



## Determination

<b>Case reference:</b>	<b>REF3628</b>
<b>Referrer:</b>	<b>The Pattingham Parents Group</b>
<b>Admission authority:</b>	<b>Staffordshire County Council</b>
<b>Date of decision:</b>	<b>20 January 2020</b>

## Determination

I have considered the admission arrangements for September 2020 for Perton Middle School, Staffordshire in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the reasonableness of the catchment area, the arrangements conform with the requirements. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements by 28 February 2020.

## The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator (OSA) by a local parents' group (the referrers), about the admission arrangements (the arrangements) for Perton Middle School (Perton, the school), for September 2020. The date of the objection was 6 November 2019. The school is a middle deemed secondary community school for children aged 9 to 13.
2. The referral relates to the reasonableness of the school's catchment area.
3. When the arrangements were brought to my attention I considered that there were other matters did not, or might not, conform with the requirements for admission arrangements.

4. The parties to the case are Staffordshire County Council (the local authority), the referrers and the governing board of the school.

## Jurisdiction

5. These arrangements were determined under section 88C of the Act by the local authority, which is the admission authority for the school on 14 February 2019. The referrers submitted an objection to these determined arrangements on 6 November 2019. The School Admissions Code (the Code) requires objections to admission arrangements for 2020 to be made to the Office of the Schools Adjudicator by 15 May 2019. As this deadline was missed, the case cannot be treated as an objection. However, as the arrangements have been brought to my attention, I have decided to use the power conferred under section 88I(5) of the Act to consider whether the arrangements conform with the requirements relating to admission arrangements and I am treating the objection as a referral.

## Procedure

6. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

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

- a) the referrers' form of objection dated 6 November 2019 and subsequent correspondence;
- b) copies of the minutes of the meeting of the local authority at which the arrangements were determined;
- c) a copy of the determined arrangements as published on the local authority's website;
- d) the local authority's home to school transport policy;
- e) comments from the local authority on the matters raised, supporting documents and responses to my enquiries; and
- f) maps of the area identifying relevant schools.

8. I have also viewed material published on the local authority's website relating to admissions.

## The Referral

9. The referrers considered that the catchment area for Perton was not reasonable because although it was the nearest middle school to Pattingham the catchment area did not include that village. As a consequence of this, the referrers said, the local authority's

home to school transport policy did not provide free transport for children from Pattingham to Perton. Paragraph 1.14 of the Code says “*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.*”

## Other Matters

10. When I considered the arrangements as a whole it appeared to me that they did not, or may not, conform with requirements in the following ways.

- a) Catchment areas are part of the admission arrangements. Paragraph 1.47 of the Code says that admission authorities must publish admission arrangements on their website. Catchment areas did not appear to be published on the local authority’s website although the arrangements say they are available there.
- b) Perton is a middle deemed secondary school. On the website there is a link “*Admissions to primary and middle schools*”. This gives the timetable for applications to middle schools as that for primary schools. However, the admission arrangements for middle schools are on the same document as those for secondary schools and within this document, criterion 6 refers to “*major contributory primary schools*” and some middle schools (including this one) are listed under this heading. There appeared to be confusion about the status of the middle schools and this could render the arrangements unclear. Paragraph 14 of the Code requires that arrangements are clear.
- c) The numbering of the oversubscription criteria and references to them in the additional notes section does not match and important definitions of terms used in the oversubscription criteria, for example “*children in care*”, were not clearly signposted in the “*Additional notes*” section. This could also make the arrangements unclear and so not to conform with the Code.

## Background

11. Pattingham is a village about seven miles west of Wolverhampton. It lies in an area of Staffordshire where a three-tier school system operates. Children start in reception classes at first schools and transfer into Year 5 at middle schools and then to Year 9 at high schools.

12. There is a first school in the village of Pattingham and Perton is the closest middle school to the village at a distance of 3.09 miles from it. The village is not in the catchment area for Perton. Instead, the village falls into the catchment area for two other middle schools both of which are in the town of Codsall: Codsall Middle, an academy, which is 3.88 miles away and Bilbrook Middle, a Church of England voluntary controlled school, which is 4.38 miles away. All distances are taken from the Department for Education database “Get Information About Schools (GIAS). The nearest high school is also in Codsall.

13. The school has a published admission number (PAN) of 120 and its oversubscription criteria can be summarised as:

1. Looked after and previously looked after children
2. Children previously in care outside of England
3. Children whose exceptional circumstances require that they attend the school
4. Children with siblings at the school
5. Children living in the catchment area
6. Children attending named feeder schools (of which there are none for this school)
7. Other children

## Consideration of Case

14. The referrers argued that Perton was the closest middle school to Pattingham and the catchment area for that school was not reasonable because it did not include that village. The referrers said that as a consequence of this, free home to school transport was not available from Pattingham to Perton and that this constrained parents' preferences.

15. The home to school transport policy is not within my jurisdiction. However, an understanding of the statutory requirements for home to school transport and the local authority's own policy is necessary to consider this case.

16. The statutory requirements for home to school transport are found in the Education Act 1996 as amended by the Education and Inspections Act 2006. For children aged eight years or more (the age range of the school is 9 to 13), the local authority must provide free home to school transport to the nearest suitable school with places available if that school is more than three miles from their home by the shortest safe walking route, accompanied as necessary. There are extended rights for children with special needs and for children from low income families. A suitable school is defined as a publicly funded school which provides education appropriate to the age, ability and aptitude of the child and any special educational needs they may have.

17. The local authority's policy goes beyond this. The qualifying walking distance is two miles for children in Year 6 and below and as well as providing free transport to the nearest school, it is also provided to the child's catchment area school. Nearest and catchment area schools are not, as in this case, always the same. Where a school does not use a catchment area to prioritise admissions, the local authority defines a catchment area for transport purposes only.

18. Although Perton is the nearest middle school to Pattingham, it is not always the nearest school to Pattingham which provides education for children in Year 5 and Year 6. This is because parts of the village are nearer to primary schools in neighbouring two-tier education areas both in Staffordshire and in neighbouring authorities. The referrers drew my attention to All Saints Primary School in Trysull, a school to which some families have been offered free transport. As the referrers point out, this option would require children to change school again after just two years; it is well known that frequent changes of school disrupt children's progress.

19. The referrers quoted the local authority's website as saying the catchment areas were "*mainly historic*". In response the local authority told me that "*The establishment of catchment areas for the schools located within this location in the early 2000s was undertaken in consultation with all schools affected.*" I found this to be a matter of concern because catchment areas are part of the admission arrangements which admission authorities, in this case the local authority, are required to determine every year. Admission authorities are required to consult on their admission arrangements when they propose any changes to them (with the exception of an increase in PAN or to comply with a mandatory requirement of the Code), and at least once every seven years even if there have been no changes proposed. The consultation requirements are set out in paragraphs 1.42 to 1.45 of the Code. These paragraphs make it clear that consultation must be wider than with just schools, it is required to include parents and is also required to have taken place more recently than the early 2000s.

20. In response to my enquiries on this issue the local authority told me that "*full consultation*" last took place in the autumn of 2012 and that there was annual consultation with governing boards and neighbouring authorities. I was told that there were no records of any formal responses to these consultations. I was told that the local authority was in the process of consulting on proposed arrangements for 2021. However, the only evidence of such consultation on the local authority's website was a copy of "*proposed*" arrangements for 2021 where there was an invitation for readers to comment on these. This page was not promoted elsewhere on the website and I do not see how the groups of people listed in paragraph 1.44 of the Code would all know about the consultation, in particular "*parents of children between the ages of two and eighteen*". In her annual report in 2016/17 the Chief Adjudicator wrote about good practice when consulting on admission arrangements.

21. It is possible for an admission authority to consult in an exemplary fashion yet determine admission arrangements which do not conform with the Code. It is also possible for an admission authority to fail to meet the requirements of the Code concerning consultation yet still set admission arrangements which conform with the Code. I will consider below the reasonableness of the catchment area determined for Perton.

22. Pattingham is in the catchment area of two middle schools, Codsall and Bilbrook, which are both in the same town namely Codsall. The table below shows the relative populations of both Codsall and Perton together with the number of middle school places available in 2020. From these figures it would appear to me that there is more scope for the

two middle schools in Codsall to serve the neighbouring rural areas as well as the immediate vicinity than the single school in Perton because Codsall has more places available and a lower population. The local authority did tell me that new housing development was planned for Perton which would add to the need for middle school places in the town; but did not say if that additional need was likely to emerge in 2020.

	Perton	Codsall
Population (2011)	10,686	7,582
Middle school places (2020)	120	170

23. The local authority have, however, told me that in previous years all children living in the catchment area of the two Codsall middle schools who applied have been offered places at one of these schools and it expects that it will be possible for all children living in the catchment area to be offered a place at one or the other of the two Codsall middle schools in September 2020. Parents in Pattingham can therefore be confident that a middle school place will be available for their child at a school to which free transport will be provided and there is a degree of choice between two such schools.

24. Some parents who may prefer Perton to the other two middle schools are fortunate if Perton is the nearest school to their homes with Year 5 places. Children from these families qualify for free transport to three middle schools, the two in Codsall on the basis of catchment area, and to Perton on the basis of proximity. However, for some other children (including some living in Pattingham), the nearest school with Year 5 places is a two-tier primary school and so they would not qualify for free transport to Perton as well as their two catchment area schools. For these children, if their parents would prefer them to attend Perton, and they are offered a place, they are in exactly the same position as many other parents across England who would prefer their children to attend a school other than one to which free transport might be provided.

25. There is no entitlement to a place at a child's nearest school and it is often not possible for a school to be able to physically accommodate all the children for whom it is the nearest. In this case the travelling distances for children from Pattingham to Codsall are not excessive and so the decision not to include Pattingham in the Perton catchment area is in my view reasonable.

## Other Matters

### Catchment area maps

26. The Code requires in paragraph 1.47 that admission arrangements are published on the admission authority's website. The admission arrangements say that copies of school catchment area maps are available from the local authority or individual schools. No maps were contained in the arrangements, nor was there a link in the arrangements to any

catchment area maps which might be elsewhere on the local authority's website. The local authority referred me to the catchment area pages on its website. Here there is a link to a "school guide" where a postcode must be entered to proceed. After selecting from high, middle or primary school a list of that type of school appears in straight line distance order from the address. One or more of these schools has the words "catchment area" below it clicking on that takes the user to a map of the catchment area, further scrolling and scaling was required to see all of the catchment area on the maps which I looked at.

27. When I raised this matter, the local authority did offer to add the link to the catchment area pages to the arrangements. This would be a helpful step; however, I was unable to find out what a school's catchment area was from these pages without entering a postcode from within Staffordshire. This would present problems for parents moving to the area, or those living in neighbouring local authorities. I was also unable to see adjacent catchment areas to the one I had selected.

28. I find that the arrangements do not conform with paragraph 1.47 of the Code because catchment areas are not published in the arrangements of which they are a part. Furthermore, paragraph 14 of the Code requires that "*admission authorities must ensure that the practices and the criteria used to decide the allocation of places are fair, clear and objective.*" I do not find the way in which catchment areas are published elsewhere on the local authority's website is clear and so including a link to those pages in the arrangements would not meet the requirements of the Code on its own.

#### Status of middle schools

29. The middle schools in this part of Staffordshire are deemed secondary schools by virtue of the provisions of the Education (Middle School) Regulations 2002 (the middle school regulations) (or by the predecessor regulations if those were in force at the time the schools were established). I therefore, found it confusing that on the "*Education and learning*" page of the authority's website there is a link to "*Admissions to primary and middle schools*". Following a link on that page to "*Admission arrangements*" and then two subsequent links I could view a document showing the admission arrangements for middle and high schools.

30. Within the arrangements for middle and high, that is, secondary, schools the sixth oversubscription criterion reads "*Children who attend certain primary schools defined as major contributory primary schools.*" The three middle schools referred to in this determination are included in the list of contributory primary schools later in the arrangements. This apparent confusion over the status of the middle schools is continued back on the "*Admissions to primary and middle schools*" page where a link "*Apply for a school place*" sets out the timetable for applying to a middle school as being the same as that for applying to a primary school.

31. I find that having some details about the admission arrangements for middle schools within the information about admission to primary schools and other information about admission to middle schools within the information about admission to secondary schools is

not clear. The local authority said it would include the arrangements for middle schools with those for primary schools to clarify this for parents.

### Overall clarity of the arrangements

32. In addition to paragraph 14 which requires clarity in the arrangements, paragraph 1.8 of the Code requires that oversubscription criteria must be clear. There were a number of ways in which I considered that the arrangements including the oversubscription criteria were not clear. For example, the first oversubscription criterion reads “*Children in care and children who ceased to be in care because they were adopted (or became subject to a child arrangements order or special guardianship order).*” The requirement for looked after and previously looked after children to be given highest priority for admission is set out in paragraph 1.7 of the Code. The footnotes to that paragraph in the Code clarify what is meant by the terms looked after and previously looked after. Clarification of which children meet the first criterion is found in the “*Additional notes*” section of the arrangements, but is not clearly signposted within that section. Similarly, details about the admission of children with an education, health and care plan, how home to school distance is measured and how the operation of the tie-breaker, both of which are required by the Code, appear under the “*Additional notes*” heading with no signposting to them. In contrast, waiting lists, admission outside of the normal age group and other items appear under separate headings.

33. After the seven oversubscription criteria are set out there is a paragraph explaining how children meeting one of these criteria would be prioritised within it using the subsequent criteria. An example is given “*If for instance, all the catchment area children cannot be accommodated at a school, children who are resident within the catchment area will be arranged in order of priority according to distance i.e. category (6).*” This is not clear because the sixth oversubscription criterion is not distance, it is attendance at certain feeder schools, distance is the seventh criterion. A similar inconsistency in references to the numbers of the oversubscription criteria is found ahead of the list of named feeder schools, where this criterion is referred to as “*Category (5)*” when it is actually the sixth criterion.

34. When I raised these concerns with the local authority I was sent a revised version of the arrangements which contain some additional signposting of important elements of the arrangements. This additional signposting does not appear in the proposed admission arrangements for 2021 which are out for consultation on the local authority’s website. It would seem to me that the appropriate way to test the clarity of the arrangements would be through the current public consultation. I find that as the arrangements and oversubscription criteria are not clear and so do not conform with paragraphs 14 and 1.8 of the Code.

## **Summary of Findings**

35. The referrers considered that the admission arrangements for Perton were unreasonable because it was the nearest middle school to Pattingham and its catchment area did not include that village. They were also concerned that the catchment area was



based on historical factors and as a result of the village being omitted from the catchment area free home to school transport was not available from the village to that school.

36. I find that while the local authority may not have consulted on the catchment area as part of the admission arrangements as it should have done since the early 2000s, there are good reasons why Pattingham is included in the catchment area for middle schools in Codsall rather than the one in Perton. The catchment area is therefore reasonable and so conforms with the Code.

37. Paragraph 1.47 of the Code requires that admission arrangements are published. Catchment areas are part of admission arrangements and were not included in the arrangements. Where catchment areas could be found on the local authority's website, it was not possible to view them without a Staffordshire postcode, I do not think this makes them clear. I also find that other aspects of the arrangements were not clear and so they do not conform with paragraph 14 or 1.8 of the Code which require that arrangements and oversubscription criteria within them are clear.

38. Paragraph 31 of the Code says "*The admission authority **must** revise their admission arrangements within two months of the decision (or by 28 February following the decision, whichever is sooner) unless an alternative timescale is specified by the Adjudicator.*" The local authority is currently consulting on admission arrangements for 2021 with a closing date of 31 January 2020. I therefore, have decided to require that the arrangements are revised by 28 February 2020 which is the date by when the local authority must set its arrangements for 2021.

## Determination

39. I have considered the admission arrangements for September 2020 for Perton Middle School, Staffordshire in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the reasonableness of the catchment area, the arrangements conform with the requirements. I have also found that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

40. 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 by 28 February 2020.

Dated: 20 January 2020

Signed:

Schools Adjudicator: Phil Whiffing