



Office of
the Schools
Adjudicator

DETERMINATION

Case reference: ADA3259

Objector: A parent

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

Date of decision: 4 July 2017

Determination

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

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of 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 arrangements) for Gosforth East Middle School (the school) for boys and girls aged 9 to 13 years in Newcastle.
2. The objection was submitted on 18 March 2017 and concerned the lack of published admission arrangements for 2018. The school subsequently published the arrangements on its website on 23 March 2017.

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. Initially, the objection was out of jurisdiction as the arrangements had not been determined by the governing body which is the admission authority for the school. The objection came within jurisdiction after the arrangements were determined by the governing body on 9 May 2017, well after the deadline specified in paragraph 1.46 of the Code.
5. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction to consider this objection. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

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:
 - i. the form of objection sent by the objector on 18 March 2017 and subsequent correspondence;
 - ii. an initial response from the school on 23 March 2017 enclosing a copy of the arrangements, other documentation and subsequent correspondence;
 - iii. comments on the objection from Newcastle City Council (the local authority) on 9 March 2017 and subsequent correspondence; and
 - iv. a copy of the minutes of the governing body's meeting of 9 May 2017 at which the arrangements were determined.

The objection

8. At the time the objection was made, the objector could not find the arrangements on the school's website, nor was there any reference to them on the local authority's website; only the 2017 arrangements were available. The objector expressed two concerns: that the arrangements had not been determined by the deadline of 28 February 2017, in breach of paragraph 1.46 of the Code, and that the arrangements had not been sent to the local authority by the deadline of 15 March 2017, in breach of paragraph 1.47 of the Code.

Other Matters

9. In considering the arrangements as a whole, I noticed other matters which appeared not to conform with the requirements relating to admission arrangements. The priority for "*children attending any other Gosforth first*

school that is not a designated feeder school” may breach paragraph 1.9(b) of the Code; and the method by which the distance between an applicant’s home and school will be measured may not comply with paragraph 1.13 of the Code.

Background

10. Gosforth East 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 120.
11. The 2018 arrangements published on the school’s website on 23 March 2017 state that if more applications are received than the 120 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 Broadway East First School, Dinnington First School, and Gosforth Park First School.
 - 3) Children attending any other Gosforth first school that is not a designated feeder 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 or a suitable alternative geographical information system

Tiebreaker: If more children apply from a particular category than there are places available, priority will be given to those with a sibling who will be attending the middle school when the applicant starts. The system of random allocation will be used to allocate places to any remaining children.

Consideration of case

12. The objector was concerned that when the objection was submitted, on 18 March 2017, the arrangements were not available on the school’s website, nor was there any reference to them on the local authority’s website. The objector questioned whether the lack of published was an indication that the arrangements had not yet been determined by the governing body. The objector pointed out that *“pursuant to paragraphs 1.46 and 1.47 [of the Code] ... the school was required to determine its admission arrangements for the 2018/19 academic year by 28 February 2017. Upon determining those admission arrangements, the school is required to publish them on their website and must also notify the local authority of those arrangements as soon as possible before 15 March 2017.”*

13. The objector explained that *“parents need to know what their admissions policy is in good time so that the oversubscription criteria can be considered and decisions made as to whether or not objections need to be made within the statutory time limits.”*
14. When asked for a copy of the 2018 determined arrangements, the school said in its email of 23 March 2017 that *“we are currently uploading this to our website and will email this to you as soon as possible.”* Later that same day, the school provided a copy of the arrangements which were, by then, published on its website and labelled *“Gosforth East Middle School 2018/19.”*
15. The school was asked for a copy of the minutes of the meeting of the full governing body at which the arrangements were determined. In a letter from the school on 31 March 2017, the headteacher stated that *“the admissions policy 2018/19 for Gosforth East Middle School will be agreed by the school’s Board of Governors on 4 April 2017. I appreciate this is outside the statutory date and can only apologise that this was not done by 28 February.”* The arrangements published on the school’s website had therefore not yet been determined by the governing body.
16. The school was asked to provide a copy of the minutes of governing body’s meeting of 4 April 2017. From the minutes of that meeting, it was clear that by the time the arrangements were eventually discussed, the meeting was no longer quorate as a number of governors had left. Although the minutes record that the governors present *“accepted”* the 2018 arrangements, a meeting without a quorum cannot take a binding decision, and therefore the arrangements had not been determined at that meeting. Further consideration of the objection was halted until the governing body complied with its statutory duty to determine the arrangements.
17. On 18 May 2017, the school presented a copy of the minutes of the governing body’s meeting of 9 May 2017 which confirmed that the arrangements had finally been determined by the governing body. The arrangements had therefore been determined well after the deadline of 28 February 2017, in breach of paragraph 1.46 of the Code. I uphold the first part of the objection.
18. As the arrangements had not been determined until 9 May 2017, it also follows that the determined arrangements could not have been sent to the local authority by the deadline of 15 March 2017, in breach of paragraph 1.47 of the Code. I uphold the second part of the objection.

Other matters

19. The arrangements prioritise *“children attending any other Gosforth first school that is not a designated feeder school”* at oversubscription criterion 3.
20. 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.”* The Code clearly prohibits an admission authority from taking into account the previous school any applicant has attended unless it is a named feeder school. Each

feeder school would have to be named individually. Priority cannot be given on the basis of referring to *“any other Gosforth first school...”*

21. Furthermore, the third oversubscription criterion seeks to prioritise on the basis of any other Gosforth first school *“that is not a designated feeder school.”* If the other Gosforth first schools are not feeder schools, then attendance at them cannot be taken into account. I am of the view that including in the third oversubscription criterion a priority for children who have attended schools that are not feeder schools is likely to be confusing for parents. The arrangements accordingly breach 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...”*
22. It is my judgment that 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”*. In addition, as the wording used lacks clarity and is likely to be confusing for parents, the third oversubscription criterion also breaches paragraphs 14 and 1.8 which require admission arrangements as a whole and oversubscription criteria respectively to be clear.
23. The final oversubscription criterion prioritises *“children living nearest the school”*, where the distance 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 or a suitable alternative geographical information system.”*
24. The Code at paragraph 1.13 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.”*
25. The method by which the distance between an applicant’s home and school will be measured is unclear because the points in the school and the home are not precisely stated, and it appears that more than one system of measurement may be used (*“the Local Land and Property Gazetteer or a suitable alternative...”*). As the wording of the final criterion lacks clarity, I am persuaded that it does not comply with paragraph 1.13 of the Code.

Summary of Findings

26. The arrangements were determined on 9 May 2017, well after the deadline required by paragraph 1.46 of the Code, and after the deadline for submission to the local authority specified in paragraph 1.47 of the Code. On this basis I uphold this objection to the 2018 admission arrangements for Gosforth East Middle School.

27. I have also found other ways in which the arrangements do not comply with the Code in the ways set out in the paragraphs above.

Determination

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

29. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

30. 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: 4 July 2017

Signed:

Schools Adjudicator: Ms Cecilia Galloway