



## **DETERMINATION**

**Case reference:** ADA3402 to ADA3412 and ADA3424

**Objectors:** A number of parents, the governing board of Turton and Edgworth CofE/Methodist Controlled Primary School, and North Turton Parish Council

**Admission Authority:** Bolton Council for Turton School, Bolton

**Date of decision:** 16 August 2018

### **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 2019 determined by Bolton Council for Turton School, Bolton.**

**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 the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by Friday 28 September 2018.**

### **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 number of parents, North Turton Parish Council and the governing board of Turton and Edgworth CofE/Methodist Controlled Primary School (the objectors), about the admission arrangements for Turton School (the secondary school) for September 2019.
2. The local authority for the area in which the secondary school is situated is Bolton Council. The local authority is the admission authority as the school is a community school, and is a party to the

objection. Other parties to the objection are the objectors, the governing board of Turton School, Bury Council and Blackburn with Darwen Council. Parents have between them made ten objections. I use the term 'objectors' for simplicity in this determination. Although not all objectors have raised every aspect of the objections there is consistency in the objections and all points raised will be covered in this determination.

## **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by the local authority, which is the admission authority for the school. The objectors submitted their objections to these determined arrangements in May 2018. Some objectors have asked to have their identity kept from the other parties and all 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 name and address to me. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and are within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## **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 objectors' letters/emails/forms of objection provided in May 2018 and subsequent communications from the objectors;
  - b. the local authority's response to the objections and supporting documents
  - c. the school's response to the objections and supporting documents;
  - d. Blackburn with Darwen Council's response to the objections and supporting documents.
  - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2018;
  - f. maps of the area identifying relevant schools;
  - g. confirmation of when consultation on the arrangements last took place;
  - h. Google Maps for distances

- i. letter dated January 2018 confirming determination of admission arrangements for 2019; and
- j. a copy of the determined arrangements.

I have also taken account of information received during a meeting of the parties able to attend, convened by me on 16 July 2018 at Edgworth Methodist Church Hall.

### **The Objection**

- 6. The key issue in the objections is the change to the admission arrangements for Turton School, which will be considered in detail below. The objection is primarily to the changes to the admission arrangements which changed the proximity element of the oversubscription criteria for entry in September 2018 from a formula which gave a higher priority to those for whom the school was their nearest secondary school to a straight line home to school measurement. The change also affects the arrangements for admission to other schools for which the local authority is the admission authority. For the avoidance of doubt, I make clear here that I am considering the objections in relation solely to Turton School. Nothing I say in relation to the change in approach to measuring distance applies to the admission arrangements for any other Bolton school.

### **Other Matters**

- 7. In Criterion 1: reference is made to a “*residence order*”. These have been superseded by child arrangements orders as set out in paragraph 1.7 of the Code.
- 8. In Criterion 2: there is no definition of a “*child protection plan*”. This may not comply with the requirements for arrangements to be clear and easily understood under paragraphs 14 and 1.8 of the Code.
- 9. There appears to be no process for requesting admission out of normal age group as required by paragraph 2.17 of the Code. These three matters apply to the secondary school and to all other community secondary schools in Bolton.

### **Background**

- 10. Turton School is a community secondary school for pupils of mixed gender aged 11 to 18. It had a published admission number (PAN) in 2017 and 2018 of 240 but admitted 270 children in each of those years. For 2019 the PAN has been increased to 270.

## Geography

11. The secondary school is situated opposite Bromley Cross railway station, close to the northern boundary of Bolton Council's area, on the edge of the built up area of Bolton. Many of the objectors live in or near the village of Edgworth and have children attending Turton and Edgworth CofE/Methodist Controlled Primary School (the primary school), situated in the village. The area is hilly, with settlement concentrated in the valleys. The village of Edgworth lies across the administrative boundary, in the area of Blackburn with Darwen Council. The village lies within the administrative parish of North Turton. The village is situated upstream from the secondary school and from Bolton. The roads in and out of the village lead down to Bolton (passing the secondary school) or up onto the hills.
12. As a number of the objectors have pointed out, and as is common in human settlement, the village's historic and contemporary links tend to be downstream towards Bolton, rather than over the watershed towards Darwen with Blackburn or Bury. I am told, and I accept, that those living in and around Edgworth see themselves as closely linked to Bolton, rather than to Darwen with Blackburn. However, administratively they fall within the local authority area of Blackburn with Darwen. I am told, and I accept, that traditionally children from the primary school progressed to the secondary school. I note that the place name of Turton appears in the name of both schools.

## Admissions arrangements

13. Historically residents of North Turton, an area which includes the village of Edgworth, benefited from an arrangement by which places for children were guaranteed at the secondary school. This arrangement ended in 2008 and that change was subject to objections to the adjudicator (ADA/001171 and 001173) which were not upheld.
14. Since then, up to and including 2017, Bolton Council included in the admission arrangements for its maintained community secondary schools (including the secondary school) a formula for applying a distance criterion, worded as follows:  
  
*"Distance to preferred school minus distance to nearest or next nearest school + 100 = Ranking Value.*  
  
*All distances are measured by the shortest walking route from the address point to the designated main school gate."*
15. Under this formula a preference for the nearest school would always produce a ranking value below 100. This is because the next nearest school must be further away than the nearest school. When the distance to the next nearest school is subtracted from the distance to the nearest school a negative number will result. When 100 is added to that negative number a number less than 100 will result.

16. The admission arrangements determined for 2019 (introduced for 2018 and unchanged since) are as follows:

***“BOLTON METROPOLITAN BOROUGH COUNCIL  
ADMISSION POLICY FOR COMMUNITY SECONDARY SCHOOLS  
IN SEPTEMBER 2019***

*The Council will admit all children with an Education, Health and Care Plan, in whose Plan the school is named*

*The current policy for admission to community and controlled secondary schools is as follows.*

*All parents will be provided with an application form on which they will be asked to express 3 preferences in order of priority for a primary school. Places will be allocated up the published admission number for each school.*

*If the school is over-subscribed the following criteria will be applied to all applications in priority order.*

*Children in Public Care (Looked after children) including adopted children who were previously in care and children who leave care under a special guardianship or residence order. A “Looked after Child” is a child who is (a) in the care of the local authority or (b) being provided with accommodation by a local authority in the exercise of their social services functions (Section 22(1) of the Children Act 1989) at the time of making an application to a school.*

*Children for whom there is a child protection plan or has been within a 12 month period*

*Children who will have older siblings in years 7 to 11 of the preferred school at the time of application and the date of admission. Siblings can include full, step, half, foster and adopted brothers and sisters living at the same address.*

*Children who suffer from some medical condition or disability, which makes it, better for them to attend that school rather than another. Places will only be offered under this criterion if the child has a certified medical condition with strong professional supporting evidence confirming that existing exceptional problems with the child’s health would be seriously exacerbated if a place were not made at the preferred school. Medical evidence **must** be provided at the time of application. Parents applying under this criterion must provide a letter from the child’s GP/Consultant setting out the reasons why the school is the most suitable school and details of the child’s medical condition. Medical evidence must be submitted by 31<sup>st</sup> October 2018.*

*Evidence received after this date will not be taken into consideration*

#### *Proximity (Where you live)*

*Children who live nearest the school (geographical proximity). Under this category, the remaining places will be offered to children who live nearest to the preferred school. The distance will be measured in a straight line using Routefinder, a computerised mapping system which measures from the point on the highway nearest to the centre of the home property and the designated main entrance to the school*

#### *Tie-breaker*

*If category (2) or (3) is oversubscribed, geographical proximity (as set out in category (4)) will be used as the 'tie-breaker' to decide between the remaining cases. If after measuring distances it is still not possible to decide on the child/ren to be offered admission (for example two children living in the same block of flats or in the same house) the Local Authority's system of a random draw will determine which of the children can be offered a place. The draw will take place at the Local Authority's offices and the name(s) will be drawn by a Local Authority Officer who is independent of the admissions process.*

#### *Priority for Twins/Multiple births*

*Where a single place remains at a school and the application being considered is for twins (etc.) the Council will allocate above the admission number to accommodate each child."*

### **Other schools in the Area**

17. Table 1 below sets out the information for the secondary schools nearest to the primary school. The information has been taken from Google Maps.

School	PAN	Miles from the primary school. Shortest route by road (Google maps)	Miles by straight line (Google maps)	Local Authority
Turton School	270	2.4	2	Bolton

Woodhey School	210	4	2.6	Bury
Tottington School	195	4.1	3.1	Bury
St Catherine's School	150	5	3.4	Bolton
Darwen Aldridge Community Academy	185	5.3	4.5	Blackburn with Darwen
Sharples School	210	5.3	2.6	Bolton
Darwen Vale School	240	7.2	6.2	Blackburn with Darwen

18. Table 2 sets out the availability of places at the nearest schools to the primary school.

Turton High School	<p>For 2017 (prior to the change to the distance criterion) 565 preferences were expressed and 270 children were admitted (30 over PAN).</p> <p>For 2018 (post change) 651 preferences were expressed and 270 children were admitted (30 over PAN).</p>
Woodhey School	The school was oversubscribed in every year from 2014 to 2018. In 2018 74 preferences were not offered a place.
Tottington School	All those who expressed a preference were offered a place (or a place at a higher preference school) in every year from 2014 to 2018.
St Catherine's School	For 2017 places were offered to all those who expressed a preference (who were not offered a place at a higher preference). A total of 148 children were admitted.
Darwen Aldridge Community Academy	The school was oversubscribed in 2016 and 2017. The distance (straight line) of the last child offered a place was 2.587 miles in 2016 and 7.596 miles in 2017.

Sharples School	The school was oversubscribed for admission in September 2017. There were 40 children on the waiting list on offer day. After offer day 20 places were offered to children from the waiting list. There were 10 appeals for the school, 3 were allowed.
Darwen Vale School	In 2016 and 2017 places were offered to all first preferences and to second and third preferences if a higher preference could not be offered.

### **Places at the secondary school for Edgworth children 2018**

19. The local authority have provided the following information regarding admissions to the secondary school for 2018:

*“For 2018 admissions to Turton High School, Bolton Council had an exceptionally high number of sibling links to accommodate (90 compared to 58 in 2017) and this had an impact on the number of offers based on proximity. However, of the 28 children on roll at Year 6 at Turton Edgworth Primary School, the following allocations have been made:*

*14 to Turton High School (6 Bolton residents; 8 Blackburn with Darwen residents)*

*5 to Canon Slade School (all resident in Blackburn with Darwen)*

*4 to Canon Slade School (all resident in Blackburn with Darwen) – parents refused offer of Canon Slade School in favour of Bury Grammar School*

*1 Queen Elizabeth Grammar School, Blackburn (resident in Blackburn with Darwen)*

*1 Woodhey High School, Bury (resident in Bury)*

*There are currently three children in Year 6 at Turton Edgworth Primary School on the waiting list for Turton High School, one of whom was a late application. Of the three on the waiting list, two reside in Edgworth and one resides in Hoddlesden [which is nearer to Darwen].*

*In addition, there are two children resident in Edgworth who attend other primary schools. In total, there are four children resident in Edgworth who have not been allocated a place at Turton High School.”*

20. The significance of the references to the local authority area where the children are resident, is that many of those living in Bolton will live nearer to the secondary school than those living in Blackburn with Darwen, including in the village of Edgworth. The outcome is that four children resident in Edgworth sought but were not allocated a place at the secondary school for 2018. I note that a high number of siblings



applied for 2018. Had fewer siblings applied then the outcome may have been different and perhaps more pupils at the primary school would have gained a place. As stated by the local authority the number of pupils on roll in Year 6 at the primary school was 28. The cohort currently coming through who will be starting Year 6 in September 2018 and so will be transferring to secondary school in 2019 is 42, a significantly increased number. 25 pupils will be starting Year 5 in September 2018 and 34 pupils will be starting Year 4. All this means that the need for secondary places for children leaving the primary school is growing in the short term.

### **Places at the secondary school for Edgworth children 2017**

21. The local authority have provided a spreadsheet showing the allocation of places at the secondary school in 2017. As stated above, any Edgworth child for whom a preference is expressed for the secondary school will have a ranking value of less than 100. Looking at the spreadsheet, 59 (or 58 in the numbers given above, the variation of one being insignificant for this purpose) children were admitted due to a sibling link and a further 106 were admitted with ranking values of less than 100. That gives a total of 165 places filled leaving 75 places until PAN (240) is reached and 105 places until the actual number admitted in 2017 (270) is reached. It is therefore clear that any applicant with a ranking value below 100 would have been admitted.
22. Had there been no change to the admission arrangements for 2018, and allowing for the higher number of sibling link admissions in 2018, it would be reasonable to assume that all Edgworth children would have gained a place in 2018.

### **The consultation**

23. The Code sets out the provisions for consultation as follows:

#### ***“Consultation”<sup>35</sup>***

*1.42 When changes<sup>36</sup> are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year. Where the admission arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities **must** consult on their admission arrangements at least once every 7 years, even if there have been no changes during that period<sup>37</sup>.*

*1.43 For admission arrangements determined in 2015 for entry in September 2016, consultation **must** be for a minimum of 8 weeks and **must** be completed by **1 March 2015**. For all subsequent years, consultation **must** last for a minimum of 6 weeks and **must** take place between **1 October** and **31 January** in the determination year.*

1.44 Admission authorities **must** consult with:

- a) *parents of children between the ages of two and eighteen;*
- b) *other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
- c) *all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
- d) *whichever of the governing body and the local authority who are not the admission authority;*
- e) *any adjoining neighbouring local authorities where the admission authority is the local authority; and*
- f) *in the case of schools designated with a religious character, the body or person representing the religion or religious denomination.*

1.45 For the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website together with details of the person within the admission authority to whom comments may be sent and the areas on which comments are not sought<sup>38</sup>. Admission authorities **must** also send upon request a copy of the proposed admission arrangements to any of the persons or bodies listed above inviting comment. Failure to consult effectively may be grounds for subsequent complaints and appeals.

<sup>35</sup> See also paragraph 1.3. Regulations 12 to 17 of the School Admissions Regulations 2012 cover consultation requirements.

<sup>36</sup> An increase to PAN, or a change to the admission arrangements to comply with the mandatory provisions of the Code or the School Admissions Regulations 2012, is not a change requiring consultation.

<sup>37</sup> A consultation on a proposal to increase or keep the same PAN by a local authority as admission authority with the governing body of a voluntary controlled or community school is not a consultation for the purposes of calculating a seven year period without consultation.

<sup>38</sup> Regulation 16 of the School Admissions Regulations 2012."

24. Regulation 12(2)(d) of the School Admissions Regulations 2012 (which are explicitly referred to in footnote 35) add to the words in 1.44a) the words "*who are resident in the relevant area*".

25. In October 2016 the local authority undertook a consultation on the admission arrangements for 2018 for its maintained community and voluntary controlled schools. There were a number of proposed changes to the arrangements but I am only concerned here with the changes to the oversubscription criterion relating to proximity of home to school. The criterion as it stood before the consultation is set out

above. The proposed change was to the criterion later determined for 2018 and continued into 2019, also set out above.

26. The local authority has confirmed that the “relevant area” for the purposes of the consultation, as provided for in paragraph 1.44 of the Code and quoted above, is *“the area of BMBC [Bolton Metropolitan Borough Council] and its neighbouring LAs: Wigan, Bury Lancashire, Blackburn with Darwen and Salford.”* This would include Edgworth village.

27. The consultation documents were published on the local authority’s website.

28. The template letter dated October 2016 provided by the local authority states:

*“The Council would therefore be interested to hear from Parents and Headteachers/Governing Bodies of all community and voluntary-controlled schools on two possible changes to the Council’s policy with effect from September 2018”*

The local authority clarified in response to my enquiries about its consultation as follows (my emphasis):

*“The LA consulted with;*

*All schools and academies **within the Bolton LA** including governing bodies to share with all interested parties*

*All neighbouring LAs to share with any relevant bodies/persons within their area*

*All faith bodies which cover the LA area, Manchester Diocese; Salford Diocese to share with any relevant bodies within their area*

*Wider public through consultation on the Council website and social media”*

29. Schools and governing bodies outside Bolton were not consulted, including the primary school and its governing board. The proposals related to only three community secondary schools. It would or should have been clear that these proposals would affect the primary school and that the governing board of the primary school and the senior management of the school were *“other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions”*.

30. Blackburn with Darwen Council were consulted. However, they were not asked to pass on the consultation to schools or governing boards, or to residents within their area and they did not do so.

31. It appears that no specific steps were taken to consult “*parents of children between the ages of two and eighteen*” as required by the Code. The local authority say that it consulted with the wider public “*through consultation on the Council website and social media*”. No further details were given to me. Many parents within Bolton and in the wider “*relevant area*” will not regularly check the local authority’s website or follow the local authority on social media. It appears no other steps, such as an advert in a local paper, were taken. Schools in Bolton were consulted but again schools were not asked to pass on the consultation to parents and may or may not have done so. Schools outside Bolton but within the “*relevant area*” were not consulted and so had no opportunity to pass on the consultation to parents.
32. The headteachers and chair of governors of the primary school tell me, and I accept, that they had no knowledge of the consultation at the time. The objectors, most of whom are parents of pupils at the primary school tell me, and I accept, that they had no knowledge of the consultation at the time.
33. I find that the local authority did not consult, or did not consult adequately, the persons they were required to consult under paragraph 1.44 a) and b) of the Code. Of course, the ability to object to determined admission arrangements has afforded an opportunity to the objectors to express their views of the new arrangements. However, this does not in any way mitigate the failure of the local authority to comply with its legal duty to consult particular groups. It also means that some who might have wished to comment on the (at that time) proposed arrangements were denied their rightful opportunity to do so. Finally, it means too that when the local authority came to determine the arrangements it may not have been as fully informed as it would have been had it consulted properly.
34. I have had the opportunity in my investigation of this matter, to hear from the objectors the points which they wish to raise. As noted above, I am considering only the admission arrangements for the secondary school as determined. The local authority, following the consultation, could have determined the admission arrangements in a number of different ways. I have jurisdiction only to uphold, partially uphold or not uphold the objection to the determined admission arrangements. In so far as I uphold the objections, the law and Code require the admission authority to revise those arrangements to give effect to my determination. However, I cannot specify what those revised arrangements must provide.

### **The rationale for change**

35. The report to the Executive Member for Children’s Services for Bolton Council, dated 13 February 2017, sought approval for the change to the admission arrangements for Bolton schools, including the change considered in this determination. The reason for seeking to change the

arrangements is set out as follows (reflecting the reasons set out in the consultation).

*“3.7 This method [for taking account of proximity to the school] is difficult to explain and more difficult for parents, carers and independent appeal panel members to understand. The walking routes are often challenged and disputed by parents at appeal and through the Local Government Ombudsman.*

*3.8 This current method of determining a priority based on proximity to the preferred school is unique to Bolton as other Local Authorities and voluntary-aided schools and academies apply a single distance measurement based either on straight line distance or shortest walking route.*

*3.9 It is proposed that the proximity criteria is amended to determine priority based on the straight line distance between the home address and the designated main school gate with those living closer to the school having highest priority for a place. This method is much clearer and simpler to explain and understand. It also eliminates potential challenge regarding walking routes and it complies fully with the School Admissions Code and is commonly used by other local and national admission authorities.*

*3.10 There have been no objections submitted to this proposal.”*

36. I accept that the formula previously used may have been difficult to explain to some parents, and that it was often disputed and challenged on appeal. As to challenges through the local government ombudsman I find it unlikely that any such challenge would be accepted as such matters can be challenged under the admissions appeals process and by referrals to the adjudicator. When I asked for detail of referrals to the ombudsman the local authority responded *“we do not hold replies from the LGO”*.
37. With regard to these difficulties I note that other secondary schools in Bolton, which have converted to academy status, and so become the admission authority, have not changed the formula previously used and which they inherited when they converted.
38. The local authority are entitled to change their admission arrangements from time to time. The reasons for change in this instance do not persuade me that the previous arrangements were unworkable or add anything to my consideration of whether the new arrangements are or are not fair.

## **Consideration of Case**

39. There are a number of points raised by the objectors which I found to be based on misunderstandings or which I did not find persuasive. I will

set these out here as they do not contribute to my reasons for upholding the objections.

40. Some objectors refer to the provisions of the Code relating to catchment areas. The Code defines “*catchment areas*” as follows “*A geographical area, from which children may be afforded priority for admission to a particular school*”. That is an area which can be set out by a line on a map or which may, for example, be described by a list of streets or set of postcodes. This is distinct from admission arrangements which are based on proximity to the school by distance, which (if engaged as an oversubscription criterion in any particular year) will give rise to admission of children living up to a certain distance from the school, which will vary from year to year. The Bury schools mentioned below have catchment areas as defined in the Code. Bolton schools, including the secondary school, do not.
41. Objectors have referred to Regulation 27(5) of the Schools Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 which provides for consultation on a qualifying scheme for the co-ordination of admission arrangements, with a view to securing that arrangements are compatible. This concerns schemes for the administration of admissions, rather than, for example, oversubscription criteria. The co-ordinated admission scheme is outside the scope of my consideration of the determined admission arrangements for the secondary school.
42. Objectors have referred to the Greenwich judgement, cited in footnote 23 to paragraph 1.14 of the Code. I find that the determined admission arrangements for the secondary school do not conflict with the principles set out in the Greenwich judgement. The Greenwich judgment is primarily concerned with not giving priority to children solely because they live in one local authority area rather than another. This is not the case here. The arrangements do not take account of the local authority area in which children live; they take account of distance between the school and the child’s address. A child living in Edgeworth in Blackburn with Darwen and so about two miles from the secondary school is treated no differently from a child living the same distance from the secondary school but living in Bolton.
43. Objectors have referred to a local authority’s powers to direct admission of a child to a particular school in certain circumstances. This power is not relevant to the question of whether determined admission arrangements conform with the requirements relating to admissions and so consideration of this power is outside the scope of my jurisdiction in this case.
44. I have also been referred to an earlier adjudication relating to admission arrangements to the secondary school (ADA001171 and 001173). This dealt with changes to admission arrangements for 2008.

That is the change to the arrangements which preceded those determined for 2018. This determination was considering different arrangements, mainly with regard to those resident in or around the village of Belton. The relevant primary and secondary legislation and the Code have subsequently been extensively revised and overall I find this determination of little assistance in my present consideration.

### **Are the arrangements fair?**

45. Paragraph 1.9 states that *“It is for admission authorities to formulate their admission arrangements...”*. This is subject to compliance with the provisions of the Code and with the relevant regulations and legislation. Paragraph 1.1 of the Code states that *“Admission authorities are responsible for admissions and must act in accordance with this Code, the School Admission Appeals Code, other laws relating to admissions, and relevant human rights and equalities legislation”*.

46. Paragraph 14 of the Code sets out the *“Overall principles behind setting arrangements”* as follows:

*“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.”*

47. The admission arrangements for the secondary school for 2019 are clear and objective. Parents would be able to look at the arrangements and understand how places for the school are to be allocated. The Code allows for oversubscription criteria which include a distance formula, including distance calculated by a straight line from home address to a point at the school.

48. The remaining question is whether the arrangements are fair. In order to reach a conclusion on this point I need to consider whether there will be a group of children whose opportunity to obtain a suitable school place is limited to such an extent that the requirements of fairness are not met.

49. The change to the arrangements for admission in 2018 and continuing in the determined arrangements for 2019 has made a significant difference to the likelihood of residents in and around Edgworth gaining a place for a child at the secondary school. Under the previous formula it is almost certain that all applicants from the area would have gained a place. In 2018, under the new arrangements, four local residents who expressed a preference for the secondary school did not gain a place.

50. The residents of Edgworth have long standing links with the secondary school. I am told by the objectors and I accept that over the years this has been the school most children have attended for secondary education. It is the nearest school by some margin. It is the only school

within three miles of the primary school and is likely to be the only school within three miles of the home address of most Edgworth children. Three miles is set out in statute as the maximum distance a child of secondary school age may be expected to walk to school. For distances of less than three miles the home local authority is not required to provide transport. Where the nearest school is more than three miles distant then transport must be provided.

51. The position with other local schools, omitting those whose admission arrangements include faith criteria, are set out in the tables above. After the secondary school, the next nearest, Woodhey in Bury, is four miles by road from the primary school and is oversubscribed. Edgworth is outside its catchment area for Woodhey school and it is unlikely that Edgworth residents would gain a place there. The next nearest is Tottington High School, also in Bury, which is 4.1 miles away by road. Tottington High School is not oversubscribed and it is likely that an Edgworth child would gain a place there. Travel to both Bury schools would involve crossing some open moorland and might be difficult in some weather conditions.
52. The next nearest school is St Catherine's Academy (Bolton), an academy with a Christian ethos but no faith criteria for admissions. St Catherine's Academy is five miles by road from the primary school. St Catherine's is not oversubscribed and it is likely that an Edgworth child would gain a place there. The most direct route to St Catherine's passes the secondary school and continues through a mainly built up area.
53. The next nearest school is Darwen Aldridge Community Academy (DACA), which is in Blackburn with Darwen, 5.3 miles by road from Edgworth. DACA is oversubscribed. It appears from the figures I have that Edgworth residents would gain a place in some years but not in others. Edgworth residents could not be certain of securing a place at DACA. The most direct road route to DACA from Edgworth is across open moor and would be difficult in some weather conditions and for some large vehicles. A more accessible route would be about a mile longer and would pass the secondary school.
54. Sharples School (Bolton) is 5.3 miles from the primary school by road. Sharples School is oversubscribed and Edgworth residents could not be confident of gaining a place there.
55. The next nearest school is Darwen Vale School, in Blackburn with Darwen and 7.2 miles by road from the primary school. Darwen Vale School is not oversubscribed and Edgworth residents would be likely to gain a place there. The most direct route to Darwen Vale School from Edgworth is across open moor and would be difficult in some weather conditions and for some large vehicles. A more accessible route would be about a mile longer and would pass the secondary school.



56. If Edgworth children attended schools other than the secondary school, I consider that in most cases transport would be provided. This might be by bus or in some cases by taxi. I do not find that these forms of transport are inappropriate and accept that the mode of transport is largely a matter for the discretion of the providing local authority. Difficulties with school transport and, for example, after school clubs, are common to many children nationally who normally travel to and from school by local authority provided transport.
57. Under the admission arrangements for the secondary school up to 2017 Edgworth residents would have almost certainly gained a place at the secondary school. There are strong historic links between the primary school and the secondary school with the majority of pupils going to the secondary school on leaving Year 6. The secondary school, by a letter from the Head Teacher and the Chair of Governors, to the Office of the Schools Adjudicator dated 22 May 2018, support the objectors stating, amongst other things, that they consider that the children of *“North Turton are disadvantaged under the new admissions arrangements because of their location, which excludes them from being fully part of their community by refusing them a place at their nearest community school”*.
58. As a result of the historic position, of the local geography and the local community of Edgworth residents, the secondary school is the obvious choice of school for children resident in Edgworth. The alternatives are significantly less well suited as a secondary school destination because they are outside the local community and transport to them would take longer and would be more difficult. Edgworth children could walk or cycle to Turton School but could not reasonably walk or cycle to any of the alternative schools.
59. I accept that it is for the local authority as admission authority to decide the admission arrangements for the secondary school, but those arrangements **must** conform with the Code and law and if they are not fair then they will not so conform. I accept that the change to the arrangements brought them in line with those used in many other areas (although not in line with secondary academies within the Bolton area). I note, in this context, that there are many different oversubscription criteria and it is certainly not the case that all secondary schools use straight line home to school distance as their main oversubscription criterion. Many, for example, use catchment areas. In any case, the Code requires that arrangements are fair and, on balance, I find that the arrangements for 2019 are not fair in that the likelihood of Edgworth residents gaining a place at the secondary school has been significantly diminished and the alternative schools at which places are available are not suitable alternatives for the reasons given. I therefore uphold the objections to the admission arrangements for the secondary school. The Code requires the admission authority to revise the arrangements to remove this unfairness and to do so within the timescale set out below. Paragraph 3.1 of the Code provides that an

admission authority **must**, where necessary, revise its admission arrangements to give effect to a determination by the adjudicator within two months of the determination unless an alternative timescale is specified by the adjudicator. In this case, I specify a deadline for the necessary revision of 28 September. This will ensure that the arrangements are revised in good time before parents have to make applications for their children by 31 October 2018 for places in September 2019.

### **Other matters**

60. In Criterion 1: reference is made to a “*residence order*”. These have been superseded by child arrangements orders as set out in paragraph 1.7 of the Code. The local authority have said that they will update the arrangements, but the copy accessed by me on 13 August 2018 was not amended. I find that the reference to “*residence order*” is in breach of the Code’s requirement of clarity.
61. In Criterion 2: there is no definition of a “*child protection plan*”. This may not comply with the requirements for arrangements to be clear and easily understood under paragraphs 1.4 and 1.8 of the Code. The local authority tell me that it will “*obtain an appropriate definition from their Safeguarding Team and update/edit the booklet to reflect this*”, but the copy accessed by me on 13 August 2018 was not amended. I find that the reference to a “*child protection plan*” is unclear and so does not comply with the requirements for clarity in the Code.
62. There appears to be no process for requesting admission out of normal age group as required by paragraph 2.17 of the Code. I have followed the link provided by the local authority but I could not find any reference to admission out of normal age group in the 2018 booklet or the admission arrangements for 2019.
63. These points will apply to the secondary school and to all community secondary schools maintained by Bolton Council and consequently the admission arrangements applicable to all such schools must be revised within the timeframe set out below.

### **Summary of Findings**

64. I find that the consultation carried out by the local authority prior to changing the admission arrangements did not comply with the provisions of the Code.
65. I find that the admission arrangements determined for the secondary school for 2019 are not fair and so do not comply with the requirements of the Code.
66. I also find that the arrangements do not conform with the requirements relating to admissions in relation to the definition used of looked after

and previously looked after children, in relation to the phrase “*child protection plan*” and in relation to admission outside a child’s normal age group.

## **Determination**

67. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objections to the admission arrangements determined by Bolton Council for Turton School, Bolton.
68. 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.
69. 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 the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by Friday 28 September 2018.

Dated: 16 August 2018

Signed:

Schools Adjudicator: Tom Brooke