



Office of
the Schools
Adjudicator

Determination

Case reference: REF4069

Referrer: A member of the public

Admission authority: Northumberland County Council for all community and voluntary controlled schools in Northumberland

Date of decision: 1 September 2022

Determination

I have considered the admission arrangements for September 2023 for all community and voluntary controlled schools in Northumberland in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the matters set out in this determination, the arrangements do not conform with the requirements relating to admission arrangements.

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 and jurisdiction

1. The admission arrangements for all community and voluntary controlled schools in Northumberland for 2023 (the arrangements) which were determined by Northumberland County Council (the Council) on 8 February 2022 were brought to my attention through an email from a member of the public (the referrer) to the Chief Schools Adjudicator dated 13 May 2022.
2. The referrer considered that that the catchment areas for schools set by the Council and its home to school transport policy interacted in a way which deterred parents from applying for places at Bellingham Middle School with adverse effects for the school and the children attending it.
3. When I received a copy of the admission arrangements determined by the Council for all community and voluntary controlled schools in Northumberland, it appeared to me

that they did not, or may not, conform with requirements relating to admission arrangements. I decided to use my power under section 88(5) of the School Standards and Framework Act 1998 (the SSFA) to consider whether the arrangements conform with the relevant requirements and, if not, in what respect they do not. I do not have jurisdiction for the home to school transport policy.

4. Bellingham Middle School is a foundation school and so the admission authority is that school's governing board. The governing board was unable to provide any evidence that it had determined the school's admission arrangements (which would include any catchment area used) for 2023. I have reminded it of the statutory requirement to determine admissions arrangements and have asked for a copy of its arrangements when they are determined. These have not yet been received. This determination is not concerned with the arrangements of Bellingham Middle School although it was concerns for the school which prompted the referral. I cannot consider arrangements which have not been properly determined by the relevant admission authority.

5. The parties to the case are the referrer, the Council and the governing board of Bellingham Middle School.

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) a letter from a member of the public to the Chief Schools Adjudicator dated 13 May 2022;
- b) copies of the minutes of the meeting of the Council of 8 February 2022 at which the arrangements were determined;
- c) a copy of the determined arrangements;
- d) the response from the Council on the matters raised and supporting documents;
- e) websites of the Council, the Department for Education (DfE) and local schools;
- f) maps of the area identifying relevant schools; and
- g) a determination by the schools adjudicator upholding an appeal against the Council's decision to close Bellingham Middle School (reference STP635) dated 13 November 2018.

8. I have also taken account of the discussion of the arrangements at an online meeting (the meeting) I convened on 22 August 2022. The meeting was attended by the referrer and representatives of the Council. A representative of the governing board of Bellingham Middle School was invited to attend but did not do so.

Consideration of the Arrangements

9. On 25 May 2022 through the Office of the Schools Adjudicator I asked the Council for a copy of its admission arrangements for community and voluntary controlled schools for 2023 and the minutes of the meeting at which they were determined. It was not until 15 June that all the required documents were provided. On 20 June the Council was asked for further information and comment, after several reminders a response was received on 18 July. In addition to a slow response to my enquiries I have been sent incorrect and poor-quality documents by the Council. I have also found that information concerning admission arrangements which the Code requires to be published on school websites of schools for which the local authority is not the admission authority cannot be found on the websites of schools in the area.

10. The Council determined two sets of admission arrangements for 2023. One for first and primary schools and one for “Middle, High, Secondary schools”. Much of the text is identical and most of the matters of concern which I have raised with the Council appear in both sets of arrangements. There are also some matters which are specific to each set of arrangements.

Matters common to both sets of arrangements

Consultation

11. On the first page both sets of arrangements say, “Governing Bodies of all Community and Voluntary Controlled schools, parents and wider community groups who may have an interest in school admission arrangements have been consulted on the County Council’s Admission Policy.” If the local authority consulted because it was making changes to these arrangements (and the minutes of the meeting at which they were determined and the arrangements themselves indicate that at least some published admission numbers (PANs) were being changed), then paragraph 1.47 of the Code requires that the following bodies are consulted:

- “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 is 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.”

12. The following table shows the number of schools in the county of each type as listed on the DfE website, Get Information About Schools (GIAS). The admission authorities (that is the governing boards of voluntary aided and foundation schools and the academy trusts), for more than half of the schools in the Council’s area did not appear to have been consulted. Nor did it appear from the arrangements that neighbouring local authorities or any religious authorities were consulted.

	Community	Voluntary Controlled	Foundation	Voluntary Aided	Academy
Primary	55	8	3	20	42
Middle	6	0	1	7	0
Secondary	3	0	1	0	12
Total	64	8	5	27	54

13. When I raised this matter with the Council it said that all parties listed in paragraph 1.47 of the Code had been consulted. If that is the case, then saying something different in the arrangements is misleading. There is no requirement in the Code to make a statement about who was consulted before the arrangements were determined, but if one is made, then it must be correct in order to for the arrangements to be clear as required by paragraph 14 of the Code.

Use of obsolete terms

14. Both sets of arrangements include a reference to statements of special educational need (SEN). In 2015 statements of SEN began to be replaced with Education, Health and Care Plans (EHCPs) and were completely phased out by 2019. Paragraph 14 of the Code requires that arrangements are clear; the use of obsolete terms renders the arrangements unclear.

15. When I raised this matter with the Council it said it would remove any references to statements of SEN from the arrangements.

Priority for previously looked after children

16. Paragraph 1.7 of the Code requires “highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children, including those children who appear (to the admission authority) to have been in state care

outside of England and ceased to be in state care as a result of being adopted.” The first oversubscription criterion in the arrangements gives highest priority to “Children looked after and all who were previously looked after”. The second criterion is “Children adopted from care outside of England”. This is followed by a note saying “Note: Minister of State for School Standards intends to amend the School Admissions Code but in the meantime, he asks that children adopted from care outside of England are given the second highest priority for admission in oversubscription criteria. Once the code has been updated, admission authorities will have the opportunity to consult upon and publish any formal changes”.

17. The Minister’s letter dates from 2018 and a revised Code came into force in September 2021, having been in the public domain in its final form for some months. The DfE wrote to all admission authorities when the revised Code was published to draw attention to the action required to bring admission arrangements into line with the new requirements. I find that the Council did not take the required action and the arrangements do not conform with paragraph 1.7 of the Code. When I raised this matter with the Council it said it would amend the arrangements.

The clarity of catchment areas

18. The third oversubscription criterion in both sets of arrangements refers to catchment areas. The Code, in paragraph 1.14, requires that catchment areas are clearly defined and as they are part of the admission arrangements for each school, paragraph 1.50 of the Code says they **must** be published on the admission authority’s website. The arrangements say, “Details of catchment areas are available on request or by following the links on the County Council’s webpage to the interactive mapping system.”

19. On 20 June 2022 I asked the Council for maps of the catchment areas which it had set for community and voluntary controlled schools around Bellingham. Almost four weeks later, on 15 July I was sent a map showing 15 schools, and a tracery of green, red, purple and blue lines. These divided the page into over 20 areas. There was no scale and no key. Not all the 15 schools named on the map were community or voluntary controlled schools. This map is shown below.



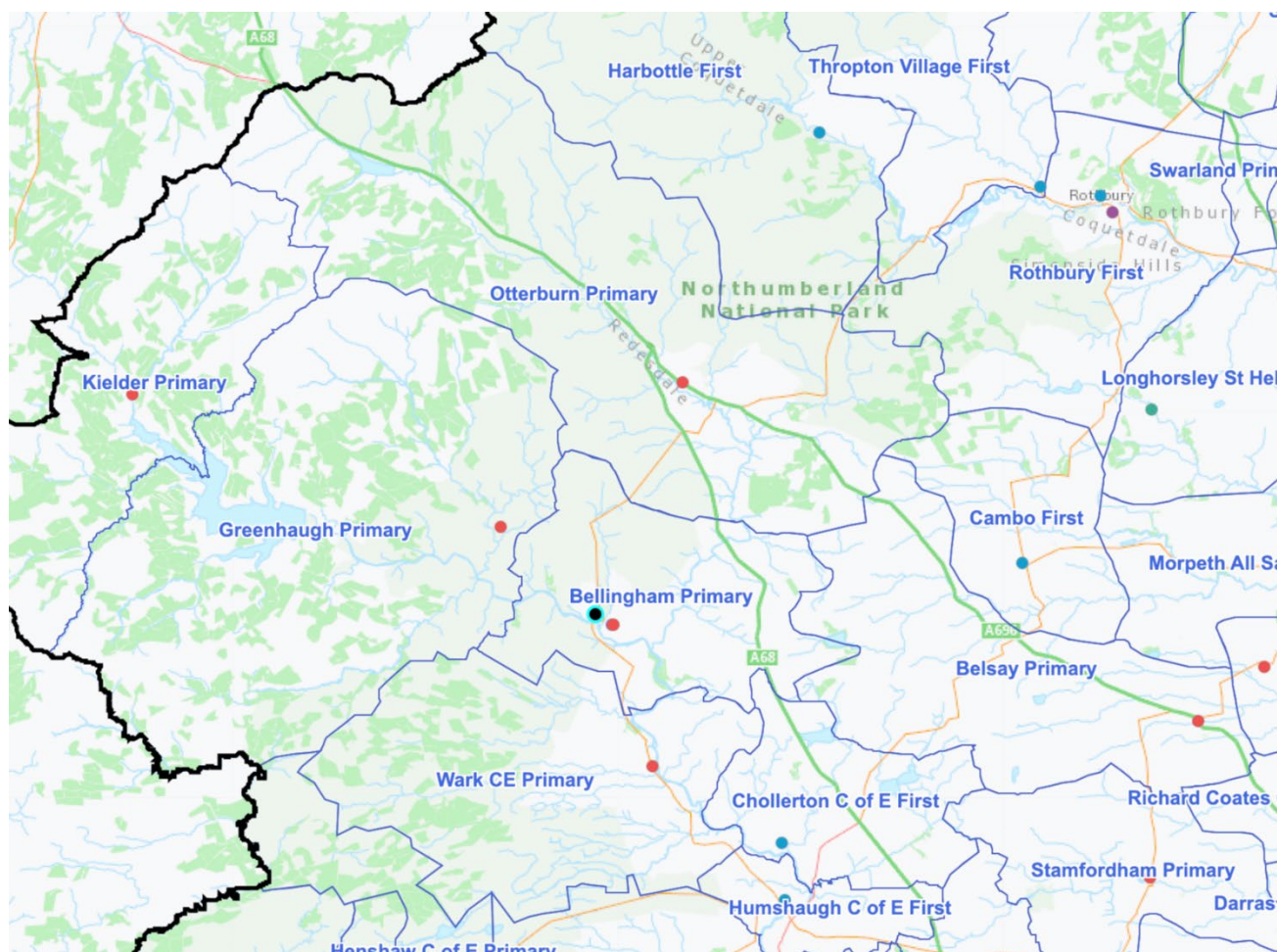
20. Paragraph 1.14 of the Code requires that catchment areas are clearly defined and, as they are part of the arrangements, paragraph 1.50 of the Code requires that they are published on the Council’s website. Paragraph 14 of the Code requires that arrangements are clear and says that parents should be able to understand easily how places will be allocated. I do not consider that the map provided on my request was clear.

21. Because the map provided on request was not clear I went to the home page on the local authority’s website as advised in the arrangements. After five clicks of the mouse I reached a map showing the north of England and part of Scotland with various coloured dots. The map has the title “Northumberland School Catchment Areas”. In a panel to the right of the map it says, “This map displays the location of schools and school catchment areas for Northumberland County Council”. While the coloured dots may be the locations of schools, there was no key to explain this and no catchment areas were shown. There was no indication of which admission year this map applied to.

22. At the top of the map, it said “Click here for instructions”. The first set of instructions concerns “Off-panel Widgets”, not a clear or helpful term for someone looking for a catchment area map. A degree of competence in using digital maps is required to be able to view the catchment area of a school. I noted that putting the name Bellingham into a search box on the top left of the map produces a list of addresses and a box appeared telling me that Bellingham Primary had a catchment type of “First and Primary” and that Haydon Bridge High had a catchment type of “High and Secondary”. Presumably, this is

meant to indicate that the address lies in these two catchment areas. There were no lines on the map to indicate what the catchment areas of the two schools mentioned were. The Council does not have the power to set the catchment area for either Bellingham Primary School or Haydon Bridge High School as, like Bellingham Middle School, they are foundation schools. There is, however, no reason why the Council cannot inform parents if they live in those catchment areas once the governing boards have informed the Council of what they are for 2023.

23. Following some further experimental mouse clicks on the map I was able to find out how to show primary and first school catchment areas. Any instructions on how to do this which might have been available were obscured behind terms such as “Off-panel Widgets”. This showed me that surrounding the catchment area for Bellingham Primary School were catchment areas for Greenhaugh Primary School to the west, Otterburn Primary School to the north, Belsay Primary School to the east and Chollerton Church of England (CE) First School and Wark CE Primary School to the south. The relevant part of this map is shown below. Red dots show the location of primary schools and the darker blue lines show the boundaries of the catchment areas. It is telling that the Council could not provide me with a map of catchment areas as clear as this from its own website and that it took me as long as it did to obtain it for myself.



24. I have used the DfE database GIAS to find details of the primary and first schools with catchment areas surrounding Bellingham. These are set out in the table below.

School	Miles from Bellingham	Age range	Type	Admission Authority
Bellingham Primary	-	4-11	Foundation	Governing Board
Greenhaugh Primary	3.74	4-11	Community	The Council
Wark CE Primary	4.32	3-11	Voluntary Aided	Governing Board
Otterburn Primary	6.79	3-11	Community	The Council
Chollerton CE First	7.88	4-9	Voluntary Aided	Governing Board
Belsay Primary	16.52	4-11	Academy	Pele Trust

25. The Council is the admission authority responsible for setting the catchment area of two of these schools: Greenhaugh and Otterburn. The admission arrangements for the other four schools, including the definition and publication of any catchment area used is the responsibility of their individual admission authorities. Paragraph 1.50 of the Code requires that all admission authorities publish their arrangements for 2023 on their website by 15 March 2022. When I looked in July 2022, I was unable to find admission arrangements for 2023 on the websites of any of these four schools. Therefore, I was not able to verify that each of these four schools do use a catchment area in their 2023 arrangements and if so, what those catchment areas are and whether the online maps published by the Council are accurate and consequently clear.

26. I also found out how to obtain a map of middle school catchment areas. On that map no middle school catchment areas are shown in a swathe of the county running south-east from Kielder towards Ponteland. The area shown as not being covered by any middle school catchment area is made up from the catchment areas of Bellingham, Otterburn, Greenhaugh, Wark and Belsay primary schools and those of other primary schools further towards Ponteland. However, the catchment area for Chollerton First is shown as being in the catchment area for Hexham Middle. Hexham Middle is an academy in the Hadrian Learning Trust and any catchment area it uses must be set and published by that trust. I was unable to find any admission arrangements for 2023 on that school's website so again I cannot check that what is shown on the Council's website is Hexham Middle School's catchment area.

27. There are two possible reasons why this part of the County is not covered by any middle school catchment area. Either there are no middle schools in it (which is clearly not the case as it includes Bellingham), or those in it do not use catchment areas in their oversubscription criteria. GIAS confirms there is only one middle school in that area which is Bellingham Middle. As noted above, that school's governing board has not determined any admission arrangements for 2023 and so the school does not have a catchment area for 2023.

28. I also managed to find a map of secondary and high school catchment areas. This shows all parts of the area around Bellingham covered by one of three catchment areas, all of which also appear to be made up of a collection of primary or first school catchment areas. The catchment for Haydon Bridge includes Bellingham, Greenhaugh, Otterburn and Wark primary school catchment areas, Belsay Primary School is in the catchment for Ponteland High School and Chollerton First School is in that for Queen Elizabeth High School in Hexham. These secondary schools are a foundation school, an academy in the Pele Trust and an academy in the Hadrian Learning Trust respectively. The Council does not have the power to set the admission arrangements including any catchment areas used for any of these schools. I could find no admission arrangements for 2023 on Haydon Bridge School's website. The arrangements for Ponteland could be found on its website and do use residence in a catchment area as an oversubscription criterion. The arrangements refer to "the catchment area of the school (as defined by Northumberland County Council – see 'school catchment area digital maps at www.northumberland.gov.uk)". I reiterate that the Council does not have the power to determine a catchment area for an academy. I could find no admission arrangements for 2023 for Queen Elizabeth High on that school's website.

29. The Code requires that the Council clearly defines the catchment areas that it sets for community and voluntary controlled schools in its arrangements. It does not have the power to set catchment areas for other schools where it is not the admission authority. The arrangements say that details of catchment areas are available on request. When I requested details of specific catchment areas, the map I was provided with was not clear. The arrangements also say that details are available by following links on the Council's website. I found it was possible to view maps of catchment areas set by the Council; however, the process for doing so is far from simple and that process makes the catchment areas unclear. The maps do not say to which year they apply.

30. The Council told me that parents found it helpful to be told in which catchment areas their address was. I am sure that this true, but it does not of itself fulfil the Code requirements. Stating that a named location is in a particular catchment area does not define the catchment area any more than stating that Bellingham is in Northumberland defines the boundaries of the county.

31. I have not explored the catchment area map for other parts of the county. My finding that the catchment areas in this part of the county for community and voluntary controlled schools are not clearly defined is sufficient to determine that the catchment areas set by the

Council are not sufficiently clear to enable parents to understand easily how places are allocated. The arrangements do not conform with paragraph 14 or paragraph 1.14 of the Code.

Clarity of the final oversubscription criterion

32. The wording of the final oversubscription criterion is “Children on whose behalf preferences are expressed on grounds other than any of those outlined above.” The Code requires that arrangements, and in paragraph 1.8 specifically oversubscription criteria, are clear. This seemed to me to be an unnecessarily long way of saying “other children” and so is unclear.

33. When I raised this matter with the Council, it said that this did mean other children and agreed it was a “longwinded” way of saying this. The Council said it would review this wording.

The tie-breaker

34. In the section of the arrangements under the heading “GENERAL” it says, “Should it prove necessary, because places are limited, to distinguish between children in any given category priority will be given to those who live nearest to the school, measured in a direct line (‘as the crow flies’) from the front door of the home to the main gate of the school, using the LA’s computerised measuring (GIS) system.” Paragraph 1.8 of the Code requires that arrangements include a tie-breaker to decide between two applications that cannot otherwise be separated, in this case if two distances are equal. It is not until later in the arrangements under the heading “Distance Measures” that such a tie-breaker (random allocation) is found in a paragraph which also repeats earlier information. I find that this is not clear.

35. When I raised this with the Council it said it would review the arrangements to ensure the tie-breaker is referred to at the most appropriate point.

Variation of the arrangements

36. Another statement in the “GENERAL” section says, “The County Council reserves the right to vary these criteria within the relevant year to take account of revisions to legislation or its interpretation by the courts.” This statement does not reflect Paragraph 3.6 of the Code which says “Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Schools Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator (for maintained schools) or the Secretary of State (for academies) for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it **must** consult the governing body of the school before making any reference. A variation to

increase a school's PAN is not required to be referred to the Schools Adjudicator." This part of the arrangements appeared to me not be clear about the limited scope the Council has to vary its arrangements. The limited rights are not reserved by the Council but given to it by Parliament.

37. When I raised this matter with the Council it said it would include the full explanation from the Code. The Code does not require arrangements to include a statement about variations, however, if one is made it must be accurate in order to be clear.

Children living at two addresses

38. Both sets of arrangements say, "If a school is oversubscribed, the address of the parent or carer with whom the child is normally resident, Mondays to Fridays term-time only, will be used in the allocation process." Paragraph 1.13 of the Code requires that when making clear how the home address will be determined the arrangements "should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent." The arrangements would not cover situations such as where for example, a child is resident with one parent for, say, Tuesday, Wednesday and Thursday or the pattern varies from week to week.

39. When I raised this matter with the Council it said it would review this section of the arrangements.

Late applications

40. There is a section in the arrangements headed "Late Applications". This says "For oversubscribed schools, applications which are received or changed after the published closing date will only be considered in exceptional circumstances. Normally applications submitted after the relevant published date will not be considered until after allocations for those parents who applied on time have been made. Any evidence submitted after the relevant date to support a late application or change of preference will not be considered."

41. It did not appear clear to me whether late applications for undersubscribed schools were accepted in all or no circumstances. It is also the case that it would not be known that a school was oversubscribed or undersubscribed until some time after the closing date for applications. Parents living in Northumberland can express a preference for up to four schools, some of which may be in other local authority areas. Until all those preferences have been analysed it will not be known which schools are actually oversubscribed. It is also possible that late applications could turn an undersubscribed school into an oversubscribed school. Whether the "relevant date" was the same as the national closing date for applications or another date was also not clear to me.

42. While paragraph 14 of the Code requires that arrangements are clear, it also requires that they are fair and objective. How the decision is taken to allow a late application and on what objective basis such decisions are taken was not clear in the arrangements. Whilst all parents should be expected to make an application for a school

place for their child before the national deadline, there will be some exceptional and unforeseeable circumstances where for example a family trauma could prevent this from happening, or a family is required to move house at a time outside of their control. There will be a point in the scheme of co-ordination after which it is impossible to enter a new application or change details of one already being processed. Up until this point it would be unfair not to accept changes following exceptional and unforeseeable events.

43. When I raised this matter with the Council it said, “no late applications are considered until the on-time applications have been processed in line with the Code.” The Code does not prohibit including late applications alongside on-time ones where possible. The Code does require fairness and there will be situations where not to include a late application alongside the on-time applications, if possible, would be unfair.

44. I have looked at the Council’s scheme of co-ordination. That says, “in exceptional limited circumstances late applications will be considered”. It includes examples of such circumstances and dates when the scope for late applications ends. This seems to me to be entirely fair and appropriate. The arrangements are inconsistent with the scheme of co-ordination and the Council’s response to my enquiries contradicts its own scheme of co-ordination. I find the arrangements to be unclear on this issue.

45. The Council said it would review this part of the arrangements to make it easier for parents to understand. In doing so it must also ensure the fairness included in the scheme of co-ordination is clearly reflected in the arrangements.

Matters specific to the arrangements for first and primary schools

Greater catchment areas

46. The fifth and sixth oversubscription criteria introduce the term “greater catchment area”. This is defined as “the catchment area of the high or secondary school i.e. all school [sic] in a partnership that feed into a particular high or secondary school.” This definition did not appear to me to be clear.

47. I was also unable to find any maps of “greater catchment areas” on the Council’s website, nor was there any indication of how a parent might find out what the relevant high or secondary school was for the primary or first school for which they were applying.

48. When I raised these matters with the Council it again appeared to consider the digital mapping system was sufficient to define these greater catchment areas saying that “catchment areas for all phases of education are listed when parents input their postcode.” I have found that the digital mapping system does not clearly define catchment areas and I find the same in respect of greater catchment areas.

49. The Council is the admission authority for just three of the 16 secondary schools in the county. Only if the admission authorities for all the other secondary schools determined their arrangements before the Council determined theirs could the Council know what greater catchment areas it was determining. The Council cannot delegate determining the

greater catchment area for a community or voluntary controlled primary school to another admission authority. The admission authority for any one of the other 13 secondary schools could determine arrangements that did not include a catchment area or could determine a catchment area incompatible with the “greater catchment area” criteria in these arrangements. This would call into question how these criteria could be applied across all community and voluntary controlled schools even if they had been properly determined.

50. During the meeting the Council said that if one of the other admission authorities for the secondary schools had decided to change or remove a catchment area, then the Council should have been consulted beforehand. I was told at the meeting that some secondary schools have decided not to use a catchment area. This highlights the issue. An admission authority may consult on a change to its catchment area and then decide not to proceed with that change or to modify the proposed change having considered the responses to consultation. An admission authority does not have to notify the Council of its admission arrangements until 15 March, the Council is required to have determined its arrangements before 28 February, including any greater catchment areas. If the Council wants to use a greater catchment area in its arrangements for a community or voluntary aided primary school where the local secondary school does not use a catchment area, then it must clearly define the greater catchment area in its arrangements. Whatever catchment area was set by another admission authority for a secondary school, the greater catchment area of a community or voluntary controlled school can only be set by the Council and must be set and published every year. It cannot be a process dependent on other admission authorities’ decisions.

51. Unless the Council has itself determined a greater catchment area for each community or voluntary controlled school and made these clear and easy to find on its website, this criterion will not conform with paragraph 1.8 of the Code as it will not be clear.

Admission of children below compulsory school age

52. In the section entitled “Admission of Children below Compulsory School Age and Deferred Entry” the arrangements say, “A request may be made for the date at which a child, below compulsory school age, is admitted to the school, to be deferred ...”. In the next paragraph the arrangements say “Any such request should be discussed with the head teacher and made in writing to the local authority. The local authority will make its decision about the request ...”.

53. Paragraph 2.17 of the Code says, “... parents can defer the date their child is admitted ...”. There is no provision in the Code for a “request” or for the Council to have any say in whether or not parents defer the date of admission up to the child being of statutory school age or the beginning of the final term of the school year.

54. When I raised this matter with the Council it said, “We do not ask parents to seek permission from the LA but we think it is helpful to log those that do decide to defer so we can ensure our system allows them to apply the following year (our portal picks up NCY via date of birth). We also believe that by logging the deferred entry applicants we can ensure

children are not missing from education once they reach statutory school age.” The Council appears to have confused this issue (deferment within the reception year) with the next issue (delay to the next school year for summer born children).

Summer born children

55. In the arrangements there is a section titled “Summer Born Children”. The last paragraph of this section also appears not to conform with paragraph 2.17 of the Code quoted above. The arrangements say, “If a child who has not reached compulsory school age has been allocated a Reception place and their parent or carer wishes to delay their child’s entry to school, the place will be held open. The place must be taken up in the term in which the child reaches compulsory school age.”

56. Paragraph 2.17 of the Code says that if a child born in this period is offered a place in Reception, parents can defer when their child takes it up, they can also decide to take the place up on a part-time basis, but they cannot defer taking the place up beyond the final term of that school year. A child born in between April and August is not of compulsory school age until the term starting in September; however, they must take up the place in reception class no later than the start of the summer term if they wish their child to start school in the reception class in the school year during which he or she reaches the age of five.

57. When I raised this matter with the Council it said it would make this wording clearer. I find that these parts of the arrangements are not clear. I recommend that when redrafting the Council reads paragraphs 2.17 to 2.20 with the relevant footnotes carefully together with the guidance published by the DfE in July 2021 about the admission of summer born children.

Matters specific to the arrangements for middle, high and secondary schools

Determination of PAN for a foundation school

58. On the first page of these arrangements is a table showing the PANs for the nine community middle and secondary schools for which the Council is the admission authority. The table also includes PANs for Year 7 and Year 12 for Haydon Bridge High School. This is a foundation school and so the governing board is the admission authority, not the Council. The Council does not have the power to determine a PAN for that school.

59. When I raised this with the Council it said “Haydon Bridge was a Foundation School (still is) but without a foundation. They currently have an IEB and we are in the process of appointing a shadow Governing Body.” It was, therefore, the responsibility of the Interim Executive Board (IEB) to determine the PAN. The fact that a school has an IEB does not change its legal category; it remains a foundation school. By including the PAN for a foundation school in the arrangements set for community and voluntary controlled schools the Council makes its own arrangements unclear and adds to the confusion about roles and responsibilities of itself and other admission authorities.

Greater catchment areas

60. The fifth and sixth oversubscription criteria introduce the term “greater catchment area”. This is defined as “the catchment area of the high or secondary school i.e. all school [sic] in a partnership that feed into a particular high or secondary school.” As discussed above, I find that the greater catchment areas are not clearly defined for the reasons set out earlier.

61. For the six community middle schools (there are no voluntary controlled middle schools) all the discussion and findings concerning primary schools apply. The additional matter for the three community secondary schools is whether it is clear that the catchment area and greater catchment area are one and the same. If they are the same, then these two criteria are redundant as any child meeting them would already have met the third criterion. At the meeting the Council said that the greater catchment area criterion was not relevant for secondary school admissions because it was the same as the catchment area.

Feeder schools

62. The eighth oversubscription criterion is “Requests on behalf of children which are based on the need to maintain continuity of educational provision within the feeder pattern of Northumberland’s schools”. Paragraph 1.9b of the Code prohibits taking “into account any previous school attended, unless it is a named feeder school”. No feeder schools are named in the arrangements.

63. When I raised this matter with the Council it asked “Do the feeder schools need to be named in the arrangements? They are all detailed in our parental handbook.” The Code is clear, any feeder schools **must** be named in the arrangements. Arrangements **must** be published by 15 March each year and the composite prospectus, which is what I take the parental handbook to refer to, does not need to be published until 12 September.

64. At the meeting, there was discussion about whether an on-line link from the arrangements to a list of feeder schools would meet the requirements of the Code. I would find this acceptable, providing it was a direct link and the list of feeder schools for any secondary school could be found in a single click of the mouse. Provision would also need to be made for the feeder schools to be named in any paper copy of the arrangements provided to people without access to the internet. I find the arrangements do not conform with paragraph 1.9b of the Code.

Admission to the sixth form

65. Concerning admission to Year 12, the arrangements say:

“Priority will be given to, in order:

1. Students who have attended the school in the previous academic year (during Year 11) and who satisfy the school’s entry requirements* for the course available and then,

2. All other students of the relevant age who satisfy the school's entry requirements* for the course available.

Where the school is oversubscribed within category (1) or (2) the following will be applied, strictly in order of priority:

a) Children who are 'looked after' or a child who was previously looked after but immediately after being looked after became subject to an adoption, residence/child arrangement, or special guardianship order. A looked after child is a child who is, at the time of making an application to a school, (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in section 22(1) of the Children Act 1989).

b) All other students.

c) Distance from home to school measured in a direct line, with those living nearest the school receiving priority. Otherwise if only one final place can be offered and two applicants live equidistant from the school, the LA's system of random selection will apply, independently administered."

66. Regulation 8(1)(k) of the Education (Pupil Registration) (England) Regulations 2006 says that the name of a pupil who ceases to be of compulsory school age cannot be deleted from the admissions register unless he/she has indicated an intention to leave, or he/she has not met the required academic entry requirements. Therefore, if a student wants to continue into the sixth form at their current school and they meet the academic requirements, there is no admission process for them; they continue to be on roll. There can be no oversubscription criteria for these students, and they cannot be taken off roll.

67. The arrangements do, as required by paragraph 1.2 of the Code, include a PAN for external applicants to the sixth forms. The PAN sets the point of oversubscription for external applicants only and criteria are required by paragraph 1.6 of the Code to decide who will be allocated places if oversubscribed. The three criteria listed in the arrangements are set out above.

67. The first of these does not meet the requirement of paragraph 1.7 of the Code in that it does not include as previously looked after children, children who appear to have been in state care outside of England.

68. The third criterion appears to be a tie-breaker for the second rather than a criterion in itself. Paragraph 1.8 of the Code requires that oversubscription criteria are clear.

69. When I raised these matters concerning admission to the sixth form with the Council it said it would review and amend the arrangements.

The Referral

70. The referrer alleged that the catchment areas set by the Council interacted with the Council's home to school transport policy (the transport policy) in a way that deterred parents from applying for places at Bellingham Middle School. She said that the catchment areas which the Council had set led to school transport being provided to schools other than Bellingham Middle. This, she said, meant that fewer children were applying for places at that school, making it difficult to recruit staff which has had an adverse impact on children at the school. The referrer also sent me various documents which she provided as evidence in support of her view that the Council was undermining Bellingham Middle School in other ways.

71. The transport policy and the operation of it are outside of my jurisdiction as are the referrer's other allegations of the Council undermining the school. I have not taken into account material provided by the referrer concerning matters outside of my jurisdiction. The only matter which I can consider is whether the catchment areas set by the Council do deter parents from applying for a place at Bellingham Middle School. If that was the case, then in my view it may not be fair. Paragraph 14 of the Code requires that admission arrangements are fair.

72. I have found above that the catchment areas determined by the Council are not clear. I have also identified confusion over the roles and responsibilities of the Council and other admission authorities in the area. At least one admission authority, the governing board of Bellingham Middle School, has not determined its arrangements for 2023 and several others have not met the requirement in the Code to publish their arrangements for 2023 by 15 March 2022. In this context I think it understandable that parents and other members of the public may form the view expressed by the referrer.

73. In this section of my determination, I make no findings about the transport policy or the other matters, such as the organisation of schools, which are outside of my jurisdiction in this case. What follows is intended to clarify the current position for all parties to the case and help them and others see the importance of discharging their responsibilities for admission arrangements as required by the Code.

Background

74. Bellingham is a village situated on the Pennine Way on the eastern border of the Northumberland National Park, near Kielder Water. This is a sparsely populated area and the nearest town is Hexham about 16 miles away by road. The DfE database GIAS shows that there are two schools in Bellingham, a primary school for children aged 4 to 11 and the middle deemed secondary school for children aged 9 to 13. Both are foundation schools and are federated. The primary school is recorded as having a capacity of 102 with 63 children on roll and the middle school as having a capacity of 240 with 71 pupils on roll.

75. There are no other schools within a three-mile radius of the village. Details taken from the DfE website GIAS about the three closest schools to Bellingham give an indication of how few children live in the area.

School	Distance*	Age range	Capacity	Roll
Greenhaugh Primary	3.74 miles	4 to 11	40	21
Wark CEVA Primary	4.32 miles	3 to 11	75	46
Otterburn Primary	6.79 miles	3 to 11	75	60

*Straight line distance

76. Further afield, there are two middle schools for children aged 9 to 13 in Hexham. The two nearest secondary schools are both about 16 miles away by road, one is a school for children aged 13 to 18 in Hexham and the other a school for children aged 11 to 18 in Haydon Bridge. Data from GIAS about these schools is shown in the following table which shows high levels of surplus capacity across the area.

School	Roll	Capacity	Occupancy
Hexham Middle (9-13)	475	600	79%
St Joseph's RC Middle (9-13)	275	360	76%
Haydon Bridge High (11-18)	409	904	45%
Queen Elizabeth High (13-18)	1339	1474	91%

77. The history behind this mixed pattern of two and three-tier education is complex and dates from 2018. It is described in detail in determination STP635 in which the adjudicator upheld an appeal from the governing board of Bellingham Middle School against the Council's decision to close that school. At that time the upper age range of some first schools in the area was extended to include Year 5 and Year 6 so that they could teach the full primary school age range and the lower age range of the secondary school in Haydon Bridge was lowered to include Year 7 and Year 8.

78. As a consequence of this, parents in the area have a number of choices as their children move through the school system. At the age of 9, children in first schools will normally transfer to a middle school and then at age 13 transfer to a high school. However, they could also transfer to one of the primary schools at age 9 and remain at that school until they are 11. Equally, a child at one of the primary schools could transfer to one of the middle schools at age 9 and on to a high school at 13 instead of following the normal pattern of transferring to secondary school aged 11 from their primary school. It is also possible that children in middle schools could transfer to secondary schools aged 11. These

options are subject to the availability of places, and places are likely to be available given the surplus capacity in local schools noted above. Parents can choose either the three-tier system, the two-tier system, or a hybrid of them both.

79. Parents' choices will depend on many factors, but in a rural area such as this the availability of home to school transport will be an important consideration. The Education Act 1996 (the EA) sets the duty on local authorities to provide home to school travel. In summary, local authorities must provide free home to school transport for all pupils of compulsory school age if their nearest suitable school is beyond 2 miles (if below the age of 8); or beyond 3 miles (if aged between 8 and 16) via a safe walking route. A suitable school is defined as one with places available that provides education appropriate to the age, ability and aptitude of the child. There are other provisions for children with special needs, or from families entitled to certain benefits or if the walking route to school is unsafe.

80. The Council's home to school transport policy (the transport policy) meets and goes beyond the statutory requirements. The transport policy found on the Council's website says:

"The Council only provides free travel support to children who are:

- Of compulsory school age;
- Resident in Northumberland;
- Attending their nearest and appropriate qualifying school, or
- Attending their nearest school chosen on grounds of religion or belief;
- Living beyond the statutory walking distance for their age, or
- Living within the statutory walking distance for their age but the walking route is deemed "unavailable" for safety reasons by the County Council, or
- Qualifying for "extended rights" on the grounds of low income, or
- Unable to walk to school as a result of their disability, mobility problems or special educational needs."

81. The term "qualifying school" is defined in the transport policy as the "school nearest to the child's home address with places available at the time an application for a school place should have been made ... In Northumberland, the qualifying school is always the catchment area school but, in some cases, there can be two qualifying schools: the catchment area school and the nearest school to the home address (in some cases the catchment area school is not always the nearest school to a home address)."

The fairness of catchment areas set by the Council in the Bellingham area

82. The referrer said that the Council "has been impeding fair and equal access to admission to Bellingham Middle School (BMS) since September 2020" with the aim of reducing the number of children at the school to a level where the school was no longer

viable. She said this was achieved through the transport policy removing the entitlement to free transport to Bellingham Middle School for children who have schools nearer to them with places available in Years 5, 6, 7 and 8. She said that “NCC changed, without consultation, Bellingham Middle School’s 350 square mile catchment area” and “Northumberland County Council claims that Bellingham Middle School is no longer the catchment school for primary aged children living in the North Tyne Valley area.”

83. Later in her email to the Chief Adjudicator the referrer said, “The School Transport Manager has confirmed in an email that it is the Education Team within Children’s Services that is responsible for changes to catchment areas.” The referrer also quoted a local councillor as saying, “The Authority had been ordered to keep the school [Bellingham Middle] open, but its catchment area had not been reinstated.”

84. This email provides further evidence that the various roles and responsibilities of the Council and other admission authorities are misunderstood locally. Misunderstandings are reflected in quotes the referrer provided from local authority councillors and officers. The Council can only set catchment areas for schools where it is the admission authority; that is for community and voluntary controlled schools. The Council does not have the power to change a catchment area set by another admission authority although, if it considered any catchment area set by another admission authority to be unreasonable, or not to conform with the Code in other ways, it could refer the matter to the adjudicator.

85. There are only two community schools in the area and no voluntary controlled schools. The two community schools are Greenhaugh Primary School and Otterburn Primary School. These are the only schools where the Council has the power to set a catchment area.

86. It would be perverse if school admission arrangements and the transport policy worked against each other. Aligning the two policies was relatively straightforward when local authorities set the admission arrangements for almost all schools in their area. Today, the admission arrangements for the majority of schools in the county are set by governing boards and academy trusts, not the Council. The transport policy takes into account the catchment areas for schools, many of which will be set by these other bodies. An admission authority could choose not to set a catchment area, fail to set one, set a poorly defined one or set one which covers a greater or smaller area than in the past. As a result, a child could find that they do not live in the catchment area of any school or could live in the catchment area of more than one school. While the transport policy allows for the catchment and nearest school being different, it is silent on the possibility of a child living in two catchment areas. It appears to me that the transport policy may not reflect the current circumstances where the local authority is not the admission authority for most schools.

87. During discussion at the meeting the term “transport catchment area” was used by representatives of the Council. I asked whether this was the same as the catchment area used in admission arrangements. At one point I was told that it was, however, I was also told that it was different for some schools, where it was the “historical catchment area” from

when the Council was the admissions authority for the school. The use of the same term for entities which may or may not be the same adds to the confusion.

88. The organisation of schools in the area is a further confusing factor. There are clearly more school places available than are necessary around Bellingham. With children in Year 5 and Year 6 able to attend either primary schools or middle schools and those in Year 7 and Year 8 able to attend either middle or secondary schools this adds to the oversupply of places and increases the possibility of a child living in the catchment area of more than one school. This has the potential to create uncertainty over a child's entitlement to transport. This uncertainty is exacerbated when the separate bodies involved do not understand their roles and responsibilities or do not publish what they are required to publish in a clear and accessible way.

89. The following analysis concerns children where the distance from home to school is greater than the prescribed distance measured along safe walking routes. The transport policy says that transport will be provided to the nearest school to a child's home or to the child's catchment area school if that is different. It says that this means some children may be entitled to transport to two schools, their nearest and their catchment area school. Because Bellingham Middle School does not currently have a catchment area (or indeed any admission arrangements), the transport policy will only provide transport to that school if it is the nearest school to a child's home.

90. For the purpose of making this determination I am taking on trust that the other foundation, voluntary aided and academy schools have determined their arrangements, and these do include catchment areas for 2023 which are accurately represented on the maps published by the Council on its website. I have no grounds to assume differently. If my trust is misplaced, and catchment areas have not been determined for schools other than the two community schools, Otterburn and Greenhaugh, it may change a child's entitlement to home to school transport but will not change this determination which concerns the fairness of the two catchment areas set by the Council.

91. I have studied the catchment area maps on the Council's website and Ordnance Survey maps of the area in detail. It appears to me that the two catchment areas set by the Council reflect geographical features in a reasonable way and the number of children on roll at the local schools confirms that the population within each catchment area can be accommodated in the schools.

92. Because distances are measured along safe walking routes, not in straight lines, without dedicated software or physically measuring routes on the ground it is not possible to identify the exact point where Bellingham Middle School becomes the closest school to an address. I can, however, identify parts of the Greenhaugh and Otterburn primary school catchment areas which are closer to Bellingham Middle School than either of those primary schools. If Bellingham Middle School was a child's closest school, the transport policy would provide transport to it. Considering the maps, it appears to me that the shortest route by which children could approach Bellingham Middle School from the west and north passes Bellingham Primary School. So, for none of these children in Years 5 and Year 6

would Bellingham Middle School be the closest school, it would be Bellingham Primary School if only by about 100 metres. At the meeting I was told that the two schools share an entrance and so would be considered the same distance from a child's home and transport would be provided to either school if they were closer to a Year 5 or Year 6 child's home than the Greenhaugh or Otterburn schools. I note that while explaining that a child could qualify for transport to two schools, the transport policy is silent on the possibility that a child could qualify for transport to three schools.

93. Given what I was told, the same would apply for Year 5 and Year 6 children living in catchment areas set by other admission authorities. If the Bellingham schools were closer to their homes than their catchment area school, according to the transport policy, transport would be provided. If a catchment area had been set by the governing board for Bellingham Middle School which overlapped with the catchment areas of primary schools, Year 5 and Year 6 children could fall into the catchment area of two schools and as noted above have two schools which are their closest, another situation not covered by the transport policy.

94. No matter what catchment area the Council set for Greenhaugh and Otterburn primary schools, Bellingham Middle School could, along with Bellingham Primary School, be the closest school to the home of a child in Year 5 or Year 6 and transport would be provided to either of them.

95. The Council does not set catchment areas for any schools in the area which take children in Years 7 and 8. For children in those year groups entitlement to transport to Bellingham Middle School would depend on its being the nearest school to their home, even if they live in the catchment area of another school teaching those year groups. If the referrer has grounds to think that the transport policy is not being operated correctly, she should refer the matter to the Local Government and Social Care Ombudsman.

96. I have reached the limit of my jurisdiction on the matter referred to me. I find that the two catchment areas determined by the Council are reasonable and, no matter what they were determined as, they would not prevent children from being awarded free home to school transport to Bellingham Middle under the current transport policy and so create no unfairness.

Summary of Findings

97. I have identified sixteen ways in which the arrangements do not conform with the Code. Section 88K of the SSFA requires that the Council revises the arrangements to address these matters. Paragraph 3.1 of the Code says that this must be done within two months of the date of this determination unless I specify an alternative timescale. I see no reason to do so.

98. During consideration of this case, I have found confusion among various bodies about their roles and responsibilities for admission arrangements. Information which should have been readily available in a clear form was not. While outside of my jurisdiction I have noted confusion about terms used in the transport policy and situations not covered by it.

The organisation of schools in the area has led to a situation where parents' decisions about their children's schooling and which schools to apply for are more complex than is usual. This is exacerbated by the fact that the information available for them to base these decisions on is not clear. In this context I can understand why the referrer wrote to the Chief Adjudicator raising her concerns, bringing many other matters to my attention.

99. I have found that the two primary school catchment areas set by the Council for schools in this area are reasonable and are not the cause of the issues described by the referrer and so do not create any unfairness.

Determination

100. I have considered the admission arrangements for September 2023 for all community and voluntary controlled schools in Northumberland in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that in relation to the matters set out in this determination, the arrangements do not conform with the requirements relating to admission arrangements.

101. 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: 1 September 2022

Signed:

Schools Adjudicator: Phil Whiffing