



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4108

Objector: a member of the public

Admission authority: North East Learning Trust for Ashington Academy,
Northumberland

Date of decision: 9 October 2023

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2024 determined by North East Learning Trust for Ashington Academy, Northumberland.

I have 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 2021 requires the admission authority to revise its admission arrangements within two months of the date of the determination.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by a member of the public (the objector) about the arrangements for admission to Ashington Academy, Ashington, Northumberland (the Academy), for September 2024 (the arrangements).
2. The objection is that the arrangements are unfair for the following reasons:

- 2.1. distance is used as an oversubscription criterion rather than feeder schools and specifically that Pegswood Primary School (Pegswood) should be a feeder school for the Academy;
- 2.2. the arrangements for managing the waiting list are unfair;
- 2.3. the Academy's published admission number (PAN) should be increased as it does not reflect demographic changes in the area the Academy serves; and
- 2.4. the over-subscription criteria give priority to children who have siblings at the Academy, medical or social needs and children of staff members ahead of other applicants.

3. The local authority for the area in which the Academy is located is Northumberland County Council (the local authority). The local authority is a party to this objection. The Academy is part of the North East Learning Trust (the Trust), a multi-academy trust. The Trust is the admissions authority for the Academy. It is also a party to this objection, as is the objector.

Jurisdiction

4. The terms of the funding agreement between the Trust and the Secretary of State for Education require that the admissions policy for the Academy and other aspects of the arrangements are in accordance with admissions law as it applies to maintained schools. The Trust determined the arrangements on that basis. The objector submitted her objection to these determined arrangements on 16 March 2023. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and the issues described in paragraph 7 below are within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the School Admissions Code 2021 (the Code).

6. The documents and information I have considered in reaching my decision include:
- a. a copy of the minutes of the meeting of the Trust at which the arrangements were determined;
 - b. a copy of the determined arrangements;
 - c. the objector's letter and form of objection dated 16 March 2023;
 - d. the Trust's response to the objection dated 28 April 2023 and document setting out how places at the academy have been allocated and their responses to my requests for further information;

- e. the local authority's online composite prospectus for admissions to secondary schools for 2023/24 (the prospectus for 2024/25 was not available);
- f. the Trust's consultation document (undated), the local authority's letter of response dated 6 December 2018 and minutes of the meeting of the Trust on 10 December 2018;
- g. information provided by the local authority regarding the destination of children leaving Pegswood after year 6 between 2018-2023 and in response to my requests for further information; and
- h. information available on the Department for Education Get Information About Schools (GIAS) and Schools Financial Benchmarking websites.

The Objection

7. In summary, the aspects of the objection that are within my jurisdiction under section 88H of the Act are that the academy's admissions arrangements for September 2024 are unfair for the following reasons -

- 7.1. the use of distance as an oversubscription criterion rather than feeder schools and specifically that Pegswood should be a feeder school;
- 7.2. the arrangements for managing the waiting list are unfair; and
- 7.3. the over-subscription criteria give priority to children who have siblings at the academy; children with medical or social needs; and children of staff members ahead of other applicants.

8. The objector also raised an issue about the academy's PAN. The effect of regulation 21(1)(c) of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 is that an objection that the PAN has not been changed for an Academy may not be referred to the schools adjudicator. This is, however, a matter that I can and have considered as part of my consideration of the admission arrangements as a whole under section 88I of the Act.

Other Matters

9. I have decided to exercise my powers under section 88I of the Act to consider the admission arrangements as a whole as there are matters that I consider do not or may not conform with the requirements relating to admission arrangements. In particular, I have considered whether the PAN complies with the overall principles set out in paragraph 14 of the Code:

"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."

10. I have also considered other aspects of the Academy's oversubscription criteria not raised in the objection, in particular -

10.1. whether the priority given to children with medical needs complies with paragraph 1.16 of the Code, which provides:

"If admission authorities decide to use social and medical need as an oversubscription criterion they must set out in their arrangements how they will define this need and give clear details about what supporting evidence will be required."

10.2. whether the priority to children of staff at the Academy complies with paragraphs 1.39 and 1.40 of the Code, which provide:

"Children of staff at the school

1.39 Admission authorities may give priority in their oversubscription criteria to children of staff in either or both of the following circumstances:

- a) where the member of staff has been employed at the school for two or more years at the time at which the application or admission to the school is made; and/or
- b) the member of staff is recruited to fit a vacant post at the school for which there is a demonstrable skill shortage.

1.40 Admission authorities must specify in their admission arrangements how this priority will be applied, for example which groups of staff it will apply to."

10.3. whether the policy is clear about what should happen if the Academy is oversubscribed after places have been allocated under any of the priority criteria other than the criterion that relates to the distance between the child's home and the Academy. Under paragraph 1.8 of the Code:

"Admission arrangements must include an effective, clear and fair tiebreaker to decide between two applications that cannot otherwise be separated"; and

10.4. whether the explanation of how a child's address will be determined for the purposes of the Academy's admission policy complies with paragraph 1.13 of the Code, which requires "provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives part of the week with each parent" and is sufficiently clear.

Background

11. The Academy (formerly Ashington High School) is a mixed, non-selective 11-18 secondary school. It is rated "good" by Ofsted (inspection 2022). It converted to academy

status and joined the Trust on 1 November 2017. Since that date, the Trust has been the admission authority for the Academy. The Trust includes a number of primary and secondary academies in Northumberland and County Durham.

12. The funding agreement between the Trust and the Secretary of State for Education for the Academy is dated 30 October 2017. Clause 2B of the agreement states:

“The planned capacity of the Academy is 1,050 in the age range 11-18, including a sixth form of 200 places. The Academy will be an all ability, inclusive school.”

I note here that the Academy’s capacity is stated on the GIAS website as 1250. Until admission year 2020/21, the Academy’s PAN for year 7 was 210 which would be consistent with a capacity of 1250 pupils, including 200 sixth form places (100 each in years 12 and 13). I am however informed by the Trust that the capacity is as stated in the funding agreement. The PAN was reduced from September 2020 from 210 to 180, consistent with a capacity of 1,050 including sixth form. School performance data on the DfE website shows that in 2021/22, the year after the PAN was reduced, there were 977 pupils on roll (including sixth form).

13. The key oversubscription criteria before admission year 2020/21 were firstly, attendance at one of the five primary schools in the former Ashington Partnership, namely Bothal Primary School, Ellington Primary School, Central Primary School, Linton Primary School or Pegswood; and, secondly, children living in a catchment area designated by the local authority. The Academy is situated in the south-east corner of the catchment area. Of the five former feeder schools, two (Bothal and Central) are the two closest primaries to the Academy and are 0.37 and 0.55 miles respectively away from it. The other three former feeder schools are between two and three miles from the Academy and situated in the more rural area to the north of it. Nine other primary schools are closer than these three schools. They are all outside the former catchment area and all fall within the catchment areas of other secondary schools.

14. A consultation on the admission arrangements for both the Academy and neighbouring Bedlington Academy for which the Trust is also the admission authority, was carried out between 15 October and 7 December 2018 (the 2018 consultation), the year after the Academy joined the Trust. The proposed changes to the admission arrangements for both schools from 2020/21 were, in summary:

14.1. the PAN for year 7 at the Academy was to be reduced from 210 to 180 pupils;

14.2. the PAN for Bedlington Academy was to be increased from 122 in year 7 plus 28 pupils in year 9 to 150 pupils in year 7 and year 9 ceased to be a relevant age group for these purposes; and

14.3. new oversubscription criteria at both schools which were, in summary:

a) children who are looked after in England or previously looked after children;

- b) children who are in state care outside England or who have ceased to be in such care as a result of being adopted;
- c) children with exceptional medical needs;
- d) children who have an older sibling in years 7-11 at the relevant school;
- e) children of staff at the relevant school;
- f) children who live closest to the relevant school, measured in a straight line.

15. The only information given in the consultation document about the background or context for the proposed reduction in PAN and other changes to the oversubscription criteria was:

“In considering the options this year, [the Trust] have identified some developments, including the Academies joining the North East Learning Trust, changes to the admissions offer at several local schools and a growing body of evidence around parental preferences, and in addition, admission authorities are currently required to give looked after children and previously looked after children highest priority in their oversubscription criteria. The Government is intending to amend the School Admissions Code ‘when the opportunity arises’ to ensure that children who are previously in state care outside of England and have ceased to be in state care as a result of being adopted, also receive the same high priority for admission into a school in England. Until such time however, the Government wishes Admissions Authorities [sic] to introduce oversubscription criteria to give these children second highest priority for admission into school.”

16. No other reasons were given for the proposals. I have not formally considered the 2018 consultation because my jurisdiction for the 2024 arrangements extends only to a consultation carried out immediately before the 2024 arrangements were determined. I note in passing that the consultation appears to have been carried out in accordance with the requirements in paragraphs 1.45-1.48 of the Code but it might have been more meaningful if the Trust had provided in the consultation document more information about the context and its reasons for the proposals. If the reasons for putting forward proposals are not given, it is difficult for consultees to properly understand them and express their views¹. I have, however, given details of the consultation because it is an important part of the context for the 2024 arrangements and the objection to them.

17. The minutes of the Trust meeting on 10 December 2018 at which the outcome of the consultation was discussed summarise the responses to the consultation as follows:

¹ See, for example, the judgement in R v Brent LBC ex p Gunning (1985) 84 LGR 168.

“The following responses to the consultation were received:

Four parents concerned about the removal of the additional admission of 28 students for Year 9 for Bedlington Academy. The Trustees noted that a local middle school was to be redesignated as a primary school which would negate the need for admission in Year 9 from 2021 and beyond.

Diamond Hall Infant Academy concerned about the reduction in PAN. The school is currently under capacity in all year groups.

Pegswood Primary concerned about the changes to the PAN and admission arrangements at Ashington and Bedlington Academy as the changes to the PAN could be detrimental to applications for places for pupils.

Ellington Primary concerned about Ashington Academy not being a feeder school and that SEND is not a separate criterion with a higher priority in the oversubscription criteria.

[The local authority] requesting that the PAN for Ashington Academy remain at 210 and catchment areas be part of the criterion.”

As mentioned above, both Pegswood and Ellington Primary School were, at the time of the consultation, feeder schools for the Academy.

18. The local authority’s response to the consultation is set out in a letter dated 6 December 2018. The local authority made the following points about the proposed changes:

- 18.1. the numbers on roll at the feeder schools and therefore the projected numbers for entry to the Academy from the local community exceeded the existing PAN, except in 2020 when there was likely to be dip in numbers;
- 18.2. housebuilding in other areas of the local authority was expected to put pressure on school places, and reduce the places available for children likely to be displaced by the proposed reduction in PAN;
- 18.3. the census data indicated that demand for places at the Academy was increasing; and
- 18.4. catchment areas are used by all existing academies in Northumberland, “to ensure that each school or academy has a viable allocation of pupils [and] ... manage eligibility for home to school transport fairly equitably and cost effectively.”

19. I pause here to note that the local authority’s area is substantially rural and the catchment areas are necessarily large. It is therefore understandable the local authority would want to coordinate school admission arrangements with provision for pupil transport. The efficiency and effectiveness of its transport provision will be diminished if schools for

which the local authority is not the admissions authority make decisions that are not consistent with such a coordinated approach.

20. The proposed changes to the admission arrangements for the Academy and Bedlington Academy were approved without amendment at the meeting on 10 December 2018. The minutes of the meeting record the Trustees' discussion in the following terms:

"The Trustees note that all year groups in both Ashington Academy and Bedlington Academy are significantly under PAN which has a negative impact on curriculum provision, staffing and other resources."

There have been no subsequent changes to the arrangements.

21. The only other information I have about the "negative impact" of the higher PAN is included in the information provided in response to my questions about the reasons for the PAN reduction:

"The Academy was previously a High School with an intake spanning Year 9 to Year 13. Whilst additional classrooms were added as part of a refurbishment, when it added Year 7 and 8 to its intake, there were no additions to specialist spaces such as dining, science labs, technology areas, school yards and sports facilities."

The Trust explained that as the Academy does not operate a "split lunchtime", managing the dining facilities is a particular challenge.

22. The Trust also mentioned its "focus on creating a sustainable sixth form" as a reason for reducing PAN. However, sixth form numbers are and have been for at least the last three years less than half the numbers provided for in the funding agreement (in 2022/23, there were 49 students in year 12 and 50 students in year 13) meaning that the Academy has, in practice, had capacity to accommodate more pupils in other year groups.

23. As part of the justification for its position, the Trust has referred to funding given to other schools to provide extra places. This funding appears to post-date the decision to reduce the PAN at the Academy and is not relevant to my consideration of whether the 2024 arrangements are fair or not. I have considered information about the Academy's financial position that is available on the DfE's website. I note that in 2021/22 (the most recent year for which data is available, when the number on roll, including sixth form, was 977) the Academy had revenue reserves of nearly £2 million and an in-year surplus of over £450,000. I therefore conclude that at the time the arrangements were changed, the Academy was successfully deploying staff flexibly to manage fluctuations in pupil numbers. I have seen no evidence that a reduction in the PAN was needed to address a projected deficit.

24. The Trust has also provided me with the following information about places allocated at the Academy in previous years, set out in Table 1:

Table 1: Allocation of places at the Academy between September 2015 and September 2022

Academic Year	PAN	Allocations (year 7)
Sept 2015	210	182
Sept 2016	210	182
Sept 2017	210	185
Sept 2018	210	185
Sept 2019	210	205
Sept 2020	180	181
Sept 2021	180	187
Sept 2022	180	195

From this data I note that the reduced PAN of 180 was below the number of pupils allocated to the Academy in each of the five years that preceded the change. I note too that the numbers of pupils admitted to year 7 each year were largely stable at just over 180 except in 2019 (the last year in which the PAN was 210) when 205 children were allocated places in Year 7. I do recognise that the numbers that would have been available to the Trustees in 2018 when they made their decision to reduce the PAN were rather lower. No consideration appears to have been given to the impact of reducing the PAN on children displaced from the Academy and the likely impact on the satisfaction of parental preference for the school. Numbers then dipped for 2020 but have since risen as the table shows.

25. I asked the local authority for information about the impact of substituting distance from the Academy as the main oversubscription criterion for a combination of feeder schools and catchment areas on children at the five primary schools affected. The local authority confirmed that none of the five primary schools that were feeder schools for the Academy is now a feeder school for any other local secondary school. The local authority also informed me that all other primary schools in its area are feeder schools to a secondary school except for Ponteland Community Primary School. Ponteland High School, however, gives priority to children in its catchment area, which includes that primary school. This means that children at all of the primary schools in the local authority area have priority for at least one secondary except the primary schools in the former Ashington Partnership.

26. The objector was particularly concerned about children at Pegswood Primary. There is only one secondary school that is closer to Pegswood than the Academy. King Edward VII Academy, Morpeth (King Edward) is only 1.97 miles from Pegswood, compared to the Academy, which is 2.62 miles away (see GIAS). However, this is not a suitable alternative school for those leaving Pegswood or indeed Ellington or Linton Primary Schools as the age range it serves is 13-19 years (I note that there is a mix of two and three tier provision in Northumberland). King Edward has its own three feeder middle schools and gives priority

to children living in a catchment area to the north of Morpeth, which covers a very large, rural area. There are no other secondary schools within three miles of Pegswood.

27. The local authority gave me the following information about the destination of year 6 children at Pegswood, the school attended by the objector's child, which is set out in table 2:

Table 2: Destination of children in year 6 at Pegswood

Year	Total number in year 6	Number admitted to Academy (percentage of total in year 6)	Numbers directed to other schools
2018	19	19 (100%)	0
2019	22	21 (95.5%)	1
2020*	24	22 (91.6%)	2
2021	30	28 (93.3%)	2
2022	22	17 (77.2%)	5
2023	24	14 (58%)	10

* 2020 is the year that the arrangements changed.

28. The other schools which have admitted children from Pegswood are set out in table 3, with the distance from Pegswood according to GIAS; and the shortest distance by road and travel time by bus, based on Google Maps:

Table 3: schools for children in year 6 at Pegswood

Secondary school	Straight line distance from Pegswood Source: GIAS	Shortest distance by road from Pegswood Source: Google Maps	Travel time by bus approximate – rounded to nearest 5 mins	Number of children admitted from Pegswood (year of admission)
Bede Academy, Blythe	6.64 miles	12 miles	1 hour 20mins	1 (2019)
Blythe Academy, Blythe	5.61 miles	10 miles	1 hour	1 (2021) 1 (2022) 1 (2023)
St Benet Biscop Catholic Academy, Bedlington	3.81 miles	6.4 miles	50 mins	2 (2022) 9 (2023)
NCEA Dukes Secondary School, Ashington	3.95 miles	5.9 miles	35 mins	1 (2020) 1 (2021) 1 (2022)
Cramlington Learning Village, Cramlington	7.64 miles	15 miles	1 hour 30 mins	1 (2020)

29. The Trust at my request provided the following information about admissions to the Academy, set out in Table 4:

Table 4: Admissions to Ashington Academy

Admission year	2021/22	2022/23	2023/24
Number of pupils admitted	193	195	195
Number over PAN (of whom number admitted from former feeder schools)	15** (15)	15 (15)	16** (12)
“Looked after” children*	3	4	3
Siblings	45	57	56
Distance	145	137	136

* This includes previously looked after children and children in state care outside England

** These figures are taken from a subsequent email from the Trust dated 29 June 2023, and are not consistent with earlier figures given about numbers admitted, which are likely to be correspondingly higher.

No places have been allocated under the “exceptional medical reasons” criterion or to children of staff at the academy during this period.

30. The local authority’s handbook for admissions for 2023/24 (the handbook for 2024/25 is not yet available online) provides further information about applications made for admission in 2022/23, from which I note that the Academy received 221 first preferences (41 over its PAN) and NCEA Dukes Secondary School, the only other secondary school in Ashington, received 201 first preferences (21 over its PAN). I have no reason to suppose that the Academy’s popularity has declined since then. The outcome of the recent Ofsted inspection may, in fact, have increased the demand for places.

Consideration of Case

A. Feeder school

31. The Code sets out a number of common oversubscription criteria while making the point that it does not offer a definitive list. However, whether a particular criterion – which may or may not be among those listed in the Code - meets the requirements set out in paragraph 1.8 of the Code to be “reasonable, clear, objective, [and] procedurally fair” will depend on the particular circumstances of the school. All admission arrangements (which include oversubscription criteria and PAN) must also be fair as provided for in paragraph 14

of the Code. It is also worth noting that a particular set of arrangements may have been fair when adopted but become unfair in changed circumstances. The reverse may also be true.

32. Most places at the Academy are allocated to pupils whose “home address is closest to the [Academy] measured in a straight line” (the distance criterion). This is a common approach and is expressly contemplated in the Code.

33. The distance criterion replaced the previous combination of feeder schools and catchment area as the main priorities for the allocation of places. In its response to the objection, the Trust stated that because the former feeder primary schools “are some distance from Ashington Academy [the distance criterion] ensures that children living closest to the Academy are not disadvantaged”. No reason is given for prioritising “children living closest to the Academy” over other children living in the area designated as the catchment area for the Academy by the local authority. It is also not clear where the “disadvantage” arises for children who live closer to the Academy than Pegswood but not in its catchment area. Many of these children will be within the catchment area for NCEA Dukes Secondary School and are likely to attend one of its feeder schools; others will be in the catchment for another Northumberland secondary school. Pegswood is less than three miles from the Academy, which is the closest school that admits children to year 7.

34. On the other hand, the Trust does not appear to have considered the potential of the change to create disadvantage for children at its former feeder primary schools. I note that because the Academy does not give priority to children in its former catchment area, there is no longer any obvious secondary school destination for Pegswood pupils. The proportion of children at Pegswood allocated places at the Academy has steadily decreased, from nearly 100 per cent in 2020 to 58 per cent in 2023 (see Table 2). Some Pegswood pupils displaced from the Academy by the change to the arrangements have to travel significant distances (between three and ten miles) to other schools at which they have been allocated places by the local authority. The largest number have been allocated places at St Benet Biscop Catholic Academy, which is nearly twice as far by road (see Table 2 - 6.4 miles compared to 3.6 miles) and to which the journey time by bus is twice as long (50 mins compared to 25 mins). Although in the context of a rural area this isn't exceptional, it is clearly a significant change for the worse for Pegswood pupils.

35. The Trust have told me that there is a “spike in pupil numbers” and that “the issue will resolve itself”. This does nothing to address the real concern of parents in the meantime and the lack of certainty over secondary transition for pupils at Pegswood at present.

36. Further, this aspect of arrangements must not be considered in isolation: my task under section 88I SSFA is to determine whether the arrangements for 2024 as a whole conform with the requirements in the Code and are fair within the meaning of paragraph 14. That includes considering the combined effect of the oversubscription criteria and the PAN in the context of current demand for school places – see section C below. For the avoidance of doubt, this means that my conclusion in relation to the feeder schools is not separable from my conclusion in relation to the PAN and is set out in paragraphs 46 and 47 below.

B. Waiting list

37. The objector states that “it is unfair that the distance protocol is also applied whilst a child is on the waiting list rather than on a first come basis.”

38. The Academy’s admission policy states: “Positions on the waiting list will be determined solely in accordance with the oversubscription criteria.”

39. The Code provides for waiting lists at paragraph 2.15:

“Each admission authority **must** maintain a clear, fair, and objective waiting list until at least **31 December** of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not be given** to children based on the date their application was received, or their name was added to the list. Looked after children or previously looked after children allocated a place at the school in accordance with a Fair Access Protocol must take precedence over those on a waiting list.”

40. I find that the arrangements comply with the Code in this respect and I do not uphold this aspect of the objection. Moreover, the approach preferred by the objector is expressly prohibited by the Code.

C. PAN

41. The PAN is part of the admission arrangements and as such must comply with the overarching principles set out in paragraph 14 of the Code. The question for me to determine is whether the decision to maintain the PAN at 180 is fair in the particular circumstances of this case.

42. Whilst I have no jurisdiction under the Code to consider the original decision to reduce PAN from 2020, information about that decision is relevant, if only to assist my understanding of why the Trust considered the reduction in PAN fair in 2018 and whether it remains fair in the context in which the Academy finds itself today. The only contemporaneous information I have about that decision is the comment in the Trust minutes (quoted in full above) that “being significantly under PAN has a negative impact on curriculum provision, staffing and other resources”. On the basis of the information provided by the Trust (see Table 1), the assessment by the Trust that the Academy was “significantly under PAN” may have been reasonable at the time the decision was made. However, I note that in 2019 the number admitted was 205, much closer to the former PAN of 210 than the new PAN for 2020 of 185. Since 2020 admissions have been on an upward trend. In each year since 2020, more children from Pegswood have had to attend a school they would prefer less than the Academy because the Academy has been oversubscribed. This demonstrates a need to re-visit the decision made in 2018.

43. The Academy’s current admission policy states “...if there is unexpectedly high demand and the Trust believes we could admit additional children, we will inform the [local

authority] and either admit children above the agreed PAN or increase the PAN accordingly to accommodate more children". It is difficult to reconcile this clear, public commitment with the Trust's advice to me that they "cannot accommodate this increased intake in all 5 years as there is simply not enough space in the building". I note that shortage of space was not a reason given for reducing intake in 2020. Furthermore, in each year since the PAN was reduced, the Academy has admitted over its PAN of 180 (though fewer children than in 2019) and I have no evidence that this is causing any particular difficulty. I conclude from this that the Academy is able to accommodate more children than its current PAN suggests, certainly until and unless its sixth form grows.

44. There is clearly demand for more places at the Academy than the 180 which the PAN represents. This is evidenced both by the Academy's willingness to admit additional children which it informed me was partly "to maximise parental preferences" and partly to support the local authority in ensuring that there were sufficient school places and by the fact that in the admission year beginning September 2022 the Academy was significantly oversubscribed by first preferences, as was the only other secondary school in Ashington (NCEA Dukes Secondary School, which serves a different catchment area). Indeed, the first preferences exceeded its original PAN. This suggests there is a local shortage of secondary school places.

45. I have no evidence that demand for places is likely to fall significantly in 2024. The evidence of the local authority in the consultation response, is that demand for places in the Morpeth area is likely to increase and that will put more pressure on places in neighbouring areas, of which Ashington is one. In the meantime, the reduced PAN appears to be having the effect of frustrating parental preferences, especially in relation to children who would have reasonably expected to be admitted to the Academy from its former feeder schools. This appears to be recognised by the Academy as most of the children admitted over PAN attend one or other of the former feeder schools.

46. The Trust does not appear to have considered at any time the combined effect on the local community of introducing both a reduction in PAN and new oversubscription criteria at the same time, and in particular the likely impact on those children in its catchment living in more rural areas, further away from the Academy. The data provided by the local authority about the destination of pupils at Pegswood (table 2) suggests increasing numbers have been displaced each year as a result of the changes to the arrangements and some now have to travel a significant distance to access secondary education (table 3).

47. For these reasons, I find that the 2024 arrangements are unfair for the children attending Pegswood Primary School, who have no other obvious destination within an acceptable travelling distance when transferring to secondary school.

E. Other oversubscription criteria

48. In relation to the objection to the priority given to the other oversubscription criteria (that is, the priority given to children with exceptional medical need; siblings; and children of staff), I note, firstly, that all of these criteria are permissible under the Code. Secondly, all of these criteria were part of the admission policy before 2020, although the order of priority

was different. Thirdly, the Trust has informed me that no places have, in fact, been allocated in the last 3 years to children of staff or to children with exceptional medical needs.

49. I have no evidence, other than the objector's assertion that her child has been adversely affected, that it was unreasonable to include these criteria in the admission policy or that they operate unfairly. I note no objection to these criteria was included in the local authority's (or indeed any other) consultation response. In the circumstances, I find that no unfairness arises from prioritising children in these categories.

50. However, I find that some of the oversubscription criteria are expressed in a way that does not comply with the Code. In particular:

- 50.1. the admission policy does not give any information about the supporting evidence that is required with an application under the medical needs criterion. The Trust has informed me that this "is explained in the guidance notes for parents/ carers when completing the [local authority's] common application form". There is no link to the form on the Academy's website. Nor was I able to access a copy of the application form via the local authority's website, so I have not been able to confirm this. I therefore find that the policy does not meet the requirements in paragraph 1.16 of the Code. Information about the arrangements must be published on the Academy's website, under paragraph 1.50 of the Code.
- 50.2. The criterion that gives priority to children of staff does not comply with the requirements of paragraph 1.39 of the Code. Priority is given to children of staff employed at the Academy for 2 years or more or who have been recruited to fill a skills shortage, which is permitted. However, priority is also given to children of staff who have relocated to take up a post at the Academy, which is not permitted (unless those staff also meet one or both of the conditions set out in paragraph 1.39). The criterion does not comply with paragraph 1.40 of the Code as it is not clear which groups of staff it applies to.
- 50.3. the distance criterion does not comply with the requirements of paragraph 1.13 of the Code, as the manner in which the child's home address is determined is not clear. The criterion provides "If there is joint custody for the child, then the address of the parent/ carer receiving the child benefit will be used." However, the legislation governing child benefit does not require a child to be ordinarily resident (or resident at all) at the address of the person claiming benefit. Although the child will in most cases reside at the same address as the recipient of the benefit, this is not invariably the case. It is not compliant with the Code for the address of the child benefit recipient to be absolutely determinative of the child's address.
- 50.4. The admission policy does not include a tiebreaker for any of the oversubscription criteria. The Trust has explained that "...students in each category are ranked by distance". I find that the Trust is in breach of

paragraph 1.8 of the Code as that is not clear from the admission policy. In any event a separate tie-breaker is required to determine allocation of places in the event that two applicants live an equal distance from the Academy.

51. The Trust has helpfully confirmed that the policy will be amended to ensure it complies with the Code.

Determination

52. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objections to the admission arrangements determined by North East Learning Trust for Ashington Academy, Ashington, Northumberland.

53. I have also considered the arrangements in accordance with section 88I(5) of the Act 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.

54. 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 31 October 2023.

Dated: 9 October 2023

Signed:

Schools Adjudicator: Helen Jeffrey