



Office of  
the Schools  
Adjudicator

**DETERMINATION**

**Case reference:** ADA3255

**Objector:** A parent

**Admission Authority:** The Governing Body of Gosforth Central Middle School, Newcastle

**Date of decision:** 24 April 2017

**Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2018 determined by the governing body for Gosforth Central Middle School, Newcastle.**

**By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.**

**The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a parent (the objector), about the 2018 determined admission arrangements (the 2018 arrangements) for Gosforth Central Middle School (the school) for boys and girls aged 9 to 13 years in Newcastle.
2. The objection was submitted on 28 February 2017 and raises issues related to a new priority for named schools which are not designated feeder schools; whether a consultation process was necessary before this change was made; how the distance between an applicant's home and school will be measured; and the published deadline by which applications must be submitted.

**Jurisdiction**

3. Newcastle City Council is the local authority for the area in which the school is located. The school, the objector, and the local authority are the parties to this case.
4. I am aware that a previous determination (ADA3251) considered matters related to the 2017 determined arrangements (the 2017 arrangements). That

determination was made using the adjudicator's power under section 88I of the Act after the 2017 arrangements came to the attention of the adjudicator "by other means" than an objection as set out in paragraph 3.4 of the Code.

5. The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 provide at regulation 22 that "*For the purposes of section 88H(5)(d)(a), where the adjudicator has determined an objection to the admission arrangements of a school... no objection may be referred to the adjudicator raising the same or substantially the same issues in relation to those admission arrangements within 2 years of the decision by the adjudicator.*"
6. I have noted the views expressed by the local authority that as the current objection "*raises substantially the same matters as previously raised regarding the school's 2017/18 policy...this objection cannot be brought*" and by the school that "*because of the 2 year rule this objection has no legal status.*" However, as the previous determination did not consider an objection under section 88H(5) of the Act, the two-year prohibition does not apply to the current objection concerning the 2018 determined arrangements. As the earlier determination was not in response to an objection under section 88H(5), I have not been required to consider whether this objection raised the same or substantially the same issues as those dealt with in that earlier determination.
7. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act that it is within my jurisdiction to consider this objection.

## **Procedure**

8. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
9. The documents I have considered in reaching my decision include:
  - i. the form of objection sent by the objector on 28 February 2017 and subsequent correspondence;
  - ii. an initial response from the school on 3 March 2017 and subsequent correspondence;
  - iii. comments on the objection from Newcastle City Council (the local authority) on 9 March 2017 and subsequent correspondence;
  - iv. the previous determination ADA3251;
  - v. a copy of the determined arrangements; and
  - vi. a copy of the minutes of the governing body's meeting of 6 March 2017 recording that the arrangements were determined on 28 February 2017.

## **The objection**

10. The objector raised the following concerns about the 2018 arrangements (relevant paragraphs of the School Admissions Code are shown in brackets):
  - a. The naming of six Gosforth first schools which are not designated

feeder schools in the third oversubscription criterion (1.9(b)) and whether a public consultation process should have been conducted before this change to the arrangements was determined (1.42).

- b. How the distance between the school and the applicant's home will be measured (1.13).
- c. The published deadline by which applications must be submitted (14).

## Background

11. Gosforth Central Middle School is a foundation, middle deemed secondary school for boys and girls aged 9 to 13 years. The school is part of a three-tier system serving the Gosforth area of Newcastle and has a published admission number (PAN) of 126.
12. The headteacher of the school confirmed that the governing body determined the 2018 arrangements by email on 28 February 2017, which complies with the required deadline, and the decision was recorded formally in the minutes of the governing body's meeting of 6 March 2017.
13. The determined arrangements were published on the school's website on 28 February 2017 and state that if more applications are received than the 126 places available in Year 5, then places will be allocated according to the oversubscription criteria which I have summarised below:
  - 1) Looked after and previously looked after children.
  - 2) Children attending one of the designated 'feeder' schools which are Archbishop Runcie First School, Grange First School, and South Gosforth First School.
  - 3) Children attending any other Gosforth first school that is not a designated feeder school. These schools are Archibald First School, Broadway East First School, Brunton First School, Dinnington First School, Gosforth Park First School, and Regent Farm First School.
  - 4) Children not attending a designated feeder school or other Gosforth first school who will have a sibling at the school in September 2018.
  - 5) Children with an exceptional medical reason for attending the school.
  - 6) Children living nearest the school as measured in a straight line from a single fixed central point at the school to a point in the centre of the home address of the child, using the Local Land and Property Gazetteer and British National Grid Easting and Northing co-ordinates.

Random allocation will be used to decide the allocation of the final place in the event that more than one child has an equal claim on it.

## Consideration of case

14. The first part of the objection about the 2018 arrangements concerns the third oversubscription criterion which would prioritise "*children attending any other Gosforth first school that is not a designated feeder school*" and then names six Gosforth first schools. The objector contends that priority for children who have attended any the six schools expressly stated not to be feeder schools is a breach of paragraph 1.9(b) of the Code.

15. Paragraph 1.9(b) of the Code states that *“it is for admission authorities to formulate their admission arrangements, but they **must not** take into account any previous schools attended, unless it is a named feeder school.”*
16. The Code clearly prohibits an admission authority from taking into account the previous school any child has attended unless it is a named feeder school. However, the school has named six schools in criterion 3, and has then expressly stated that these schools are not designated feeder schools, which seems to me to be contradictory. If the six schools are not feeder schools, then attendance at them cannot be taken into account. If attendance at the schools is to be taken into account, then they must be named as feeder schools.
17. I am of the view that including in the oversubscription criteria schools that are stated not to be feeder schools is also likely to be confusing for parents and therefore breaches paragraph 14 of the Code which requires that *“...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.”* Similarly, paragraph 1.8 of the Code requires that *“oversubscription criteria **must** be...clear...”*
18. The third oversubscription criterion does not comply with the Code at paragraph 1.9(b) because it prioritises children who have previously attended a school that is *“not a designated feeder school”* and also breaches paragraphs 14 and 1.8 which require oversubscription criteria to be clear. The wording currently used lacks clarity and is likely to be confusing for parents. On this basis, I uphold the first part of the objection.
19. The objector suggested that as the wording of the third oversubscription criterion is different to that contained within the 2017 arrangements, then before making the changes, the admissions authority should have conducted a consultation process as required by paragraph 1.42 of the Code.
20. Paragraph 1.42 of the Code states that *“when changes are proposed to admission arrangements, all admission authorities must consult on their admission arrangements ... that will apply for admission applications the following school year.”*
21. The chairman of governors confirmed in his letter of 23 March 2017 that *“in naming the six first schools we were responding to the [previous] Adjudicator, in order to give our policy greater clarity without changing it materially.”*
22. I am satisfied that the wording of the third oversubscription criterion was changed as a result of the previous determination. As such, I am persuaded that, in this instance, a consultation process was not necessary because paragraph 3.6 of the Code permits the variation of arrangements necessary to give effect to a determination by an Adjudicator. I do not uphold this part of the objection.
23. The objector was also concerned that the method used to measure distance from children’s homes to the school lacked the clarity required by paragraph 1.13 of the Code which states that *“admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the*

*'home' address will be determined and the point in the school from which all distances are measured."*

24. The arrangements state that the distance from home to school will be *"measured in a straight line from a single fixed central point at the school to a point in the centre of the home address of the child, using the Local Land and Property Gazetteer and British National Grid Easting and Northing co-ordinates."* I note that this is the method used by the local authority by which the central point in the home and in the school is determined and the distance between these two points is measured, and that the local authority provides the school with the distance measurements.
25. I consider that the method used to measure the distance between home and school has been defined clearly and therefore complies with paragraph 1.13 of the Code. I do not uphold this part of the objection.
26. The last part of the objection concerns the published deadline by which applications must be submitted. The deadline published was 31 October 2016 which the objector said was confusing for parents and therefore a breach of paragraph 14 as the deadline should have been 31 October 2017.
27. The chairman of governors confirmed in his letter of 23 March 2017 that the incorrect deadline was a clerical error which was corrected immediately so that the version of the 2018 arrangements now published on the school's website shows the correct deadline for the submission of applications. I am satisfied that the revision to the determined arrangements to correct the published deadline is permitted by paragraph 3.6 of the Code.
28. The incorrect deadline for submission of applications was published in error and I acknowledge the school responded quickly to address this matter. However, as the incorrect deadline could have caused parents to be confused, I am persuaded that this lack of clarity was a breach of paragraph 14, and therefore I uphold this part of the objection.

## **Summary of Findings**

29. The third oversubscription criterion does not comply with the Code at paragraph 1.9(b) because it prioritises children who have previously attended a school that is *"not a designated feeder school"* and also breaches paragraphs 14 and 1.8 because the wording lacks clarity and would be confusing for parents. I uphold this part of the objection.
30. In addition, the incorrect deadline for submission of applications, published at the time the objection was made, could have caused parents to be confused. I am persuaded that this lack of clarity was a breach of paragraph 14, and therefore I also uphold this part of the objection. However, I acknowledge that the school quickly revised its arrangements to publish the correct deadline.
31. I have not upheld two aspects of the objection. I am persuaded that a consultation process was not required before the wording of the third oversubscription criterion was amended to give effect to a previous determination, in accordance with paragraph 3.6 of the Code. In addition, I find that the method used to measure the distance between home and school has been defined clearly and complies with paragraph 1.13 of the Code.

32. In the paragraphs above I have explained why I have upheld some parts of the objection. I conclude that the third oversubscription criterion does not comply with the Code at paragraph 1.9(b) because it would prioritise children who have previously attended named schools which are expressly stated not to be feeder schools, and does not comply with paragraphs 14 and 1.8 because expressly stating that schools are not feeder schools would be confusing for parents. The deadline for submission of applications was published in error at the time the objection was made, which would also be confusing for parents and therefore contravene paragraph 14 of the Code.
33. I have also explained those other parts of the objection which I have not upheld because I conclude they are not in breach of the Code. A consultation process was not required before amending the arrangements to give effect to a previous determination, and the method used to measure the distance between home and school has been defined clearly.
34. Accordingly, I partially uphold this objection to the 2018 admission arrangements for Gosforth Central Middle School.

### **Determination**

35. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2018 determined by the governing body for Gosforth Central Middle School, Newcastle.
36. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination.

Dated: 24 April 2017

Signed:

Schools Adjudicator: Ms Cecilia Galloway