



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** REF4097

**Admission authority:** Hadrian Learning Trust for Hexham Middle School and Queen Elizabeth High School, Hexham, Northumberland

**Date of decision:** 25 October 2022

### Determination

I have considered the admission arrangements determined by the Hadrian Learning Trust for Hexham Middle School and Queen Elizabeth High School for September 2023 in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the arrangements do not conform with the requirements for admission arrangements in the ways set out in this determination.

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

### The referral and jurisdiction

1. The admission arrangements determined by the Hadrian Learning Trust (the trust) for Hexham Middle School (the middle school) and Queen Elizabeth High School (the high school) for 2023 (the arrangements) came to my attention while considering the admission arrangements determined by Northumberland County Council (the local authority) for community and voluntary controlled schools in the county (determination REF4069 dated 1 September 2022).
2. In the course of making that determination I wanted to find details of any catchment areas determined by the admission authorities for foundation, voluntary aided and academy schools in the area surrounding the village of Bellingham. Paragraph 1.50 of the School Admissions Code (the Code) requires that admission authorities publish their arrangements on their websites by 15 March each year. On 14 July 2022 I was unable to find the arrangements for the two schools in the trust on their websites. Through the Office of the

Schools Adjudicator (OSA), I asked the trust to send me a copy of the arrangements and the minutes of the meeting at which they were determined. When I received the arrangements, it appeared to me that they did not, or may not conform with the Code and decided to use my power under section 88I(5) of the School Standards and Framework Act 1998 (the Act) to decide whether the arrangements conform with the Code and if not, in what respect they do not.

3. The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined under section 88C of the Act by the trust, which is the admission authority for the school on 27 January 2022 on that basis.

4. The parties to the case are the trust and the local authority. The local authority was invited to comment on the matters raised but did not do so.

## Procedure

5. In considering this matter I have had regard to all relevant legislation and the Code.

6. The documents I have considered in reaching my decision include:

- a) copies of the minutes of the meeting of the trust at which the arrangements were determined;
- b) a copy of the determined arrangements; and
- c) correspondence with the trust about the matters raised.

## Background

7. There are two schools in the trust, both located in Hexham. Hexham Middle School has an age range of 9 to 13 and Queen Elizabeth High School has an age range of 13 to 18. Both schools are coeducational and have been academies since September 2016. The Department for Education (DfE) register of educational establishments, Get Information About Schools (GIAS), shows the number of children on roll at the middle school as 475 and at the high school it is shown as 1339.

8. The published admission number (PAN) for the middle school is 150 and the PAN for the high school is 306. The arrangements cover both schools, and the oversubscription criteria can be summarised as follows:

1. Looked after and previously looked after children
2. Children living in the catchment area
3. Children with exceptional social or medical reasons for attending the school

4. Children with a sibling at the school
5. Children of staff
6. Children living in the “greater catchment area”
7. Children attending feeder schools
8. Other children.

## Consideration of Case

9. On 14 July 2022 I looked at the schools’ websites to find out whether a catchment area was part of their admission arrangements and if so, what the catchment areas were. The two websites are similar in organisation with a tab labelled “Admissions” on the home page. There was much useful information under these tabs for parents of children starting at the schools in September 2022, but I could not find the admission arrangements for 2023 in this part of either website which from the heading is where one would expect to find them. I looked again at the schools’ websites on 10 October 2022, and it remained the case that I could not find the arrangements for 2023 under the main heading of “Admissions”.

10. When the OSA first contacted the trust on my behalf, the trust offered evidence that the arrangements had been published on the schools’ websites on 28 February 2022. The trust told me that the arrangements could be found under the “About Us” tab on the home page. I had already explored this part of the website on 14 July 2022 when following the route About Us>Admissions>Information for Prospective Pupils & Parents/Carers produced a ‘404 error’ message saying the page could not be found. I note that when I looked at the websites on 10 October 2022 the option “Information for Prospective Pupils & Parents/Carers” was no longer available, and the arrangements for 2023 could be found at the previous menu level. The trust has told me that the potential for the error message I received has been removed.

11. The purpose of publishing admission arrangements on the schools’ websites is so that parents and others can easily find them and so understand how places at the school will be allocated. When presented with a tab labelled “Admissions” on the home page that is where people will look for the arrangements. Putting the arrangements under the sub-menu of a different tab may meet the letter of the requirement in paragraph 1.50 to publish the arrangements on the relevant website, but it is not helpful to anyone trying to find the arrangements particularly where the links may be fragile.

### The content of the arrangements

12. Paragraph 1.8 of the Code says “Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special

educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child. Admission arrangements must include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.” It appeared to me that the oversubscription criteria did not conform with this paragraph of the Code.

13. The first oversubscription criterion reads “Looked after children and all previously looked after children, including those children who appear to have been in state care outside of England and ceased to be in state care as a result of being adopted.” Paragraph 1.7 of the Code requires this to be the first oversubscription criterion, however, nowhere in the arrangements is there a definition of a looked after child or a previously looked after child. Without these definitions, it will not be clear to parents or carers whether their child meets this criterion or not. It will also not be clear whether the trust includes in this criterion all the children which paragraph 1.7 of the Code requires it to include.

14. The trust has acknowledged that a comprehensive definition was necessary and suggested one. My jurisdiction is solely for the determined arrangements and not for how the trust revises its arrangements to give effect to my determination. However, I will comment on one aspect of the proposed revision because it is indicative of a recurring feature in this case where the trust has relied on local authority documents, or wording from them, instead of the Code itself when formulating its admission arrangements.

15. The suggested definition included the following text: “The 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.” This refers to a letter from the Minister in 2018. Following extensive consultation, a revised Code came into effect in September 2021 which introduced the requirement to include children previously in state care outside of England as previously looked after children together with a full definition of such children. At that time, the DfE wrote to all admission authorities explaining what action was required to meet this new provision in the Code. The letter from the Minister was also referred to in the local authority’s arrangements which I considered in determination REF4069. Including this obsolete reference in the arrangements would not help make the oversubscription criteria clear. It is particularly unclear when the trust has, correctly, given children adopted from care outside of England the highest priority, not second highest as requested by the Minister in 2018 at a time when the then Code would not allow these children to share the highest priority.

16. In addition to paragraph 1.8 requiring that oversubscription criteria are clear, paragraph 1.14 of the Code requires that catchment areas are clearly defined. The second oversubscription criterion gives priority to children living within the catchment area of the school. A map of the catchment area for Queen Elizabeth High School could be found with the arrangements on that school’s website. However, it is not in my view of a scale or level of detail necessary to meet the requirement to be clear. There is no scale on the map, only

one road is shown and one river. The website for Hexham Middle School says: “The school primarily serves Hexham and the surrounding areas of Acomb, Barrasford, Beaufront, Chollerton, Chollerford, Humshaugh and Whitley Chapel, but will accept pupils from outside this area if places are available.” If this is a description of the catchment area, the arrangements do not make this clear and I was not able to find any map showing the boundaries of this area on the school’s website or any alternative detailed explanation of the catchment such as a comprehensive list of roads or postcodes included in it.

17. When I raised this matter with the trust, it referred me to a sentence in the first paragraph of the arrangements which says, “ Details of Northumberland’s approach can be found [here](#).” There is no indication in the arrangements that this is where parents should look to find the catchment area of either school defined. The link is to the first page on the local authority’s website concerning school admissions. As I found in REF4069, it is not easy to find a clear map of schools’ catchment areas through the local authority’s website.

18. The trust also referred me to the local authority’s composite prospectus for admission in 2023. The requirement in the Code is for the admission authority, that is the trust and not the local authority, to publish its admission arrangements for 2023 by 15 March 2022. The local authority is not required to publish its composite prospectus for 2023 until 12 September 2022. Therefore, an admission authority cannot rely on the local authority’s composite prospectus to meet the requirement to publish its catchment area for this reason alone.

19. The composite prospectus has a link for each of the two schools to the same page on the local authority’s website with a heading “This map displays the location of schools and school catchment areas for Northumberland County Council”. There is no indication of which admission year the map applies to. The map shows the whole of the county and beyond with many coloured dots, presumably the locations of schools, no key and no lines delineating any catchment area for either school. As I found in REF4069 it is necessary to delve deeper into the map to find maps of any catchment areas.

20. An admission authority may choose to refer to a third party’s website to publish a map of its catchment area. If it does so, then the responsibility remains with the admission authority to ensure that the map can be reached easily (for example via a single click on the link) and does not require parents or others to trawl through several further webpages to find the map. The admission authority must also ensure that the map is available from 15 March in the determination year (that is by 15 March 2022 for 2023 admissions). I am pleased to note that the trust has now decided to make clear catchment area maps available on its own website.

21. The sixth oversubscription criterion reads “Children resident in the greater catchment area of the school partnership (i.e. that of the high school i.e. the full partnership catchment, rather than just a middle school or first school’s catchment. Evidence must be presented to confirm that the child will be living in the greater catchment area by the appropriate admission date (refers to middle schools only).” The precise meaning of this statement was not clear to me as I set out below.

22. The term “school partnership” was not explained. The criterion also refers to “first school’s catchment”; these criteria are for a middle and a high school, so a reference to a first school cannot be relevant. It was not clear to me why this refers to middle schools (plural) or whether it is the requirement to provide evidence of living in the greater catchment area is only for the middle school or if the entire criterion only applies to the middle school.

23. In its response to me on this matter, the trust said that the greater catchment area was the same as the catchment area for the high school. In which case, the criterion is redundant in the oversubscription criteria for the high school as any child meeting it would have already met the second criterion.

24. I can understand why the trust may want to give priority for admission to the middle school to children living in parts of the high school’s catchment area not included in the middle school’s own catchment area. It would seem to me to be possible to draft a clear criterion which does this without introducing, new undefined terms or referring to catchment areas of other schools not set by the trust. My comments above concerning each school’s catchment area also apply to the greater catchment area with paragraph 1.14 requiring a clear map or other definition of it in the arrangements.

25. Paragraph 1.8 of the Code requires that “admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.” The arrangements say “Where there are more applications than places available children from multiple births will be given priority within each of the above criterion [sic]. If a further tie break is necessary distance between home and the school will be used to prioritise applications.” A subsequent note says that children living closest to the school are given priority. This tie-breaker would not be effective if there was just one place to be offered within one criterion and twins met this criterion, nor would it be effective if any two applicants lived the same distance from the school. This wording would also mean that if oversubscription occurred, say, within the catchment area, any children who happen to be from multiple births would be offered a place ahead of other children living closer to the school.

26. When responding on this point the trust proposed to amend the policy to say “Where the last place to be allocated would mean that a multiple birth sibling group, i.e. twins, triplets, or other multiple birth sibling groups would be split, the sibling will be accepted as an excepted pupil. Otherwise, if only one final place can be offered, and two applicants live equidistant from the Academy, the LA’s system of random allocation will apply as a tie-breaker.” While it is not for me to comment on proposed arrangements, I think it is appropriate to suggest that the trust should note that the term “excepted pupil” has a specific legal meaning in relation to children admitted to infant classes where class sizes are limited. To use this term in connection with admission to a middle or high school may not be clear.

27. Paragraph 1.9b of the Code says that admission authorities “**must not**: ... take into account any previous schools attended, unless it is a named feeder school”. The seventh

oversubscription criterion reads “Requests on behalf of pupils which are based on the need to maintain continuity of educational provision within the feeder pattern of Northumberland’s system of schools. Important: This criterion does not apply to those children who have entered a school in the final year before transfer.” The Code requires that any feeder schools are named. Nowhere in the arrangements is there a list of feeder schools for either the middle school or the high school.

28. In its response on this point, the trust again relied on the local authority’s composite prospectus to list the schools. I have explained above that this does not conform with the requirements of the Code because the trust is required to have determined its arrangements and then published them including the names of any feeder schools by 15 March 2022. The local authority is not the admission authority for these schools and thus cannot determine the names of any feeder schools. Moreover, the local authority is not required to publish the composite prospectus until 12 September 2022.

29. I have looked at pages 62 and 63 of the composite prospectus where the trust told me I would find the list of feeder schools. For the middle school, the list includes seven first schools and the high school. While paragraph 1.15 of the Code allows admission authorities to name “a primary or a middle school as a feeder school”, it does not permit the naming of a high school as a feeder school for a middle school. Indeed, it would be ridiculous to do so.

30. The list of feeder schools for the high school found in the composite prospectus is also worth inspection. It includes eleven first schools and two middle schools. I can find nothing in the Code that would prevent a high school giving priority in its arrangements to children on the basis of the school they attended four years earlier although it is unusual and would need to meet the requirement of paragraph 1.15 of the Code for the feeder schools to have been selected on reasonable grounds. There is also a discrepancy in that the trust told me there were three middle schools in its “partnership” and only two are listed in the composite prospectus as feeder schools.

31. The accuracy of the composite prospectus is not the responsibility of the trust; however, it is the responsibility of the trust to name any feeder schools in its arrangements.

32. The arrangements say, “The Trust reserves the right to vary these criteria within the relevant year to take account of revisions to legislation or its interpretation by the courts.” Paragraph 3.6 of the Code 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.” The trust cannot reserve rights to vary the arrangements, it may only do so in the circumstances allowed by Parliament as set out in the Code.

33. The school responded on this point by suggesting that it quoted paragraph 3.6 in its arrangements. There is no requirement in the Code for admission authorities to make any statement about how arrangements may be varied, but if such a statement is made then it must be accurate. The Code does, however, require that certain other statements do appear in arrangements, and it is to these that I turn next.

#### Omissions from the arrangements

34. Paragraph 1.13 of the Code says that when setting out how home to school distance will be measured admission authorities “**must** make clear how the home address will be determined” and that this 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 did not include any such provision.

35. Responding on this point the trust acknowledged that the arrangements did not include this provision. The trust considered it was covered by the reference to the local authority’s “co-ordinated admission scheme” within its arrangements. The Code requires the admission authority to make the provision in its arrangements; the trust cannot rely on the provision appearing in a local authority document. The trust may use the same provision as the local authority does in its arrangements, but before doing so the trust must be sure that the local authority’s provision meets the requirements of the Code.

36. The scope of the local authority’s scheme of co-ordination is set out in section 2.22 of the Code and more fully in the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012. The scheme of co-ordination and admission arrangements are not the same thing. The determination of a child’s address is not part of the scheme of co-ordination. The local authority is required to meet the requirements of paragraph 1.13 of the Code in its admission arrangements for community and voluntary controlled schools and I found in determination REF4069 that this requirement was not met.

37. The trust has suggested that it includes wording from the composite prospectus in its arrangements to address this issue. The composite prospectus is not within my jurisdiction; however, the trust will want to note comments from the Chief Adjudicator in paragraph 20 of her report to the Secretary of State for 2018/19 concerning the use of child benefit to determine a child’s address.

38. There were two further omissions from the arrangements. Paragraph 2.15 of the Code sets out the requirements for waiting lists. This requires admission authorities to state in their arrangements that “each added child will require the list to be ranked again in line with the published oversubscription criteria.” There was no such statement in the arrangements. And paragraph 2.18 of the Code requires “Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.” There was no reference to requesting admission outside of the normal age group in the arrangements.



39. These omissions were acknowledged by the trust, again saying that it considered them to be covered in the local authority's documents. I reiterate that the Code places these requirements on the admission authority for a school, not the local authority. For these two schools the admission authority is the trust and the requirements have not been met.

### Next steps

40. In correspondence the trust asked for clarification of the steps it must take following this determination. Under section 88I of the Act the adjudicator's role is to decide whether the arrangements conform with requirements and, if not, in what respect they do not. I have done this; I cannot advise on or approve any proposed revisions. Section 88K of the Act and paragraph 3.1 of the Code require that the trust now revises the arrangements within two months or a time period that I may set. There is no requirement for the trust to consult when revising arrangements to give effect to an adjudication, nor to obtain the approval of the Secretary of State as the trust would be required to do by paragraph 3.6 of the Code when requesting a variation outside of the matters in an adjudicator's determination.

41. I have considered the time period I should set for the trust to revise these arrangements. By the time this determination has been published and the trust has had the opportunity to consider it, applications for places at the schools for 2023 will have been made. The flaws in the arrangements are of clarity and omission, I have found no unfairness and no changes are required that would alter the application of the arrangements or which children would be offered places for 2023. The trust has already begun to consider how it will revise its arrangements and has made changes to its website. Therefore, I see no reason to depart from the two-month period set in paragraph 3.1 of the Code for these arrangements to be revised.

## **Summary of Findings**

42. While the admission arrangements for the two schools in the trust were published on the relevant websites, they were not easily found. Within the arrangements, the oversubscription criteria did not meet the requirements of paragraph 1.8 of the Code to be clear, particularly in respect of the definition of the catchment area and the greater catchment area. Feeder schools were not named as required by paragraph 1.9b of the Code and the arrangements did not include details which the Code requires to be included in admission arrangements.

## **Determination**

43. I have considered the admission arrangements determined by the Hadrian Learning Trust for Hexham Middle School and Queen Elizabeth High School for September 2023 in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that the arrangements do not conform with the requirements in the ways set out in this determination.

44. 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: 25 October 2022

Signed:

Schools Adjudicator: Phil Whiffing