated that “parents can look at the 8 criteria and understand easily how places at the schools are allocated.”

158. The purpose of admission arrangements is to tell parents the factors which determine how places will be allocated in the event of oversubscription, and the procedure used to decide allocation. They are not intended to tell parents whether a particular child will get a place at a school, nor are they intended to enable parents to predict outcomes with certainty. This is an important distinction.

159. I am therefore satisfied that a parent reading the Arrangements can understand the criteria which will be applied, the order in which they are applied and the basis upon which places will be allocated in the event of oversubscription. In those circumstances, I am satisfied that the requirements of paragraph 14 of the Code are met and therefore do not uphold this aspect of the objection.

160. Objector 2 also identifies a specific concern regarding the wording of Note (c) of the Arrangements.

161. It is argued that the Arrangements are unclear as Note (c) of the Arrangements refers to a sibling link applying “if the sibling will be attending in September **2026**.” This implies that a sibling link only applies where a sibling attended a full year before. The note then goes on to say that a sibling link should only be “taken into account if children live at the same main address and the sibling has already been allocated a place at the school.”

162. The first part of note (c) indicates that a sibling link applies where the sibling "will be attending" the school in September 2026. This suggests that attendance itself is sufficient. However, the note then states that sibling priority will only be taken into account where the sibling "has already been allocated a place at the school". The two requirements are not necessarily the same and the wording creates uncertainty as to what conditions must be satisfied.

163. When I raised this with the Local Authority, it confirmed that this was a typographical error in the Arrangements and should refer to September 2027. It confirmed that a "clarification will be made available for parents." I am grateful to the Local Authority for this confirmation who should ensure that the Arrangements are amended accordingly so that they are clear to parents.

164. Finally, the Objectors have raised a number of issues in relation to the clarity of the Arrangements in respect of criteria 4 and 5 as it relates to children eligible for Free School Meals.

165. In particular, it is argued that parents cannot easily read and understand the Arrangements in relation to FSM eligibility as currently published. The Arrangements are unclear as they do not clarify:

- a. whether the FSM criterion is open to all FSM eligible children (Targeted and Expanded) or just Targeted; or
- b. how the "30% city-wide average" figure is calculated.

166. From the start of the 2026/27 academic year (September 2026), the government has created two categories of FSM eligibility being either:

- a. **Targeted FSM:** the existing lower-income group (including the £7,400 earnings threshold) used for disadvantage funding purposes.
- b. **Expanded FSM:** children in Universal Credit households who are above that earnings threshold but are now entitled to free meals.

167. Paragraph 1.9 of the Code (see above at paragraph 49) states that admission authorities must not give priority to children according to the occupations, marital, financial, or educational status of the parents applying. One of the exceptions to this is children eligible for the early years premium, the pupil premium and the service premium who may be prioritised in accordance with paragraph 1.41 (also see above at paragraph 49). This means that the Arrangements would only comply with the Code if it were to prioritise applicants who are or will be in receipt of either early years premium, the pupil premium and the service premium.

168. As eligibility for the pupil premium continues to be linked to the Targeted FSM category, but not the Expanded FSM category, an admission criterion based on FSM eligibility can only be justified under paragraphs 1.9(f) and 1.41 to the extent that it relates to children who attract pupil premium. This means that the Arrangements need to refer specifically to Targeted FSM eligibility rather than FSM eligibility generally. The Local Authority anticipates that this will also have an impact on the city wide average.

169. Although the Local Authority's published admission guidance pages in relation to criteria 4 and 5 reads "eligible for Targeted Free School Meals (FSM)", explicitly inserting 'Targeted' into the wording of the criterion itself, this is not what the Arrangements say. As a result, a parent reading the Arrangements alone cannot readily determine whether the criterion applies only to Targeted FSM or to both Targeted and Expanded FSM.

170. In addition, the Arrangements refer to note (d) in criteria 4 and 5, which also makes no reference to whether the eligibility is for Targeted FSM, Expanded FSM or both. It also states in this note that the city average for FSM eligibility will be taken as 30%. The 30% city-wide average does not now correctly reflect the city-wide eligibility due to the changes in FSM eligibility at a national level.

171. I therefore find that the Arrangements are unclear and do not comply with paragraph 14 of the Code. If the Local Authority intended the criterion to apply to all children eligible for FSM, a further question would arise as to compliance with paragraph 1.9(f).

Conclusion

172. I determine that the Arrangements do not conform with the requirements of the Code in the following respects:

- a. Note (c) relating to sibling criterion is unclear and therefore does not comply with paragraph 14 of the Code.
- b. Criteria 4 and 5 are unclear as to which category of FSM eligibility is intended and therefore do not comply with paragraph 14 of the Code. In addition, note (d) is incorrect as it fails to correctly reflect city-wide eligibility for FSM due to the changes in FSM eligibility at a national level.

Waiting lists

173. Objector 3 raises a number of issues with the Arrangements in relation to the provisions relating to Waiting lists (referred to as reallocation pools for the community secondary schools). The relevant paragraphs in the Arrangements are as follows:

“Waiting lists

The council holds waiting lists for community schools, and the following Academies/Free Schools: Benfield Primary School, Bilingual Primary School, Hangleton Primary School, Moulsecoomb Primary School and West Blatchington Primary School. Parents can request that their child’s name is added to the waiting list for any or all of their schools of preference by contacting the school admissions team. Waiting lists are held until 31 December at which point pupils’ names will be removed from the list. Parents can keep their child’s name on the waiting list for the following term by contacting the admissions team in the last week of each term to request this. Pupils are added to waiting lists according to the oversubscription priorities listed above (or the schools oversubscription criteria if they are an Academy/Free School) and consequently a pupil’s name can move down the list as well as up.

Where the home addresses of two or more pupils at the top of an infant, primary or junior school waiting list are an equal distance from the school (e.g. two children living in the same block of flats) and only one place has become available at the school in question, the place will be allocated randomly by computer to one of these pupils (note f).

Waiting lists for secondary schools are called reallocation pools. Each time the council is able to offer a place, or places at a school with a reallocation pool, the list is re-randomised within each criteria [sic] and the place(s) allocated to the child(ren) at the top of the list.

Late applicants will also be added to waiting lists as soon as possible after they apply. Late changes of preference (revised applications) will be added to the waiting list for the new preference as soon as possible from mid-June onwards. The pupil’s name will be removed from the waiting list for the previous preferences.

When a pupil is offered a place from a waiting list or reallocation pool before the start of term in September, the school place previously allocated will be withdrawn. However, parents will have 5 days to contact the admissions team to have the previously allocated school place reinstated if they would prefer to continue with this school allocation instead of the reallocation pool offer.”

174. As mentioned above, the majority of consultees were against the proposal to amend the provisions in relation to Waiting lists. Comments provided on this part of the proposal suggested it would increase stress and administrative burden for families, particularly those already under pressure, and could lead to some missing out due to missed communications or deadlines.

175. Paragraph 2.15 of the Code (see above at paragraph 48) sets out the requirements in relation to Waiting Lists. In addition, paragraphs 2.13 and 2.14 are also relevant to the issues raised by Objection 3.

176. Objector 3 essentially has three issues with the Arrangements and I will deal with each in turn.

Withdrawal of previously allocated places

177. The Arrangements provide for the automatic withdrawal of a place previously allocated where “a pupil is offered a place from a waiting list or reallocation pool before the start of term in September.”

178. There were concerns raised about the automatic withdrawal of a previous offer when a new one is made as part of the consultation. It was suggested that families need time to make decisions, especially as circumstances can change or social factors such as where friends are going may influence choices. Respondents also indicated that parents may initially want to be added to a waiting list but would be less likely to want to change the allocated school once transition arrangements have been participated in and, for example, uniform bought.

179. Objector 3 still remains concerned that the automatic withdrawal of an offer does not comply with paragraphs 2.13 and 2.14 of the Code.

180. Paragraph 2.13 of the Code states that an “admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period, or it was obtained through a fraudulent or intentionally misleading application.”

181. Objector 3 has asked me to consider whether the automatic withdrawal of a validly accepted offer, triggered solely by the availability of a higher-preference waiting list place, falls within any of these three permitted grounds.

182. I therefore asked the Local Authority under what legal authority they considered that a previously accepted offer/place may be withdrawn when a waiting list offer is made and it responded as follows:

“Paragraph 2.12 of the admissions code states that the council’s qualifying scheme must ensure that “only one offer per child is made by the local authority.” This principle is continued when making waiting list allocations.

However, in response to the concerns raised about automatically withdrawing the previous offer, it is proposed to amend the arrangements so that parents are given 5 days, following a waiting list offer, to request that the previous school place is reinstated

if this is their preferred school. This proposed amendment seeks to address the predominant concern about parents being able to make an informed decision and introduces a short period of reflection for families without maintaining a level of uncertainty for schools about pupil numbers and transition arrangements.”

183. I have considered paragraph 2.12 and do not agree with the Local Authority’s analysis. Paragraph 2.12 governs the operation of the coordinated admissions scheme and ensures that only one offer is made to a child at the point of allocation. It does not create a further power to withdraw an offer that has already been validly made and accepted. Paragraph 2.13 is clear that an offer, once made, may only be withdrawn in the limited circumstances specified therein. Where an offer was made correctly, accepted by the parent and not obtained by fraud or intentional misrepresentation, it cannot then be automatically withdrawn due to the later availability of a higher-preference waiting list place as this does not fall within any of the permitted grounds for withdrawal.

184. I also do not agree that the Local Authority’s “proposed” remedy addresses this concern. The Arrangements themselves already include this wording.

185. I therefore uphold this part of the objection.

186. As I have upheld this part of the objection, I do not need to comment in detail in relation to other matters raised by Objector 3 in relation to the clarity of the Arrangements relating to what method parents must request placement on the pool or for the reinstatement of a previous place, whether the 5 day period is calendar or working days, or what happens if the deadline falls on a weekend or bank holiday, other than to say that I agree with Objector 3’s analysis that this also leads to a lack of clarity.

187. Objector 3 also asked me to consider whether any waiting list offer arising after September - when a child has already started at their allocated school - could lawfully trigger withdrawal of that place. Paragraph 2.14 provides that a “school **must not** withdraw a place once a child has started at the school, except where that place was fraudulently obtained.” Paragraph 2.14 therefore prohibits this entirely, save for fraud.

188. In terms of Objector 3’s concerns relating to paragraph 2.14 of the Code, I asked the Local Authority whether it intended the automatic withdrawal provision in the Arrangements to apply after a child has started at a school to which it responded as follows:

“The admission arrangements state: “When a pupil is offered a place from a waiting list or reallocation pool before the start of term in September, the school place previously allocated will be withdrawn. The Council considers this is sufficiently clear to parents that the place will only be withdrawn following the offer of a more preferable school place before the start of term and before the child has started school.”

189. It therefore appears from this response that the Local Authority was not intending its automatic withdrawal provision in the Arrangements to apply following the pupil starting at school in breach of paragraph 2.14 of the Code and would note that the “before the start of term in September” limitation in the admission arrangements page may be an attempt to reflect an implicit recognition of this constraint. However, as I have already determined that the Arrangements do not currently comply with the Code in relation to withdrawal of previously allocated places, I do not need to consider this further.

Opt-in Waiting Lists

190. Objector 3 also raised an issue with the Arrangements requiring parents to “request that their child’s name is added to the waiting list for any or all of their schools of preference by contacting the school admissions team” as being incompatible with the Code. The responses to the consultation also suggested that parents should be automatically added to waiting lists if they do not get their first preference, rather than having to opt in.

191. Paragraph 2.15 of the Code specifies that admission authorities must maintain a waiting list until at least the 31 December in the admission year. It proceeds on the basis that a waiting list exists for oversubscribed schools and sets out how that list must be maintained. The Code contains no requirement for parents to undertake a further procedural step before becoming eligible for inclusion on the waiting list. Whilst admission authorities may seek confirmation that parents wish to remain on a waiting list, I do not consider the Code permits an arrangement under which unsuccessful applicants are excluded from the waiting list unless they actively opt in.

192. I asked the Local Authority to respond and explain why the Arrangements state that parents may request placement on the waiting list by contacting the school admissions team and how this is considered compatible with paragraph 2.15 of the Code. It responded as follows:

“The requirement in paragraph 2.15 is to maintain a clear, fair, and objective waiting list but it does not specify which pupil should be added to the waiting list. If the intention of the Code was [sic] to make it a requirement for a waiting list to contain all pupils not offered a place at the school, the Council would have expected the Code to specify this. If there was a requirement for waiting lists to contain all pupils who expressed a first preference for a school to be added to the waiting list, if they could not be offered a place, then it is reasonable to expect the Code to have specified this. There is, however, no requirement specified in the Code about which pupils should be added to waiting list or the process for this. The Code only specifies that a waiting list need to be held and therefore we consider that the arrangements are compatible with the Code.

The Council has previously added pupils to the waiting list of their first preference school if that could not be offered however many parents request to be added to the

waiting list for other preferences. It is our experience that parents often change their mind about the school allocation and preference order following National Offer Day, due to the placement of friends etc, so the Council has changed this process so that parents can join any school of preference waiting list with the understanding that if a place becomes available at the school it will be offered in place of the previous allocation.

The Council will reflect on this matter when considering any future amendments to the admission arrangements.”

193. I welcome the Local Authority’s indication that it will reflect on this matter and to help them with this, I consider that, where a child has been refused admission to an oversubscribed school, the child should be placed on the waiting list automatically unless the parent indicates otherwise. Provisions which require parents to take a positive step to secure inclusion on the waiting list risks excluding eligible children from consideration and is inconsistent with the purpose and operation of paragraph 2.15.

194. I therefore uphold this part of the objection.

Waiting List Operation

195. As part of my consideration of the paragraph relating to the Waiting list provisions in the Arrangements, I also considered the wider operation of the waiting list and its compliance with paragraph 2.15.

196. I was concerned that the Arrangements may not comply with the Code as they do not explicitly state that:

- a. “each added child will require the list to be ranked again in line with the published oversubscription criteria;”
- b. priority must not be given to children based on the date “their name was added to the list;” and
- c. “Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol must take precedence over those on a waiting list.”

197. I asked the Local Authority to comment on this and it responded as follows:

“The admission arrangements state: “Waiting lists for secondary schools are called reallocation pools. Each time the council is able to offer a place, or places at a school with a reallocation pool, the list is re-randomised within each criteria [sic] and the place(s) allocated to the child(ren) at the top of the list.” The requirement in 2.15 that this must be stated in the arrangements is met.

The requirement in 2.15 regarding b. and c. above do not include that these criteria must be stated within the admissions arrangements. However, In future years we will reflect on the feedback received about the wording used to describe the operation of our admissions arrangements, to include the requirement in 2.15 that priority must not be given to children based on the date “their name was added to the list,” and “Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol must take precedence over those on a waiting list.”

198. I have considered whether the Arrangements adequately explain the operation of waiting lists. The Arrangements provide a specific explanation of how secondary school reallocation pools operate, including that the list is re-randomised within each oversubscription criterion whenever places are allocated. However, no equivalent explanation is given in relation to the waiting lists maintained for community primary schools and the academies and free schools for which the Local Authority also holds waiting lists. As the waiting list provisions apply across several different categories of school, parents should be able to understand from the published arrangements how positions on all waiting lists are determined and reviewed. The differing levels of detail provided create uncertainty as to whether the same principles apply across all waiting lists.

199. I therefore consider the Arrangements lack sufficient clarity in this respect and do not fully satisfy paragraph 14 of the Code.

200. The Arrangements also do not explain that no priority is given according to the date a child's name was added to the list or that looked after children and previously looked after children allocated a place under a Fair Access Protocol take precedence over children on the waiting list.

201. These matters are expressly referred to in paragraph 2.15 and are important safeguards governing the operation of waiting lists. In the interests of clarity and transparency, parents should be able to understand these protections from the published arrangements themselves.

202. I therefore find that the Arrangements do not fully reflect the requirements of the Code and should be amended accordingly.

Conclusion

203. I determine that the Arrangements do not conform with the requirements of the Code in the following respects:

- a. The provision requiring the automatic withdrawal of a previously allocated and accepted school place following the offer of a place from a waiting list or reallocation pool is contrary to paragraph 2.13 of the Code.
- b. The provision requiring parents to request inclusion on a waiting list or reallocation pool is contrary to paragraph 2.15 of the Code.
- c. The waiting list provisions do not fully reflect the requirements of paragraphs 14 and 2.15 concerning the operation and ranking of waiting lists.

Other matters

Multiple versions of arrangements

204. Objector 3 raised a concern about multiple contradictory explanatory versions of the Waiting list provisions on its website simultaneously with the coordinated scheme of secondary school admissions page making no mention the reinstatement right whereas the admissions page of the website including it. This would mean that a parent consulting the coordinated scheme page is told their previous place will be withdrawn with no right of reinstatement whereas a parent consulting the admission arrangements page is told they have a 5-day reinstatement right.

205. I asked the Local Authority to respond to this and they commented as follows:

206. “Upon investigation it appears that there was a sentence missing from the admission arrangements published on the council’s website making it different from the text of the arrangements determined by the council. Thereby two different versions of the reallocation pool arrangements had been published. This was rectified as soon as it came to light.”

207. The Local Authority has therefore accepted that two inconsistent versions were published and this discrepancy has been corrected after discovery. In those circumstances, I make no further finding.

Publication of Objection Rights

208. This was the second ground that Objector 3 raised in its objection to the Arrangements. Paragraph 1.52 of the Code (contained above at paragraph 49) states as follows:

“ Local authorities **must** publish on their website.....information on how to refer objections to the Schools Adjudicator. Local authorities **must** publish these details by **15 March** in the determination year.”

209. The Council accepts that no written information concerning objections to the Schools Adjudicator was published following determination in line with the requirements of the Code. It has committed to rectify this to ensure compliance with the Code in future years.

Non-publication of Arrangements

210. In the process of my deliberations, I noted that the Arrangements did not appear to be readily accessible on either the website of the Local Authority or the websites of the community schools. This is in breach of paragraph 1.50 of the Code (see paragraph 49 above) which requires the Arrangements to be published on “the school’s website or their own website (in the case of a local authority) by 15 March in the determination year.”

211. Although, this has now been remedied by the Local Authority, it should ensure that the Arrangements revised to comply with this determination are published strictly in accordance with the provisions of the Code.

Conclusion

212. I determine that the Arrangements do not conform with the requirements of the School Admissions Code in the following respects:

- a. The Local Authority failed to publish information on how objections could be referred to the Schools Adjudicator by 15 March in the determination year as required by paragraph 1.52 of the Code.

The Referral

213. The Referral concerns the fairness of criterion 6 in the Arrangements and its effects. The substance of the Referral is that children resident in the CA-D catchment area who are unsuccessful in obtaining a place at either catchment school are unable to benefit from Priority 6 when seeking admission to Patcham High School. The Referrer submits that this reduces their prospects of admission to Patcham High School, which may be the next nearest school for some applicants, and is therefore unfair.

214. The 2025 determination examined the fairness and lawfulness of criterion 6 generally. This included the fact that it gives an advantage to applicants from single-school catchment areas and necessarily disadvantages some applicants from dual-catchment areas. The adjudicator accepted that displacement of some children from catchment schools was an intended consequence of the Arrangements and concluded that this was not unlawful or unfair in the context of the overall scheme.

215. Regulation 22 of the School Admissions (Admission Arrangements and Coordination of Admission Arrangements) (England) Regulations 2012 and paragraph 3.3(e) of the Code

state that objections cannot be brought “which raise the same or substantially the same matters as the adjudicator has decided on for that school in the last 2 years.”

216. The Referrer argues that the previous determination did not consider the issues that it has raised because:

“the Adjudicator seemingly misunderstood the wording of this criterion. In Table 22 of the determination, the Adjudicator states that Criterion 6 is “not applicable” to Patcham High School. This interpretation is repeated in Paragraph 408 where the Adjudicator suggests that places under Criterion 6 are only available at the four schools in dual school catchment areas. This is incorrect as is clear from the wording of criterion 6 and from the way it was applied for admissions for 2026.”

217. However, this assessment is incorrect. The adjudicator was entirely correct in putting “not applicable” in Table 22 as he was analysing admissions to Patcham High School itself, which is in a single school catchment area (CA-C). Criterion 6 gives priority to children from single school catchments applying elsewhere, not to children applying to their own single school catchment school.

218. Similarly, at paragraphs 407-409, the adjudicator discussed the number of places available under criterion 6 at Blatchington Mill, Hove Park, Varndean and Dorothy Stringer and calculated the total number of open admission places available in those dual catchment schools.

219. The Referrer interprets this as meaning the adjudicator thought criterion 6 only existed at those schools. This is not what the adjudicator was saying. His point was that:

- children from single school catchments (including Patcham and Longhill catchments) could access places through criterion 6 at the dual catchment schools; and
- Patcham itself did not need criterion 6 operating within its own admissions process for its own catchment children.

220. Whilst the 2025 determination did not expressly address the specific contention that displaced applicants from the CA-D catchment area are unable to benefit from criterion 6 when seeking a place at Patcham High School, it did consider and reject broader objections to the fairness of criterion 6, including its effect of giving preferential access to applicants from single school catchment areas and correspondingly reducing admission opportunities for some applicants from dual school catchment areas.

221. The present objection raises a more specific example of the operation of criterion 6 rather than an entirely distinct issue and I have considered it in light of, and consistently with, the conclusions reached in the 2025 determination, whilst remaining mindful of Regulation 22

of the School Admissions (Admission Arrangements and Coordination of Admission Arrangements) (England) Regulations 2012 and paragraph 3.3(e) of the Code.

222. The specific issue that the Referrer objects to is:

“that children who live in the Dorothy Stringer/Varndean catchment area are excluded from applying for a place at Patcham High School under Priority 6 because they live in a dual school catchment area. This creates an unfairness as the Council’s own numbers forecast that some children living in the Dorothy Stringer/Varndean catchment area might not get a place at either Dorothy Stringer or Varndean. The consequence of the wording of Priority 6 is that these children would then also be given low priority in applying for a place at Patcham High School even though this would be the next closest school for many children in the Dorothy Stringer/Varndean catchment area. I think this conflicts with Clause 14 of the School Admissions Code as it is not reasonable to draft an admissions criterion whose main effect when applied to Patcham High School is to reduce the chances of children living in the Dorothy Stringer/Varndean catchment area being able to access a place at Patcham High School.”

223. The Referral proceeds on the basis that children living in the CA-D catchment area who are unsuccessful in obtaining a place at either catchment school should receive equivalent priority to applicants from single school catchments when seeking admission to Patcham High School on the basis that this is likely to be the next closest school for many children in the CA-D catchment area.

224. However, the 2025 determination has already determined the legitimacy of criterion 6 as a mechanism intended to provide additional opportunities to applicants from single school catchments and rejected the proposition that residence within a particular catchment area, or proximity to a school, must necessarily attract a higher priority than other applicants. The adjudicator made clear that catchment areas are simply a means for prioritising admissions and do not confer a right or guarantee to a place.

225. The determination also recognised that displacement from catchment schools was an intended and permissible consequence of the Arrangements in order to achieve the Local Authority’s wider objectives.

226. I have carefully considered whether there is something specifically unfair about the interaction between catchment area CA-D and the Arrangements as they apply to Patcham High School. The Referrer states that “children who live in the Dorothy Stringer/Varndean catchment area are excluded from applying for a place at Patcham High School under Priority 6 because they live in a dual school catchment area.” However, criterion 6 is expressly designed to operate only for applicants living in single school catchment areas. The

fact that applicants from CA-D cannot benefit from criterion 6 when applying for Patcham High School is therefore not an unintended consequence of the Arrangements but their intended operation. Nor are applicants from CA-D uniquely disadvantaged. All applicants residing within dual school catchment areas are treated in the same way and are unable to access criterion 6.

227. I therefore conclude that the substance of the Referral concerns the fairness and operation of criterion 6 and raises matters which are the same as, or substantially the same as, matters determined by the adjudicator in the 2025 determination. Insofar as the Referrer identifies the specific effect of criterion 6 on applicants from catchment area CA-D seeking admission to Patcham High School, I conclude that this is simply a particular illustration of the broader issue already determined.

Conclusion

228. The Referral raises matters which are the same as, or substantially the same as, matters determined by the adjudicator in the 2025 determination. It therefore constitutes an objection proscribed by Regulation 22 of the School Admissions (Admission Arrangements and Coordination of Admission Arrangements) (England) Regulations 2012 and paragraph 3.3(e) of the Code. Accordingly, this is outside of my jurisdiction.

Determination

229. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the Objections to the admission arrangements for September 2027 determined by Brighton and Hove City Council.

230. 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 this determination unless an alternative timescale is specified by the schools adjudicator. In this case, I determine that the arrangements must be revised as quickly as possible and, in any event, by 31 October 2026, which is the closing date for secondary school place applications for 2027 admissions.

Dated: 19 October 2026

Signed:

Schools Adjudicator: David Holland