



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA3479

**Objector:** A parent

**Admission Authority:** The Governing Board for Archibald First School, Newcastle upon Tyne

**Date of decision:** 29 June 2018

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2019 determined by the governing board for Archibald First School, Newcastle upon Tyne.**

### **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 admission arrangements for September 2019 (the arrangements) for Archibald First School (the school), a foundation school for children aged 3 to 9. The objection is that siblings of some former pupils do not have any priority in the oversubscription criteria and this is unfair to their families.
2. The local authority for the area in which the school is located is Newcastle upon Tyne and it is a party to this objection. Other parties to the objection are the governing board of the school and the objector.

### **Jurisdiction**

3. These arrangements were determined on 8 March 2018 under section 88C of the Act by the school's governing board, which is the admission authority for the school. The objector submitted his objection to these determined arrangements on 15 May 2018. Although the arrangements were determined after the date of 28 February prescribed in the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England ) Regulations 2012, I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

## **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).
5. The documents I have considered in reaching my decision include:
  - a. the objector's form of objection dated 15 May 2018 and subsequent emails;
  - b. the school's response to the objection and supporting documents;
  - c. information provided by the local authority;
  - d. maps of the area identifying relevant schools;
  - e. confirmation of when consultation on the arrangements last took place;
  - f. copies of the minutes of the meeting of the governing board at which the arrangements were determined; and
  - g. a copy of the determined arrangements.

## **The Objection**

6. The school is a first school catering for children from Reception until the end of Year 4 at which point the children transfer to middle schools. The objector had responded to the school's consultation on the arrangements. In his response, he proposed that children whose older sibling had transferred into Year 5 at a neighbouring middle school should be given the same priority as children with an older sibling still at the school. This proposal was not adopted by the governing board when it determined the arrangements.
7. The objector said that not giving sibling priority to children whose elder brother or sister had transferred to Year 5 at Gosforth Junior High Academy was not fair or reasonable. He referred to paragraphs 12, 14, 1.8, 1.11 and 1.12 of the Code.

## **Background**

8. The Gosforth area of Newcastle upon Tyne is served by a three-tier system of schools. There are nine first schools, three middle schools and one high school; children transfer between these schools at age 9 (the end of Year 4 and beginning of Year 5) and at age 13 (the end of Year 8 and beginning of Year 9). The neighbouring area of Newcastle is served by a two-tier school system with transfer from primary to secondary school at age 11 (the end of Year 6 and beginning of Year 7).
9. The school is a member of the Gosforth Schools' Trust (the trust) along with seven of the other first schools, two of the middle schools, but not

Gosforth Junior High, are also members of this trust. The remaining first school is a voluntary aided school and is an active partner with the trust.

10. The school is oversubscribed and has a published admission number of 60. The oversubscription criteria can be summarised as:
  1. Looked after and previously looked after children
  2. Siblings of children who will be on roll when the child is admitted
  3. Exceptional medical reasons
  4. Children living nearest to the school
11. If two or more children live the same distance from the school, random allocation is used as a final tie-breaker.

### Consideration of Case

12. The objector quoted the second oversubscription criterion in full *“Children with a brother or sister (a sibling) who will be on roll at the school on the date that the child will be admitted in September 2019. Sibling can be a brother or sister, half brother or sister, adopted brother or sister, step brother or sister, or the child of the parent or carer’s partner, as long as the children live at the same address.”* He said this criterion was *“historical”*. He explained that during consultation on the arrangements he had proposed an alternative criterion. This read *“Children with a brother or sister (a sibling) who will be on roll at Archibald First School or who will have transferred from the School to Year 5 at the Gosforth Junior High Academy on the date that the child will be admitted in September 2019. Sibling can be a brother or sister, half brother or sister, adopted brother or sister, step brother or sister, or the child of the parent or carer’s partner, as long as the children live at the same address.”*
13. The governing board did not adopt his proposal and determined the second criterion as set out above. The objector quoted paragraph 12 of the Code *“The purpose of the Code is to ensure that all school places for maintained schools (excluding maintained special schools) and Academies are allocated and offered in an open and fair way.”* He also quoted paragraph 14 which says *“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”* and paragraph 1.8 which says *“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation.”*
14. The two paragraphs in the Code concerning siblings were also quoted by the objector, who said *“An extended sibling criterion is not uncommon and is anticipated in the Code”*. The first is paragraph 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)."* The second is paragraph 1.12 *"Some schools give priority to siblings of pupils attending another state funded school with which they have close links (for example, schools on the same site, or close links between two single sex schools). Where this is the case, this priority **must** be set out clearly in the arrangements."*

15. The objector said that the Archibald First and Gosforth Junior High were on adjacent sites, that Archibald First was a named feeder school in Gosforth Junior High's admission arrangements and that most children at the school transferred to it. He put forward the rationale for a sibling criterion as being to help parents of more than one child to get their children to school on time, give children the security of having a family member at the same school and allow families to develop familiarity with the school.
16. The objector argued that elsewhere in Newcastle, where there is a two-tier system, children applying for a place at primary school with a sibling who would be in Year 5 at the time they were to start, would get priority for a place as a sibling. He identified that one of the other first schools in Gosforth did have a sibling link with one of the other middle schools similar to that which he had proposed, although he was aware that this was the one first school not in the trust. He said *"The omission of a sibling rule including siblings of year 5 pupils at the Junior High is neither fair nor reasonable."*
17. In its response to the objection the school said that the governing board had considered the objector's proposed revision to the second criterion. It had concluded that: *"the purpose of the sibling link only being recognised for children who have an older sibling in the school at the time of admission and not extended beyond year 4 was in place to provide continuity for children on roll in Archibald First School."* The school also said: *"children transferring into middle school at the end of year 4 have the option of applying for up to three middle schools, the continuity for children in Archibald First school should cease on transition to middle school"*. The governing board had also considered the practice of the first school which did have a sibling link to one of the three middle schools and concluded that *"to extend the sibling link to year 5 would potentially have a significant impact on the other schools in the Trust. It was agreed, however, that this might be an option for the Trust schools to explore further for future admission policies."* The local authority made no comment on the objection.
18. The Code clearly permits admission authorities to give priority to siblings of former pupils and to siblings of children who attend other schools. However, there is no requirement for them to do so. Should a school decide to give such priority, then the oversubscription criterion

used must meet the requirements of paragraph 1.8 of the Code and be objective. The wording of the criterion proposed by the objector is not in my view objective. This is because the closing date for primary school applications is 15 January; neither parents, nor the admission authority will not know if an older child has been offered a place at the middle school until 1 March. It will not be until the beginning of term in September that it will be known for certain that the older child has started in Year 5 at the middle school. This means that it is impossible to know for certain if an older child will be attending the middle school in the following September at the point when primary school places are offered on 16 April.

19. If the school were to give priority to siblings of former pupils in any way, beyond those who would be in Year 5 at Gosforth Junior High, this would be capable of being objectively assessed. However, such an approach would reduce the number of places available to first born children living near the school and this could be greater unfairness for them than that perceived by the objector. In September 2018, 19 of the 60 places available were offered to siblings. The Code makes clear at paragraph 1.10 that it is for admission authorities to decide what oversubscription criteria to adopt. For any school, it is likely that there will be more than one possible set of Code compliant criteria. The task for me in considering this quite properly made objection is not to weigh the merits of the alternative criterion proposed by the objector against those adopted by the admission authority. Rather, it is to test whether the arrangements which the school has determined are compliant with the requirements relating to admissions, in the light of the objection.
20. At some point children of different ages in a family will have to attend different schools. The only exceptions are those very rare cases of schools catering for children from Reception to the end of Year 13. In a three-tier school system, children will have to attend different schools more often than in a two-tier system and it will happen at an earlier age. The objector has said that the sibling criterion has been in its current form for some time. In my view, therefore, parents in the area would have known when they applied for a place at the school that once the older child left any sibling priority for a younger child would cease unless the arrangements changed and there could be no certainty of that happening.
21. Taking the objector's postcode as representative of the area, the Department for Education database identifies 7 first schools within 2 miles of that postcode and 21 primary schools which cater for children from Reception to Year 6. One of these two-tier primary schools is closer to the postcode than any of the first schools. If having their Reception child and their Year 5 child in the same school was important for a parent options would have been available in the two-tier school system.
22. All oversubscription criteria benefit some children, but not others. The oversubscription criterion relating to siblings is clear and objective. It helps families with children who will be on the roll when the younger

child starts school. Extending the criterion to include former siblings attending a particular middle school could be difficult to do objectively and could reduce the number of places available for first-born children living in the area. The criterion has been in place for some years and parents would have been aware of it when applying for a place at the school; they could not have expected it to be any different when a younger child was ready to start school. If it was important for a parent to have their Reception class child and their Year 5 child in the same school, there are many two-tier schools within two miles of the area at which this would be possible. I do not consider the lack of any priority for siblings of former pupils of the school who attend a particular middle school to be unfair or unreasonable so I do not uphold the objection.

### **Determination**

23. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by governing board for Archibald First School, Newcastle upon Tyne.

Dated: 29 June 2018

Signed:

Schools Adjudicator: Phil Whiffing