



Office of
the Schools
Adjudicator

Determination

Case reference: ADA4253-4257, 59-60, 62-69, 71-72, 76-77, 79, 4314, 4318-19, 4333-35

Objector: 3 members of the public and 23 parents

Admission authority: The Gosforth Federated Academies Limited for Gosforth Academy, Newcastle upon Tyne

Date of decision: 18 September 2024

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Gosforth Federated Academies Limited for Gosforth Academy, which is in the local authority area of Newcastle upon Tyne.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 4 October 2024.

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 twenty-six objectors (members of the public and current or prospective parents at the school (the objectors)), about the admission arrangements (the arrangements) for Gosforth Academy (the school, GA) for September 2025. The objection relates to three overarching matters: the use of random allocation as part of the oversubscription criteria; the fairness and reasonableness of the oversubscription criteria; and other non-compliance with the Code.

2. The local authority for the area in which the school is located is Newcastle upon Tyne. The parties to the case are the objectors, the multi academy trust which is the admission authority for the school, and the local authority.

Jurisdiction

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 by the governing board of the academy trust, which is the admission authority for the school, on that basis. The objectors submitted their objections to these determined arrangements between 5 March and 15 May 2024. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and are within my jurisdiction. I have also used my powers under section 88I of the Act to consider the arrangements as a whole.

4. Some objectors asked to have their identity kept from the other parties and have met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of their names and addresses to me.

Procedure

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

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

- a. evidence that the arrangements were determined;
- b. a copy of the determined arrangements for 2025;
- c. the objectors' forms of objection;
- d. the trust's response to the objection;
- e. the local authority's response to the objection;
- f. further information provided by parties at my request or invitation; and
- g. information available on the websites of the school, the local authority and the Department for Education (DfE).

The Objection

7. The objection concerns the arrangements for entry to Year 9 and is, in summary, as set out below. There are fourteen aspects of the objection which I have organised under three headings: random allocation, oversubscription criteria and other non-compliance with the Code.

8. Paragraph 14 of the Code is relevant to the objection and states:

“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

9. I have identified other relevant paragraphs of the Code when I come to my detailed consideration.

Random allocation

10. The objectors assert that as the combined PANs of the feeder schools are higher than that of GA, most places at the school are allocated to feeder school children via random allocation and that:

- i. random allocation is the principal oversubscription criterion, which is not allowed under the Code
- ii. random allocation is set out in the arrangements as the sixth oversubscription criterion but has and will be used before the fifth criterion of proximity of the applicant's home address to the school (I will refer to this as “distance”) which contravenes both the Code and the arrangements themselves;
- iii. the use of random allocation in the arrangements is contrary to the Code in terms of the applicants considered and the number thus selected; and
- iv. how the random allocation process will be completed is not clear and the process is not supervised by someone independent of the school.

Oversubscription criteria

11. The objectors assert that the oversubscription criteria in the arrangements are not reasonable or fair in that:

- i. it is not reasonable to use random allocation rather than allocating places on the basis of distance or sibling links;
- ii. some children will be required to travel an unreasonable distance from home to school;
- iii. the oversubscription criteria indirectly disadvantage children who have special educational needs and who require reasonable adjustments;

- iv. children of multiple births, such as twins, are afforded an unfair advantage compared to other applicants, and this is a change from the 2024 arrangements which was made without proper consultation; and
- v. Children residing outside “the Gosforth Academy area” have an unfair advantage compared to those within that area in that those children outside the area have a wider choice of schools.

Other non-compliance with the Code

12. The objectors assert that the arrangements fail to comply with the Code in that:
- i. the trust has set a precedent in previous years in admitting above PAN and not to continue to do so is unreasonable;
 - ii. the prioritisation of the children of staff is unclear;
 - iii. the arrangements do not include a clear and fair tie breaker to decide between two applications;
 - iv. the procedure regarding waiting lists for the school is not clear; and
 - v. Any changes to the arrangements, from those in place in previous years, should not affect children “already in the system”. That is, parents of children currently attending the feeder schools had, at the time at which their children joined those schools, a reasonable expectation that the arrangements of GA would remain unchanged at least up until the point of application for their children to GA.

Background

13. GA is a non-selective, co-educational academy school for children aged 13-18. The school does not have a religious character. GA is situated in Gosforth, within the local authority area of Newcastle upon Tyne. The school opened in December 2010 and was judged as Good in its most recent Ofsted inspection of June 2022.

14. The usual years of entry are Year 9 and Year 12. The school has a PAN of 360 for Year 9 for September 2025. I discuss the PAN for Year 12 in the section in this determination which is entitled ‘Other Matters’.

15. GA is part of The Gosforth Federated Academies Limited (the admission authority, the trust), a multi-academy trust which contains five other schools: North Gosforth Academy, Jesmond Park Academy and Cullerton Academy are secondary schools and cater for children from the age of eleven to sixteen; Gosforth Junior High Academy is for children aged nine to thirteen and Great Park Academy is for children aged nine to sixteen.

16. Objections have been brought in respect of two of the other schools within the trust: Great Park Academy (case reference ADA4307) and Gosforth Junior High Academy (case reference ADA4317). The admission arrangements for Jesmond Park Academy are also being considered by the Adjudicator (case REF4389).

17. The oversubscription criteria which are applied in the event of oversubscription to Year 9, after the admittance of all applicants with an Education, Health and Care Plan (EHCP) which names the school are, in summary:

1. Looked after and previously looked after children.
2. Applicants with a specific medical reason to attend the school.
3. Children of staff who have been employed for two or more years at the time of application, or who have been recruited to “fill a vacant post for which there is a demonstrable skill shortage”.
4. Children attending one of the three designated feeder schools: Gosforth Junior High Academy, Gosforth Central Middle School and Gosforth East Middle School.
5. Children living nearest to the school, measured as a straight-line distance.
6. “In the case of a tie in any of the above categories, random allocation will take place.”

18. The oversubscription criteria which are applied in the event of oversubscription to Year 12, after the admittance of all applicants with an EHCP which names the school are, in summary:

1. Looked after and previously looked after children.
2. Applicants with a specific medical reason to attend the school.
3. Children of staff who have been employed for two or more years at the time of application, or who have been recruited to “fill a vacant post for which there is a demonstrable skill shortage”.
4. Children living closest to the school, measured as a straight-line distance.
5. “In the case of a tie in any of the above categories, random allocation will take place.”

19. Although it appears that random allocation is a separate oversubscription criterion for each year of entry because it is numbered as such, the effect of its inclusion as drafted is to create an order of priority within each of the preceding oversubscription criteria.

20. School organisation in the area provides important background to this case. Most schools in the local authority area are in a two-tier system. That is, the normal years of entry are Year R and Year 7 (with Year 3 for junior schools and Year 12 for those schools with a sixth form which admits external applicants). GA is part of a three-tier system; GA and Great Park Academy (GPA) are the only schools in the area which have a PAN for Year 9. These two schools prioritise applicants from the same three feeder schools within their oversubscription criteria for entry to Year 9; the final year of education at the feeder schools is Year 8.

21. GPA opened in September 2021 to pupils in Year 5; in September 2024 it admitted pupils to Year 9 for the first time. This school has, since its opening, been housed in temporary accommodation on the GA site. The planned opening of GPA was delayed as explained by the local authority:

“Great Park Academy was originally planned to be completed and opened in 2020 as part of the DfE free school programme. This was initially delayed through the outline planning approval process (for two schools and 1,200 houses) and judicial challenge to that application. The Secretary of State agreed to open GPA on a temporary site, and with a reduced intake, in September 2021 due to the need for additional Y5 places in the planning area until the new building was expected to be completed for the 2023 intake. The delivery programme has since been further delayed and is now expected to be completed for September 2025 pupil entry.”

22. The trust initially provided admission arrangements for GPA which stated a Year 9 PAN of 240. Subsequently, the trust told me that there had been a misprint and revised its published arrangements to state a Year 9 PAN of 120. I discuss this matter in more detail in the determination concerning GPA. In short, for admissions to GPA in 2025 the Year 9 PAN is 120 and the Year 5 PAN is 120. For the avoidance of doubt, the PAN for Year 9 does not include children already at that school.

23. This case involved a large number of objectors; this naturally added to the time taken for the case to be completed, as did the matter of a lack of clarity about the GPA PAN set out above. I am grateful to all parties concerned for their patience. I make it clear that the number of objectors in any case has no effect on the outcome; the question for the Adjudicator is solely whether or not arrangements conform with requirements. To put it another way, whether there is a high number of objectors or only one objector does not affect whether an objection is more or less likely to be upheld.

Consideration of Case

24. I will consider each aspect of the objection in turn, organised into the three headings described above: random allocation, oversubscription criteria and other non-compliance with the Code.

Random allocation

25. The first aspect of the objection is that random allocation is the principal oversubscription criterion and this is contrary to the Code. The reasons for this assertion were described by one objector as follows:

“paragraph 1.34 of the Code says that local authorities, “must not use random allocation as the principal oversubscription criteria (sic).” As the policy allows random allocation to be applied where there is a tie “in any of the above categories,” random allocation could theoretically be applied where there is a tie at point 1, meaning that random allocation would be “the principal oversubscription criteria (sic).” In the same way, if random allocation is applied at point 4, and the tie involves hundreds of

applicants, then random allocation can only be described as the “principal oversubscription criteria (sic),” in clear breach of the Code.”

26. The following paragraphs of the Code set out the requirements regarding random allocation:

1.34: “Local authorities **must not** use random allocation as the principal oversubscription criterion for allocating places at all the schools in the area for which they are the admission authority. Admission authorities that decide to use random allocation when schools are oversubscribed **must** set out clearly how this will operate, ensuring that arrangements are transparent, and that looked after children and previously looked after children are prioritised.

1.35 The random allocation process **must** be supervised by someone independent of the school, and a fresh round of random allocation **must** be used each time a child is to be offered a place from a waiting list

27. Regarding this matter the trust stated:

“If there are more applicants in a category than places, random allocation is used as a tiebreaker. As a tiebreaker, random allocation is not, therefore, the principal oversubscription criterion.”

28. Paragraph 1.34 of the Code prevents local authorities from using random allocation as the principal oversubscription criterion for all the schools for which they are the admission authority (my emphasis). The admission authority for the school is not, however, the local authority but the trust. The prohibition in paragraph 1.34 has no relevance to the admission arrangements for the school.

29. I find the question of whether random allocation is the principal oversubscription criterion to be immaterial to the objection. There is nothing within the Code which prevents the trust from using random allocation as the principal oversubscription criterion in its arrangements and it is therefore not necessary for me to consider whether this is the case.

30. For the reasons given above I do not uphold this aspect of the objection.

31. The second aspect of the objection is that random allocation is set out in the arrangements as the sixth oversubscription criterion but has and will be used before the fifth criterion of distance. The objectors assert that this contravenes both the Code and the arrangements themselves. As one objector put it:

“It is my understanding that adherence to the DFE Schools Admission Code requires the logical separation of applicants based on distance, thereby ensuring a reasonable, fair, effective, and clear procedure for the admissions process. However, it has come to my attention that the school bypassed Criterion 5 and proceeded directly to Criterion 6, which involves random allocation. Nowhere in the admissions policy does it explicitly state that the school has the authority to skip criteria at its

discretion. . . Therefore, I believe that Gosforth Academy School may be in breach of its own admissions policy as well as the DFE Schools Admission Code.”

32. Another objector stated:

“it is obvious that any two applications from a feeder school can be distinguished using distance and random allocation should only be used as a tie-breaker when distance is equivalent.”

33. This aspect of the objection concerns when random allocation is used. That is, whether it is acceptable that random allocation is employed to prioritise applicants considered within, say, the fourth oversubscription criterion rather than using the fifth criterion to prioritise such applicants.

34. The trust supplied the information in table 1, which shows how places were allocated from 2021 to 2024. From 2021 to 2023 the trust admitted all applicants from the feeder schools, irrespective of its PAN.

Table 1: The application of oversubscription criteria for entry into Year 9 at GA

Numbers admitted / offered into Year 9	2021	2022	2023	2024
EHCP	0	0	1	0
Criterion 1 - LAC	1	6	6	5
Criterion 2 - Medical	2	0	0	2
Criterion 3 - Staff	0	0	2	4
Criterion 4 - Feeder	433	429	426	368
Criterion 5 – Sibling*	0	0	n/a	n/a
Criterion 5/6 – Distance	0	0	0	0
PAN	360	360	360	360

*Criterion 5 was consulted upon and removed for academic year 2023

35. The following paragraphs of the Code are relevant to this part of the objection, in addition to the requirements of paragraph 14 set out above:

1.7: “All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children. . . Oversubscription criteria **must** then be applied to all other applicants in the order set out in the arrangements.”

1.10: “This Code does not give a definitive list of acceptable oversubscription criteria. It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances.”

36. There are six numbered oversubscription criteria in the arrangements; the introduction to these states “The following criteria will be applied, strictly in order of priority”. Parents and others who read the arrangements may therefore understand that, say, the fifth criterion should and will be applied before the sixth. This position would be supported by paragraph 1.7 of the Code which requires that oversubscription criteria are applied in the order set out in the arrangements.

37. The wording of the sixth criterion contradicts the above position however, as it states “In the case of a tie in any of the above categories [that is, criteria 1-5], random allocation will take place. This will be overseen by the Local Authority”.

38. I asked the trust for their comments on this matter. Their response referred to the DfE document “Free school admissions models - Mainstream admissions (2014)”. There are model arrangements within that document which present oversubscription criteria in a similar way to that which I have described above. For example, one set states that “children will be admitted in the following order” and then lists four criteria, labelled a-d; criterion d states: “Random allocation will be used if any further tie-break is necessary within [the above] criteria.” I note that this document precedes the version of the Code currently in force.

39. The trust also stated:

“There could be more clarity, however, regarding the layout of the oversubscription criteria in the GA policy, to avoid confusion for parents. The Gosforth Group will therefore present the tiebreak information in a clearer way in future.”

40. The arrangements say both that the oversubscription criteria that are numbered 1-6 will be applied in order of priority, and that the sixth criterion will be used to decide between applicants in the preceding five criteria. Clearly it is not possible for both these statements to be true.

41. I must stress that there is not any general requirement within the Code for applicants to be prioritised on the basis of distance as the objectors have asserted. It is for admission authorities to determine their own oversubscription criteria within the parameters of the Code, as stated in paragraph 1.10. Neither is there anything within the Code which prevents the trust from determining arrangements in which random allocation is applied to applicants within any one oversubscription criterion.

42. I do not find it to be contrary to the Code that random allocation is used to separate applicants within any one oversubscription criterion and I do not uphold this aspect of the objection.

43. I find that the arrangements do not comply with paragraph 14 of the Code in that the application of the oversubscription criteria cannot be easily understood. I therefore determine that the arrangements for Year 9 must be revised to make it clear that random allocation is not the sixth oversubscription criterion but the method by which applicants within any other criterion are prioritised. Similarly, the arrangements for entry to Year 12 must be revised to make it clear that random allocation is not the fifth oversubscription criterion. I note that the trust has recognised the need for such revisions.

44. The third part of the objection is that the use of random allocation is contrary to the Code in terms of the applicants considered and the number thus selected.

45. One objector explained this aspect of the objection as follows:

“Specifically in the 2024 cohort; according to the PAN for 2024, a total of 11 applications fell into categories 1-3 (inclusive) of the oversubscription criteria. This means that of the 379 students offered 368 were offered on the basis of a tie-break. There were 506 applications. This means that for the tie break to be applied in accordance with the Code they could only apply it to two applications not 368 students. Moreover the pool for the tie break should have been 495 (506 applications less the 11 in categories 1-3 applications) with offers being made to only 1 in 2 of that number (i.e. 248 pupils) and not 368.”

46. The trust supplied the information in table 2, below.

Table 2: Applications and offers for entry to Year 9 at GA

	2021 entry Applied	2021 entry Offers	2022 entry Applied	2022 entry Offers	2023 entry Applied	2023 entry Offers	2024 entry Applied	2024 entry Offers
Total applications and offers	468	436	457	435	475	435	506	379
First preference applicants	467	436	454	434	468	435	474	379
Second preference applicants	0	0	3	1	4	0	30	0
Third preference applicants	0	0	0	0	2	0	1	0
Fourth preference applicants	1	0	0	0	1	0	0	0

47. To clarify the objector’s statement (using data from tables 1 and 2), places would have been offered for September 2024 under the school’s admission arrangements as follows: there were 506 applications for the school and a total of 379 applicants were offered places, all within oversubscription criteria 1-4. Eleven applicants were allocated places under criteria 1-3. This means that 368 places were awarded via random allocation within criterion 4.

48. The objection is that random allocation is a 'tie break' which should only be applied to two applicants, or to half of applicants. The objector quoted above seems to have assumed that in 2024 all applicants (other than the eleven already allocated places) fell under criterion 4 and should have formed a pool of 495 to be considered by tie-break, with half of the pool allocated places. This would result in a total of 259 allocated places (11 in criteria 1-3; 248 as half of the pool considered under criterion four).

49. Paragraph 2.8 of the Code States:

"With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have enough places available **must** offer a place to every child who has applied for one".

50. It goes without saying therefore that when a school is oversubscribed, to allocate fewer places than are available under the PAN in the year of entry would be directly contrary to the Code. Given that the PAN of the school was 360, it would not have been legally permissible for only 259 applicants to have been allocated places as the objector asserts should have been the case.

51. I also note as an aside that it is not necessarily true that, as stated in the objection, 495 applicants were or should have been considered under the process of random allocation in 2024. For example, 31 applicants had made the school their second or third choice; if these applicants gained a place at a higher preference school, it would not be necessary for them to be considered for a place at GA. It could also have been the case that some applicants did not attend a feeder school in which case they would not have been eligible to be considered under criterion 4.

52. Within the arrangements random allocation is a method of prioritising all applicants considered under each of the oversubscription criteria who are not otherwise separated by the terms of the individual criterion. This may be, but is by no means always, a tie-break between two applicants.

53. Within oversubscription criterion 5 (distance) random allocation would be needed only if there were two children who lived an equal distance from the school; this would be a tie-break between two applicants. However, within criterion 4 (feeder schools), random allocation must be applied to all applicants who attend a feeder school and who are not afforded any priority under criteria 1-3. These applicants will be on an equal footing in terms of priority within criterion 4 unless there is an established method for determining otherwise. As the trust must admit at least up to the level of the PAN, random allocation is used to decide the order of priority within the oversubscription criterion and thus determine which applicants are offered places so that the appropriate number of applicants may be admitted under the criterion.

54. I find that the approach which the objectors suggest as correct would be unlawful and contrary to the Code. For this reason and for the reasons above I do not uphold this aspect of the objection.

55. The fourth and final aspect of the objection which relates to random allocation is that how this process will be conducted is not clear, and that the process is not supervised by someone independent of the school.

56. The objectors described their objection as follows:

“it is not clear how a “tie” is decided: to my knowledge, there is no published data on how random allocation has been operated in the case of Gosforth Academy. The lack of transparency is a breach of paragraph 1.34 of the Code. In addition, by virtue of paragraph 1.35 of the Code, the random allocation process must be supervised by someone independent of the school. I understand that Newcastle City Council has supervised the process, but the Council is not independent as it has asked Gosforth Academy to provide education services on its behalf.”

And:

“No evidence that the random allocation process that has been applied was supervised and independently verified by someone independent of the school has been provided by either GA (the admission authority) nor Newcastle City Council.”

57. I must first make it clear that it is not within my jurisdiction to consider how the administrative process was operated when allocating places for September 2024; therefore, it is not for me to seek out or consider evidence relating to this. Any complaints about the mishandling of this administrative process would need to be made to the Department for Education. My jurisdiction is to consider whether the 2025 arrangements comply with the Code. As stated above, paragraphs 1.34 and 1.35 of the Code set out the relevant requirements.

58. The arrangements state:

“In the case of a tie in any of the above categories [oversubscription criteria 1-5], random allocation will take place. This will be overseen by the Local Authority.”

59. I asked the trust for a full explanation of how random allocation takes place and who administers and oversees this; and whether there is any information on this process, other than that contained within the arrangements, which is available to parents. The trust responded as follows:

“This process is carried out by the local Authority and is completely independent of the school. (Please see the Local Authority’s submission for specific details regarding the process).”

60. For the sake of completeness, I note that the trust is the admission authority, and it is the trust who bears the responsibility of ensuring that its arrangements comply with the Code. As such, it is the trust who should be able to answer queries from the Adjudicator in respect of those arrangements.

61. In relation to the question of whether the local authority is a body which is independent of the school as required by paragraph 1.35 of the Code, my view is that the local authority and the trust are separate legal entities irrespective of any working relationships. The trust is the admissions authority for the school; the local authority provides some administrative functions as regards admissions, on the trust's behalf. The local authority is not a decision maker in terms of the school's admission arrangements, and I do not find it credible that the local authority has a vested interest in which individual pupils are admitted such that this may threaten the impartiality of the process. I therefore do not accept the objectors' view that the local authority is not independent, and I do not uphold this aspect of the objection.

62. In relation to the question of whether the arrangements are clear and transparent about how random allocation will operate as required by paragraph 1.34 of the Code, the information in the arrangements regarding random allocation is scant. I note that the local authority provided me with a detailed description of the process of random allocation; I have not included this here as I am concerned with what is in the arrangements. I find that the arrangements do not comply with paragraph 1.34 of the Code in that they do not set out clearly how random allocation will operate. I uphold this part of the objection.

63. I stress that any parent who looks at a set of admission arrangements must be able to look at them and understand how random allocation operates, in accordance with paragraph 14 of the Code. The description must be clear, and the trust may find it helpful to ensure that the level of detail used provides that clarity. It would likely be confusing if, for example, the arrangements included an extensive level of detail such as spreadsheet formulae or other mechanisms by which the random allocation process is operated. It is likely that arrangements would be found compliant with the Code in respect of setting out how random allocation operates if they included details of: when that process is used; which body carries out the process (and that they are independent); an overall description of the process; and an explanation that the process is re-run as required when places are offered from the waiting list (in accordance with paragraph 2.25 of the Code).

Oversubscription criteria

64. The first aspect of the objection relating to the oversubscription criteria is that it is not reasonable to use random allocation rather than allocating places by distance or sibling links. The second aspect is that some children will be required to travel an unreasonable distance from home to school under the 2025 arrangements. As these points are related, I shall consider them together.

65. The objectors stated:

"We are aware that there are too many children in the Gosforth Academy feeder schools to accommodate all the children, but to allocate places randomly (after the first 3 categories of Oversubscription Criteria) is ludicrous and non-sensical (sic). If there are too many children in the feeder schools for Gosforth Academy to accommodate, then places should then be allocated to children in the feeder schools

who already have a sibling in the Gosforth Academy or live closest to the Academy before the random selection process is undertaken.”

And:

“Those at the feeder schools living closest to Gosforth Academy should be allocated places. Under no circumstances should those living in Great Park (and those further afield) be allocated places at Gosforth Academy ahead of those living more local to Gosforth Academy as Great Park Academy is intended to provide for these children.”

And:

“The admissions process cannot be reasonable if it results in children unnecessarily travelling outside of their communities, and crossing one another en route to school, as is the case here.”

66. As above, paragraph 1.10 of the Code makes it clear that it is for admission authorities to decide which oversubscription criteria are most suitable for a school. Nevertheless, it is appropriate for the adjudicator to consider whether the determined criteria are reasonable and fair as this is required by the Code. Paragraph 1.8 of the Code states:

“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.”

67. My consideration of these aspects of the objection centres on applicants from the three feeder schools. Most applicants are likely to be from the feeder schools (see table 1 above) and it is these children who are most in need of a Year 9 place. That is, although any parent is able to apply for their child to attend GA, the children who attend the feeder schools (the middle schools) must leave those schools after Year 8.

68. The trust has told me that in 2024 there were 474 applicants for whom the school was their first preference; 379 of these gained places. The local authority has stated that of the 95 first preference applicants who did not gain a place, 76 were children attending the feeder schools.

69. The three feeder schools all cater for children aged nine to thirteen and the normal year of admission is Year 5. These schools are: Gosforth Central Middle School, Gosforth East Middle School (PAN of 128) and Gosforth Junior High Academy (PAN of 150). Gosforth Central Middle School, which is an academy school within the Gosforth Schools’ Trust, has a PAN of 128 for 2024 as published on its website; the local authority told me that the PAN is 150. The website for that school shows that consultation was undertaken in

respect of the arrangements for 2025 which included a PAN increase to 150; the arrangements for 2025 do not appear to have been published. As I am concerned with capacity in the area for children leaving those schools and entering Year 9, and given that admission authorities may admit above the level of the PAN and are not required to consult where they propose to increase the PAN via determination, I have used the higher of the two figures. Thus, I have taken the PAN of Gosforth Central Middle School to be 150 and the total of the PANs for the feeder schools to be 428.

70. The local authority has told me that these schools “have all been admitting over the PANs listed above into bulge classes due to Great Park Academy new building not being delivered on time to provide the full capacity of places required” and the total number of pupils at those schools who will require a Year 9 place in 2025, will be 460.

71. There is clearly an issue of capacity; that is, the feeder school children outnumber the 360 places available at GA. This issue has been addressed by the opening of GPA, as described to me by the local authority:

“Great Park Academy is the solution to ensuring that there are sufficient school places in the Gosforth planning area in Newcastle’s three-tier system as agreed by the DfE, at both the Year 5 and Year 9 intakes.

The capacity of Great Park Academy also includes sufficient places for a further future increase in pupil numbers in one of the first schools located at Newcastle Great Park to meet demand from new housing.”

72. The Year 9 PAN of GPA is 120 for 2025. This means that the combined Year 9 PANs of GA and GPA will be 480, sufficient to accommodate all feeder school applicants.

73. All admission arrangements advantage some applicants over others. This is because all arrangements must contain oversubscription criteria which prioritise certain applicants in the event of oversubscription. The Code requires that oversubscription criteria are reasonable and fair; I will first consider whether the arrangements are reasonable. The Code uses the term ‘reasonable’ but does not define it. It is the requirement of public bodies, including admission authorities, that they must act reasonably in adopting any policy or making any decision. The common law test for ‘unreasonableness’ in this context is that, for a decision to be considered unreasonable it would have to be a decision that no rational admission authority would have made having taken into account all relevant factors, placing sufficient weight upon each of those factors and disregarding any irrelevant factors.

74. I asked the trust for an explanation of the rationale for the oversubscription criteria for entry to Year 9, including comments on the point raised by the objectors that prioritising feeder school applicants on the basis of distance and/or sibling links may be fairer and therefore a more reasonable method of determining priority than random allocation. The trust responded:

“The use of random allocation for students within a category where they are all ranked equally, means that all feeder school applicants have an equal chance of being allocated a place. Using distance as a tiebreak, in the extensive planning area

covered by the Gosforth three-tier system, where there has been significant population growth in recent years, would mean that students in parts of the planning area furthest from GA, who have also been within the Gosforth three-tier system since first school, would be disadvantaged.”

75. I am satisfied that the trust has a clear rationale for the oversubscription criteria contained within the arrangements. There is nothing inherently unreasonable about a multi-academy trust naming its own primary schools as feeder schools for a secondary academy, and provided the trust gives a coherent explanation for doing so (as it has) the adoption of feeder schools as an oversubscription criterion will be reasonable. Furthermore, there is also nothing irrational in a system such as this which puts all applicants in the feeder schools in the same position and as such, I find that an oversubscription criterion which gives priority to applicants attending feeder schools within the same trust on an equal footing to be reasonable. It is certainly objective.

76. The only real issue that might arise is that of fairness. It would not be open to an Adjudicator to find that there was unfairness in the selection of a particular feeder school or schools unless the Adjudicator can identify a convincing argument. Simply not being able to obtain a place at your school of choice, particularly in a situation where there are available places in at least one other reasonable alternative school which is part of the same academy trust is not of itself unfair. There might be unfairness if it was demonstrated that there were no reasonable alternatives for children. But it is inherent in the scheme of having oversubscription criteria which expressly may include feeder schools and random allocation in preference to a distance criterion that children will not necessarily be able to attend either their nearest school or their parents’ preferred school.

77. Fairness is a concept which, like that of reasonableness, is used in the Code but is not defined. Fairness can be described as a ‘protean concept’ in that it cannot be defined in universal terms; its requirements will depend on the circumstances. Fairness is focussed upon the effect of the arrangements on any relevant group. I stress here that oversubscription criteria create advantage for some applicants and disadvantage to others; indeed, that is their purpose.

78. In relation to admission arrangements, fairness is often best evaluated by undertaking a balancing exercise. I have considered the balance of fairness if the oversubscription criteria were changed to afford priority to feeder school children who have siblings at the school or who live close to GA. That is, I have weighed the advantage that would be afforded to those applicants against the disadvantage that would be caused to other feeder school children who would be ‘displaced’ as they do not have siblings at GA and they live further from the school.

79. The Code provides, under paragraphs 1.11 and 1.12, for admission authorities to give priority to siblings of current or former pupils, or to siblings attending another school with which they have close links. The Code does not however require that siblings are afforded priority.

80. On this matter objectors cited concerns related to school uniform (in that it cannot be passed down between siblings if they attend different schools), and in respect of travelling to school. One objector wrote:

“I feel the sibling link should be included as it’s hard to get children to different locations when there is no school or direct transport”.

81. It is often considered fair that siblings at primary schools are afforded priority for admission due to travel concerns. Young children need to be taken to school by an adult, which can be difficult to manage when siblings are at different schools. However, the youngest pupils at GA are in Year 9; they are 13 years old and therefore most, if not all, should be able to travel to school unaccompanied. Both GA and the permanent address of GPA are in urban areas where the use of public transport is likely to be accessible to many. I recognise the difficulty for parents regarding school uniform. Indeed, there is legal guidance on this matter which requires that schools limit the number of branded items in the uniform and ensure that second-hand uniforms are available.

82. With regards to distance, I note that the permanent address of GPA (to which that school should relocate for 2025) is, according to Google Maps, 1.95 miles from GA as a straight-line distance, 2.6 miles by the shortest walking route and 2.9 miles by road.

83. The map which is included as an appendix to this determination shows the location of the three feeder schools, GA and the permanent premises of GPA. The permanent site of GPA is roughly northwest of GA. The three feeder schools are all closer to GA than to GPA. Gosforth Junior High Academy and Gosforth Central Middle School are both to the south of GA; Gosforth East Middle School is to the northeast but less than 600 metres from GA in a straight line. The location of the schools is such that it seems possible that, as the objectors assert, a child living close to GA who fails to gain a place at the school may have to pass GA to get to GPA.

84. On the matter of distance, the trust stated:

“The use of random allocation for students within a category where they are all ranked equally, means that all feeder school applicants have an equal chance of being allocated a place. Using distance as a tiebreak, in the extensive planning area covered by the Gosforth three-tier system, where there has been significant population growth in recent years, would mean that students in parts of the planning area furthest from GA, who have also been within the Gosforth three-tier system since first school, would be disadvantaged.”

85. The objectors have asserted that some children will be required to travel an unreasonable distance from home to school. It is not obvious, however, that using distance to allocate places would in fact result in all children attending the upper school which is closest to them.

86. All the feeder schools are, according to Google Maps and calculated as a straight-line distance, roughly 0.4 miles from GA; the addresses of the pupils attending those

schools will of course differ. If places were allocated on the basis of distance to feeder school applicants who were not eligible to be given any higher priority for admission, then a child attending Gosforth Junior High Academy, say, and living to the south of that school could be displaced from GA by applicants living closer and instead be allocated a place at GPA. In that event the child would not be admitted to their nearest school, their journey would be further than that of all the feeder school children who gained a place at GA via the distance criterion, and they would have to pass the location of GA to get to GPA in the very manner that objectors have asserted is unfair. Amending the arrangements to prioritise applicants on the basis of distance may result in GA admitting those pupils who live closest to the school, but it would not necessarily result in children attending the school which is closest to them.

87. In the interests of conducting the balancing exercise one must recognise parental preference for GA above that for GPA. As the objectors stated:

“At present, Great Park Academy does not exist. There is no permanent school building, We have been advised that The Permanent (sic) school building will be ready by September 2025. Planning permission was granted in January 2024, to the present date no building work has taken place. Great Park Academy has been unable to provide details confirming their educational offering or GCSE subjects. They are unable to confirm if they will ever be in a position to offer BTEC / Vocational courses and are currently only offering two languages, neither of which have been taught in any of the First or Middle Schools within the Gosforth three tier system. I believe that parents were expected to sign up to a school without any confirmation or clarity of educational provision.”

And:

“The fair and equitable answer to this situation would be to apply the changes to the admission policy when the permanent Great Park building is actually complete, which is due to be September 2025, however this not confirmed. At this point Parents (sic) and children would be able to make a fully informed decision, based on clear, transparent information, including that of curriculum, educational offering, GCSE subject provision and location. As it stands, the Year 9 September 2024 cohort of children are expected to start their Year 9 journey in temporary portacabins, an incomparable GCSE offering, no dining hall, uncertainty and segregation.”

88. To address the objectors' view that there have been changes to the arrangements: save for the matter related to multiple births (considered below) the arrangements for 2025 have not changed from those previously in place. The objectors may view the decision of the trust to no longer admit above PAN (and thus admit all feeder school children) as a change but this is not in fact a change to the arrangements, as I discuss later in this determination.

89. GA is an established, oversubscribed school. GPA is a new school, still in temporary accommodation, which has this month admitted Year 9 pupils for the first time. The local authority has told me that only 30 first preference applications were received for GPA for

2024. It is clear, including from the objection itself, that GA is currently preferred by parents over GPA. This preference may change over the course of time; one objector told me: “Once Great Park Academy is actually built Great Park families will be falling over themselves for places in the school.” However, at the present time the obvious preference for GA may itself result in unfairness if the arrangements were to be revised to prioritise applicants on the basis of sibling links or distance. That is, those living further from GA or without siblings could be said to be disadvantaged in that they may have little chance of securing a place at their preferred school.

90. I would like to address the following statement by an objector; this contains a misconception shared by a number of objectors, that GPA prioritises applicants to Year 9 on the basis on distance:

“A final concern is that the academy trust have different admissions criteria for different schools within their trust. The way the current admissions criteria for Gosforth Academy and Great Park Academy are written, if both schools were oversubscribed, then those applying for Gosforth Academy would be random allocated within the criteria for oversubscription. Those applying for Great Park Academy would be allocated on distance from the school. This means that there is a potential for a child in a feeder school not to be allocated a place at either Gosforth Academy or Great Park Academy. If a child lived in Gosforth, near Gosforth Academy, and the oversubscription criteria were reached for Gosforth Academy on the feeder school criteria, but they were not random allocated a place at Gosforth Academy, there is potential that they live too far away from Great Park Academy and therefore if oversubscription criteria were applied for Great Park Academy they may not be allocated a place there on distance. This is inequitable for pupils living in Gosforth compared to pupils living in Great Park.”

91. The oversubscription criteria for entry to Year 9 at GPA are, save for some minor differences of wording, exactly the same as those for entry to Year 9 at GA. As it is not true that GPA prioritises feeder school applicants to Year 9 on the basis on distance rather than using random allocation, arguments that have been made by objectors on this basis are without foundation and I have been unable to take them into consideration.

92. A child who attends one of the feeder schools has an equal chance of securing a place at GA as at GPA, irrespective of where they live, as the arrangements for both schools prioritise applicants for Year 9 in the same manner. It is this equal treatment which I find to be crucial in my consideration of fairness. On this matter the local authority told me:

“There are a range of possible tie-breakers that admission authorities could adopt within their admission policies. Whatever tie-breaker is used in practice to determine between applicants within a category who are all ranked equally, some applicants will be offered or allocated places and some will not. Different applicants may also have a different perspective on whether the process is fair or reasonable depending on the outcome of that process.

It is not always fair to students to use distance to rank applications particularly where feeder schools have a wide geographical spread, and there is similar debate as to the inclusion of sibling links for students of high school age, where students are often travelling independently to school.

In this instance, all feeder school applicants have an equal chance of being allocated a place. Gosforth Central, Gosforth East and Gosforth Junior High are named as feeder schools for both Great Park Academy and Gosforth Academy and parents of children in these schools have the right to apply to their preferred schools and be considered in a fair and equal way, as others in the same category. If distance was used as the tie-breaker within the feeder school category, it would likely be deemed less fair or reasonable to those parents of children in feeder schools who live in parts of the Gosforth planning area which are furthest from Gosforth Academy.”

93. The PAN of GA is lower than the combined PANs of the feeder schools and it is therefore without question that it will not be possible for all feeder school children to attend GA. I am satisfied that the issue of capacity has been recognised; that is, the trust and the local authority have a solution to the number of feeder school children outnumbering the PAN of the school. That solution is the new school, GPA.

94. There is an obvious reluctance on the part of parents to send their children to GPA but the fact that some children will need to attend that school (or an alternative school) is without doubt. If the arrangements prioritised siblings and children living close to the school this would disadvantage children living further away and those who do not have an older sibling at the school. Those children would, essentially, be unlikely to be able to attend the school which is regarded as the most desirable. This could result in significant frustration of parental preference.

95. Objectors have made all sorts of suggestions as to how, in their view, the situation should be addressed. These range from increasing the capacity of schools to using portacabins to enable GPA to move to its permanent site more swiftly. I make it clear that it is not the role of the Adjudicator to consider such suggestions. Neither is it the role of the Adjudicator to propose admission arrangements which they consider to be the best or most appropriate for a school. It is possible, for example, that the use of catchment areas would address the concerns of objectors; proposing this is not within my jurisdiction and I have not considered the viability of such an approach. It is the role of the Adjudicator to consider whether existing arrangements comply with the Code and the law as it relates to admissions.

96. On balance, I find that the advantage that would be afforded to feeder school children with siblings at the school, or who live close to the school, in the event that the oversubscription criteria were changed to afford them priority, is outweighed by the disadvantage that would be caused to applicants who they may displace. That is, to those feeder school children without siblings and who live further away. I also find that there is insufficient evidence that children will be required to travel an unreasonable distance to school, or that amending the arrangements to prioritise applicants on the basis of distance would result in children securing a place at the school which is closest to where they live.

To repeat that which I have stated above: using such a criterion may result in GA admitting those pupils who live closest to the school, but it would not necessarily result in children being admitted to the school which is closest to them. For these reasons and the reasons given above I do not find the arrangements to be unfair and I do not uphold these aspects of the objection.

97. The third aspect of the objection relating to the oversubscription criteria is that they indirectly disadvantage children who have special educational needs and who require reasonable adjustments. One of the objectors made the following assertion:

“GA’s application of their oversubscription criteria. . . does not comply with equalities legislation and indirectly disadvantages children who have special educational needs (SEN) who require reasonable adjustments. These have not been taken into consideration. If point 5 (distance) of the GA admissions policy had been applied instead of bypassing this and applying random allocation at point 4, then this disadvantage would be avoided.”

98. This objector described the situation of her son (who at the time the objection was submitted was due to enter Year 9 in September 2024) in respect of this objection. I must be clear that it is not the role of the adjudicator to consider or be involved with the admission of individual pupils (other than in direction cases). Nevertheless, I have included the objector’s description in order to understand the nature of the objection:

“To illustrate this point and how this plays out in reality, I will use my son who is diagnosed with ASD and ADHD as an example. He is in receipt of Disability Living Allowance (DLA) for mobility as he requires support to travel around, and for care as he requires help during the day. He is in the 2024 year 9 cohort and will be indirectly negatively impacted by the fact that he has not been allocated GA which is the nearest school and his first choice. . . He will be unable to continue to walk to and from school from September as GPA is 3.7 miles away and not easily accessible. This will have a detrimental effect on him and his future. . . The needs of this child and those of other SEN children far outweighs that of GA and their admission to GA would not prejudice the efficient provision of education or use of resources.”

99. Although I have sympathy for the position of the objector and her child, I must consider whether the arrangements comply with the Code and the law as it relates to admissions.

100. Paragraph 1.6 of the Code requires that all children with an Education, Health and Care Plan (EHCP) which names the school must be admitted; the arrangements comply with the Code in this regard. Paragraph 1.8 of the Code states that:

“[...] 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...”

101. To clarify what is meant by indirect discrimination and reasonable adjustments (both terms used in the objection) it is useful to consider the following from the gov.uk website:

“It’s against the law for a school or other education provider to treat disabled students unfavourably. This includes:

- direct discrimination, for example refusing admission to a student or excluding them because of disability
- indirect discrimination, for example only providing application forms in one format that may not be accessible...

An education provider has a duty to make ‘reasonable adjustments’ to make sure disabled students are not discriminated against. These changes could include providing extra support and aids (like specialist teachers or equipment).

Schools are not subject to the reasonable adjustment duty to make alterations to physical features, like adding ramps. They must make the buildings accessible for their disabled pupils as part of their overall planning duties.”

102. I asked the trust for their comments on this matter; they responded thus:

“There is no expectation in the School Admissions Code that priority should be given to children with special educational needs who do not have an EHCP. As outlined in the policy, however, Oversubscription Criterion 2 applies to students with a specific medical reason for attending Gosforth Academy. “An example would be a student who has visual impairment – Gosforth Academy is the regional VI –ARC. Supporting evidence from a doctor or other medically aligned professional involved with the child must be provided. This supporting evidence should set out the particular reasons why the Academy is most suitable and the difficulties that would ensue if the student had to attend another institution.”

103. The trust is correct in its view. Admission authorities have no obligation under the Code to prioritise the admission of children with special educational needs who do not have an EHCP which names the school. Neither does the Code require that admission authorities prioritise applicants on the basis of medical needs although it allows them to do so; in affording this priority under the second oversubscription criterion the trust is making greater provision for such children than is required by law.

104. I note that it is open to parents to request an assessment from their local authority if they believe that their child needs an EHCP. If a child has an EHCP then they must by law be offered a place at the school named in that EHCP (if any) and the arrangements comply with this requirement.

105. The Code requires that children with a disability or special educational needs are not unfairly disadvantaged in admission arrangements. The objectors must understand that lack of prioritisation does not amount to disadvantage. That is, I find nothing within the arrangements that disadvantages applicants with a disability or special educational needs.

Such applicants (with the exception of those who have an EHCP which names the school) are treated in entirely the same way as all other applicants and I find nothing in the oversubscription criteria or the application process which provides any barrier or disadvantage to applicants with special educational needs, or to their parents.

106. The suggestion that the arrangements disadvantage children who have SEN and who may require reasonable adjustments appears to be a reference to indirect discrimination on the grounds of disability and to the duty to make reasonable adjustments. The particular objection seems to be that random allocation is used, rather than proximity of home address to the school. The suggestion is that this can lead to a disadvantage for applicants who, by reason of a disability leading to mobility issues, would find it easier to access a nearer school. Consequently, this is an issue of the home to school journey. Duties with regard to home to school transport (where such provision is necessary) fall on the local authority, not on the school. In a relevant case the local authority's duty to provide home to school transport would apply. Consequently, I do not find that any duty of the school to make reasonable adjustments has been breached by these provisions of the oversubscription criteria. For the same reason I do not find that any disadvantage to applicants with disabilities arises from the application of random allocation. Consequently, there is no discrimination against any such group.

107. For the reasons given above I do not uphold this aspect of the objection.

108. The fourth aspect of the objection in respect of the oversubscription criteria is that children of multiple births, such as twins, are afforded an unfair advantage compared to other applicants and that how such applicants are dealt with is unclear.

109. Objectors expressed their views on this matter as follows:

"It is not clear HOW random allocation will operate, especially with regards to multiple births and the process on random allocation is not transparent."

And:

"I believe that twins are given an unfair advantage: both twins are allocated are (sic) number but if EITHER of them get (sic) a place, both twins get in."

110. The objectors also assert that this is a change from the 2024 arrangements which was made without proper consultation, stating:

"there has been a recent change to the 2025 admissions policy which now includes reference to multiple births. . . This is an addition that has been made without public consultation and differs from the 2024 admissions policy, which did not include this provision. It raises concerns regarding transparency and consistency in the application of admissions criteria".

111. The arrangements state:

“In relation to children of multiple births, exceptionally it may be necessary to offer places over the published admission number. This is to ensure that, as far as possible, siblings (i.e. twins, triplets or children from other multiple births) can attend the same school.”

112. The arrangements do not state that where one child is offered a place through the normal application of oversubscription criteria their sibling from a multiple birth will always be offered a place. The arrangements only imply that such siblings might be afforded an advantage.

113. I find that the arrangements do not provide the required clarity for parents, including with regard to how random allocation will operate in respect of multiple births, and I uphold this aspect of the objection. Paragraph 14 of the Code requires that parents must be able to look at a set of admission arrangements and understand easily how places at that school will be allocated. As the arrangements afford some priority to siblings from multiple births, parents need to be able to understand whether, if one child gains a place (including via random allocation) their multiple-birth sibling will also be offered a place. The arrangements fail to make this clear and therefore must be revised.

114. For the purposes of considering the objection that siblings from multiple births are afforded an unfair advantage I have assumed that the arrangements, despite their current lack of clarity, allow for all siblings from multiple births to be admitted. That is, I have assumed that where one applicant is allocated a place under the normal application of oversubscription criteria their sibling from a multiple birth will also be admitted if parents so wish.

115. The DfE document “Free school admissions: common issues” (2024) states:

“In the case of children of multiple births you can choose to admit all the children of that multiple birth when they apply at the same time even if to do so would mean exceeding your admission number. You should make this approach clear in your admission arrangements. You can do this even if it means exceeding infant class size limits. . . In the case of young children, we would *strongly encourage* you to do so.”

116. The provisions of the Code regarding infant class size limits, and the advice from the above document regarding the admission of young children, clearly do not apply to GA. Nevertheless, I am satisfied that to apply additional priority to siblings from multiple births is not, in itself, contrary to the Code. I have therefore considered the scale of the corresponding advantage and whether it is indeed unfair.

117. The ONS birth characteristics data for 2022 shows that in England and Wales there was a total of 605,342 live births. 17,475 of these were babies born as part of a multiple birth; this is 2.9 per cent of all births. That is to say, it seems statistically unlikely that in any

given year applicants afforded priority as part of a multiple birth will gain a significant number of places at the school.

118. The trust has told me that in 2024, 24 applicants (12 pairs of twins) were considered for prioritisation as multiple births, with 23 of these being offered a place in line with parental preference.

119. I must make it clear that this does not mean that 23 applicants gained places due to being twins. Rather, it means that twelve applicants gained places under the normal application of oversubscription criteria and, as a result, eleven siblings of those applicants also gained a place. It is these eleven applicants, forming approximately three per cent of the total offers, who were afforded an advantage.

120. Prioritisation for multiple births is not precluded by the Code and is therefore permissible. I find that due to the small numbers involved any advantage would not have a significant impact on other applicants and is not therefore unfair. I do not uphold the objection that twins and other siblings from multiple births are afforded an unfair advantage regarding entry to the school.

121. For the sake of completeness, I note that not all objectors agreed with the assertion that siblings from multiple births are afforded an unfair advantage, with one objector stating:

“I support the widely adopted policy of ensuring, as far as possible, multiple birth children (assuming they reside at the same address) are offered places together.”

122. I turn now to the assertion that the reference to multiple births has been added to the arrangements without consultation. On this matter the trust stated:

“There has been no change to the 2024 arrangements regarding children of multiple births. A statement has been added to the 2025 policy but this is for clarification purposes only; it did not require consultation as it is not a change to the admissions process.”

123. I must disagree with the trust’s analysis regarding this matter. The requirements of the Code, including paragraph 14, are that parents should be able to look at a set of admission arrangements and easily understand how places at the school are allocated. If, in 2024, the allocation of places was not in line with the arrangements (in that the arrangements afforded no priority to siblings from multiple births but the allocation did) then this did not comply with the Code. I make it clear here that I have not found it necessary to investigate whether multiple birth siblings were in fact afforded priority in 2024 as I am concerned with the arrangements, specifically those for 2025.

124. It is not true that, as the trust has stated, “There has been no change to the 2024 arrangements”. The 2024 written arrangements did not afford any priority to siblings from multiple births; the 2025 arrangements do. This is clearly a change, and this change should have been consulted upon. I therefore uphold this aspect of the objection. As explained in my Jurisdiction and Further Information Paper provided to all parties at the beginning of my

consideration of these objections, I am not able to make a finding that, as a result of this flaw in the consultation process, the arrangements as a whole are invalid or that the trust must re-consult or re-instate its previous arrangements which do not include priority for siblings of multiple births.

125. The fifth aspect of the objection relating to the oversubscription criteria is that children residing outside “the Gosforth Academy area” have an unfair advantage compared to those within that area, in that children outside the area have a wider choice of schools.

126. One of the objectors stated:

“The policy provides children who live outside the Gosforth Academy area two choices, to go to their local school or to go to another school in a different area due to being diverted into the system, which is an unfair advantage, as the children in the Gosforth Academy area have one choice as the other school admission policy applies sibling link, distance and they are in a feeder for Gosforth Academy and not a feeder for the other school. It’s an unfair advantage.”

127. I note that any reference to the “Gosforth Academy area” is only a general one. That is, the school does not have a catchment area and as such there is no defined area from which applicants to the school are prioritised for admittance.

128. The existence of schools in a three-tier system, in an area where most schools are two-tier, is of relevance here. The objector above speaks of children being “diverted into the system” which I take to mean those who are in the three-tier school system. The same objector stated that the arrangements disadvantage:

“local children who entered this school system at an entry point in line with the 3 tier system in their local area and were destined to go to Gosforth Academy. It advantages children from another area who were diverted into the 3 tier system at a certain point due to local authority failure. There should be a plan to divert those children back into their own school system that they were destined to go to”

129. I must make it clear that I have not investigated any historical reasons as to why some children are in the two-tier system and some within the three-tier. All parents of children attending schools within each system had the right to express their preference for the schools they wished their child to attend at the point of application, and my jurisdiction is to consider the arrangements for GA for 2025 only. It would be far beyond the scope of an Adjudicator to suggest that children should be “diverted” from one system to another, and any such plan is likely to be contrary to the Code.

130. The referrer mentions “the other school admission policy”. I take this to mean GPA, which in fact prioritises applicants in the same way as GA as set out above. In any case, those children in the area (or those in the feeder schools) have two choices of school for Year 9: GA and GPA.

131. Within three miles of the postcode of the address of GA there are, according to the DfE website Get Information About Schools (GIAS), six schools which admit pupils to Year 7. It is therefore true that children who attend a primary school in the area, up to the age of 11, are likely to have a greater choice of schools for their secondary education than the choice available to those requiring a Year 9 place in the two-tier system. This does not constitute an unfair advantage.

132. Disadvantage would exist if there were insufficient Year 9 places to accommodate the feeder school children, but this is not the case. There is no requirement within the Code for all children to have access to an equal number of local schools and such a requirement would, self-evidently, be impractical. For example, some children live in rural isolation and there may be only one or two schools to which they can reasonably travel. I also note that there is nothing to prevent children living in the Gosforth area from moving between the two-tier and three-tier systems, if their parents wish them to do so and places are available.

133. For the reasons given above I do not uphold this aspect of the objection.

Other non-compliance with the Code

134. First, the objectors assert that the trust has set a precedent in previous years in admitting above PAN and not to continue to do so is unreasonable. The objectors expressed this aspect of the objection as below:

“Gosforth Academy has, for many years received more applications than available places but has always accommodated all children from feeder schools. Gosforth Academy’s PAN has been 360 for many years and a precedent has been set by the school. Consistently going over PAN has caused no interruption to the provision of education or efficient use of the school’s resources, therefore this can not be claimed for [the 2025] intake.”

And:

“Gosforth Academy admitted 435 pupils in 2022 and 2023, and has taken in over PAN for 20 years or more. The reduction to 379 (13%) was not communicated to parents; this is not transparent”.

135. In respect of this matter the trust stated:

“For the last 3 years, GA has accommodated students over the PAN (due to delays to the GPA building programme) and the school is therefore operating over capacity; this brings with it significant challenges such as the pressure on communal and specialist spaces. There are more students in the system this year – 130 over GA’s PAN. To add further places to Year 9 for 2024 and 2025 (over and above the extra students admitted in previous years) would exacerbate an already difficult situation and could disadvantage all students concerned.

136. The decision to admit above the level of the PAN was made for good reason; to ensure that all applicants from the feeder schools who needed a Year 9 place could secure one whilst awaiting the completion of GPA. The local authority told me:

“Gosforth Academy has previously agreed to admit over its published PAN to ensure that middle school Year 8 pupils could be offered a Year 9 place due to the lack of provision in Year 9 in the city (following a delay in the delivery of the new school building at Great Park Academy). However, the increased size of the cohort for September 2024 (490 pupils with a PAN of 360) meant this was no longer an option for the school.”

137. The trust supplied the information in table 3 below.

Table 3: Numbers on roll at the school, as of July 2024

Year Group	Number of children
9	426
10	417
11	408
12	365
13	298
14	2
TOTALS =	1916

138. The decision to admit above PAN in recent years has obviously resulted in there being more pupils in the school than would have been the case if admissions had only been made up to PAN. GIAS records that the capacity of the school is 1,730; the trust have stated that the number on roll in July 2024 was 1,916.

139. The paragraphs of the Code which are relevant to this aspect of the objection are set out below:

1.2: “As part of determining their admission arrangements, all admission authorities **must** set an admission number for each ‘relevant age group’”.

1.5: “Any admissions above the PAN...will not constitute an increase to the PAN...”

140. I find the argument of the objectors that “Consistently going over PAN has caused no interruption to the provision of education or efficient use of the school’s resources, therefore this can not be claimed for [the 2025] intake” to be without foundation and note three key points on this matter. Firstly, there is no provision within the Code for a “precedent” in respect of admissions over PAN. Secondly, no evidence has been submitted to substantiate the argument that continuing to admit above the PAN will not prejudice the efficient provision of education or use of resources. The trust is the admission authority and therefore the body best placed to decide how many children it has the capacity to educate safely and effectively; the trust determines the appropriate number and must admit up to that number in the year of entry. It cannot admit below that number if oversubscribed, but it

is not required to admit more than what it considers to be the appropriate number and certainly not for an extensive period where this is detrimental to the school. Thirdly, at a practical level the fact that the school has managed to operate above its capacity does not mean that this can or should continue to be the case. I certainly do not believe anyone should reasonably expect the school to keep expanding its numbers indefinitely.

141. A PAN is, in effect, a minimum. That is, the Code requires that admission authorities set a PAN for each 'relevant year group' (which in the case of the school is Year 9 and Year 12), and that when the school is oversubscribed admissions are made at least up to the level of that PAN. The Code is clear that if admissions are made above the level of the PAN this does not constitute an increase in PAN. As such, it cannot reasonably be expected that where admissions above PAN have been made in any one year, this means that admissions in future years will also be above the level of the PAN. For this reason and the reasons given above I do not uphold this aspect of the objection.

142. As a final point on this matter, I note the assertion that the "reduction" in PAN was not communicated to parents. The PAN has not been reduced; from information provided by the trust it has remained at 360 since at least 2021.

143. I will now consider the assertion that the prioritisation of the children of staff is unclear. This was expressed by one objector as follows:

"I believe staff at (sic) employed by Gosforth Federated Academies Ltd (known as the Gosforth Group) and not by Gosforth Academy. Also, a demonstrated skills shortage is not clear, what and who does this refer too (sic)?"

144. The arrangements prioritise the children of staff under the third oversubscription criterion:

"Children or step-children of members of staff employed directly by the Academy on a part or full time basis for two or more years at the time at which the application for admission to the school is made, or members of staff who have been recruited to fill a vacant post for which there is a demonstrable skill shortage."

145. The following paragraphs of the Code are relevant to this aspect of the objection:

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 for admission to the school is made; and/or

b) the member of staff is recruited to fill a vacant post at the school for which there is a demonstrable skill shortage."

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

146. I asked the trust to clarify the employer of school staff; that is, whether staff are employed by the school or by the academy trust. The trust responded

“This relates to staff employed by the Gosforth Group (trust). . . This relates to staff working at the same school where they wish their child to attend.”

147. The Code requires, in paragraph 1.40, that arrangements specify to which groups of staff any priority will apply. Paragraph 14 requires that parents are able to easily understand how places at the school are allocated.

148. The arrangements state that staff afforded priority are those “employed directly by the Academy”; the trust has told me that staff are in fact employed by the trust. I find that the arrangements are inaccurate and contrary to paragraphs 14 and 1.40 of the Code. I therefore uphold this aspect of the objection. As the arrangements for entry to Year 12 contain the same oversubscription criterion they are also contrary to the Code and must be revised.

149. I asked the trust what is meant by a “demonstrable skill shortage” and how a member of staff would know whether or not their child would be afforded priority under this aspect of the criterion. The trust responded:

“This relates to filling vacancies in areas where there have been issues concerning recruitment e.g., in shortage subjects. It would be the responsibility of the parent to request this priority.”

150. The trust did not answer my question of how members of staff would know whether or not their child would be afforded priority under the provision that they had been recruited to fill a demonstrable skill shortage. The Code requires that admission arrangements must specify how this priority will be applied, such as which groups of staff it will apply to. The arrangements do not do this; I therefore uphold this aspect of the objection. As the arrangements for entry to Year 12 contain the same oversubscription criterion they are also contrary to the Code and must be revised. I recognise that it may not be possible or desirable to include in the arrangements a list of all posts for which there is, or has been, a shortage. The requirements of the Code could be met by, say, stating how staff can access such information.

151. The next aspect of the objection that I will consider is that the arrangements do not comply with the Code in that they do not include a clear and fair tie-breaker to decide between two applications. The objection stated:

“The policy is not clear or objective because a “tie” is not defined, allowing a subjective interpretation of when a tie applies.”

And:

“The tie-breaker is not clear between two applications and we now are aware it can be used for all applications at one level of oversubscription.”

And:

“The policy is not reasonable or procedurally fair because paragraph 1.8 of the Code states that admission arrangements must include an effective, clear and fair breaker to decide between two applications “that cannot otherwise be separated.” Calling a “tie” at point 4 is like declaring a draw in a 100-metre race where the competitors are neck and neck at the 60-metre mark: it is irrational because the race is not finished.”

152. Paragraph 1.8 of the Code deals with the requirement for arrangements to include a tie-breaker and states, as far as is relevant here:

“Admission arrangements **must** include an effective, clear, and fair tie-breaker to decide between two applications that cannot otherwise be separated.”

153. I have dealt with much of this matter in my consideration of random allocation. In short, the arrangements use random allocation whenever a tie exists. This means that random allocation is used in two ways: to prioritise any number of applicants within any one oversubscription criterion where they cannot otherwise be separated (as in the case of criterion 4), and as a tie-breaker between two applicants who cannot otherwise be separated (such as in criterion 5).

154. I have explained that I am satisfied that random allocation has and will be applied correctly in terms of the applicants considered and the number thus selected. Notwithstanding the matter of insufficient clarity, which I have dealt with above, the arrangements do include a tie-breaker; and that tie-breaker is random allocation. For these reasons I do not uphold this aspect of the objection.

155. I turn now to the assertion that the arrangements do not comply with the Code regarding the procedure for waiting lists as this is not clear. This was described by one objector as follows:

“From Gosforth Academy - it states. If admission is not granted, the local authority will offer the student a place at another school. The student’s details will be kept on a Local Authority waiting list for Gosforth Academy which, will be maintained until 31st December in the year of entry. If a place becomes available, the oversubscription policy will be applied and parents contacted with view to admission of the student. It is unclear from this paragraph that once random allocation has been used for oversubscription, it will be used again for the waiting list. It is also unclear that those entering the system late but from a feeder school have equal chance of gaining a place through random allocation than those who did not gain a place on the first round.”

156. I note as an aside that some objectors raised issues regarding the local authority’s administration of the waiting list procedure, such as allegedly incorrect instructions being sent to parents on national offer day. The administrative process does not form part of the school’s admissions arrangements and is not within my jurisdiction to consider.

157. The arrangements state:

“If admission is not granted, the local authority will offer the student a place at another school. The student’s details will be kept on a Local Authority waiting list for Gosforth Academy which, will be maintained until 31st December in the year of entry. If a place becomes available, the oversubscription policy will be applied and parents contacted with view to admission of the student. Beyond 31st December, parents seeking admission should apply for a place via their Local Authority by completing the common application form. The same applies to all in-year admissions.”

158. The Code sets out the requirements of admission authorities regarding waiting lists as follows:

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.”

159. The objectors state that the arrangements regarding the waiting list do not comply with the Code in that it is not clear that random allocation is used for applicants on the waiting list or that those “entering the system late but from a feeder school have equal chance of gaining a place through random allocation than those who did not gain a place on the first round.”

160. For the avoidance of doubt, any admission authority which sought to afford greater priority to applicants who have been on the waiting list for some time (including those who were unsuccessful in the normal admissions round) than to those who have just joined it would be acting unlawfully. The Code states that “Priority **must not** be given to children based on the date their application was received, or their name was added to the list” and the arrangements comply with that requirement.

161. The arrangements state that if a place becomes available the “oversubscription policy” will be applied. I find this to be, in itself, in accordance with paragraph 2.15 of the Code which requires that the oversubscription criteria will be applied to all applicants on the waiting list. Random allocation forms part of the oversubscription criteria however, and as discussed elsewhere in this determination the section of the arrangements on random allocation requires clarification. For this reason, I uphold this aspect of the objection. That is, although the section of the arrangements which concerns the waiting list does itself comply with paragraph 2.15 of the Code, the arrangements as a whole do not because they need to make clear that the random allocation process is undertaken again if necessary when a new name is added to the waiting list.

162. The final aspect of the objection is that parents of children currently attending the feeder schools had, at the time at which their children joined those schools, a reasonable expectation that the arrangements of GA would remain unchanged at least up until the point of application for their children to GA.

163. The objectors believe that any changes to the admission arrangements for the school should not negatively impact any children already within the three-tier system. As one stated:

“The inclusion of this Great Park Academy into the feeder system should not affect the parents of the children already in the system as they have chosen this route when they applied for the reception class place in their first school. Again, as I indicated before, these parents are once again going to have their choice of school abolished before their eyes. These parents’ choices should be respected. Allocation of places in their chosen feeder high school should not be so that they go through this trauma again – and yes it was a trauma. Changing of policy should respect children already in the system and changes should be brought in only after these children have fed through.”

And:

“Children who are currently in the middle feeder schools should be allowed to follow the educational journey that was laid out for them and that their parents chose for them. Parents should not have to worry about schools and LA’s changing their minds mid term. If schools or LA’s want to change admission or over subscription policies it should be done after the cohorts of children had made it through their education which gives adequate time and years for parents to reassess their children’s educational journey and to make a choice. This choice is being taken away from parents by this policy change.”

164. The objectors believe that parents of all pupils currently attending the feeder schools should have been able to reasonably expect that those pupils would gain a place at the school. The objectors’ argument for this expectation being reasonable is that this had been the case previously. To put it another way, they believe that the school has changed its approach where parents were counting on this to remain the same.

165. The paragraphs of the Code relevant to this matter are:

15b: “Admission authorities **must** set (‘determine’) admission arrangements annually. . .”

1.49: “All admission authorities **must** determine their admission arrangements, including their PAN, every year, even if they have not changed from previous years and a consultation has not been required by **28 February** in the determination year.”

166. I have already explained that the arrangements for 2025 have not (save for the matter related to multiple births) changed from those previously in use. Also, the very nature

of admission arrangements and their determination means that expecting they will remain unchanged is not in itself reasonable.

167. The Code requires that arrangements are determined annually and, subject to the requirements for consultation being met, allows admission authorities to change their arrangements on an annual basis. For this reason, I am unable to consider any claim of reasonable expectation or to find that arrangements must remain unchanged for a particular cohort of pupils. The school must determine its arrangements each year and may change them every time if it so chooses providing that the requirements for consultation are met. There is therefore no reason under the Act or the Code for parents or any other person or body to assume or expect that arrangements will remain unchanged.

168. For the reasons above I do not uphold this aspect of the objection.

Other Matters

169. As I considered the arrangements other matters came to my attention which appeared not to comply with the Code. These are listed below (with the most relevant paragraphs of the Code in brackets).

170. The arrangements refer to students with a “statement of special educational needs”. Statements of special educational needs no longer exist, and arrangements should therefore only refer to Education Health and Care Plans (EHCPs). (Code 1.6)

171. The arrangements prioritise, in criterion 1 for admissions to both Year 9 and Year 12, looked after and previously looked after children as required by the Code. However, the arrangements are not fully compliant with the Code in that they refer to “residence” orders, which were replaced by the Children and Families Act 2014 with child arrangements orders. (Code 1.7).

172. The arrangements state:

“Applications for school places are co-ordinated by the Local Authority in accordance with the published time scales in the co-ordinated admission scheme. Parents wishing to apply for a place at the Academy should complete the common application form [CAF] provided by the Local Authority and return it by the required date.”

173. No further information is given regarding how or where to obtain the CAF or the deadline for completing this; neither is any explanation provided that parents must apply via their home local authority. A weblink which appears at a separate point in the arrangements to access a “timetable of dates” does not work. The arrangements therefore fail to provide the clarity for parents that is required by the Code. (Code 14).

174. The arrangements refer to home address but do not specify how this should be defined, including in the event that a child lives between two separated parents and where

a child spends an equal amount of time with each. This does not comply with the requirements of the Code. (Code 1.13).

175. The arrangements state:

“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 the parents are in disagreement about which school the child shall attend, the views of the parent who lives at the address where the child is registered for his or her GP will take precedence.”

176. Where a child has parents who are separated and both have parental responsibility, then unless there is a court order to the contrary either parent can make an application for a school place. The trust has no authority to determine whether to accept an application from one parent and not another, and the arrangements do not contain any rational or legal basis for determining which parent should be the decision maker in the circumstances described above. I find that the arrangements must be revised to make it clear that any dispute between separated parents in respect of an application for a school place is a matter for those parents to resolve either by agreement or by an order of the court.

177. The arrangements state:

“We have a PAN of 300 for Year 12 admissions”.

And:

“The admission number for students entering the Sixth Form from outside of Gosforth Academy will be approximately 80 each year.”

178. In the case of admission to Year 12 the PAN applies only to external applicants; that is, to those seeking to join the school in Year 12. The arrangements are incorrect and confusing and do not comply with the Code in that: it is not clear that all internal applicants who meet the academic entry criteria can remain at the school; it is not clear that internal students are not subject to the oversubscription criteria; and the PAN cannot be an approximate number. The arrangements must be revised to make it clear what the PAN for Year 12 is. (Code 14, 1.2, 2.6).

179. The arrangements state:

“All those seeking admission to the Sixth Form must meet the minimum entry requirement ... In addition, students must meet the specific requirements for each course they wish to study”.

180. The arrangements do not comply with the Code in that they imply that an applicant will not be eligible for admission to Year 12 if they do not fulfil the academic requirements of the specific course they wish to study. The school retains the right to stipulate requirements for individual courses but that is not the same as saying that the applicant cannot be admitted into the sixth form. If an applicant meets the academic entry criteria for the sixth

form, encapsulated in the arrangements as “minimum entry requirements”, and there is a place available, then that applicant must be offered a place at the school whether or not that is to study their preferred courses. (Code 14, 2.6).

Determination

181. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Gosforth Federated Academies Limited for Gosforth Academy, which is in the local authority area of Newcastle upon Tyne.

182. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

183. 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 4 October 2024.

Dated: 18 September 2024

Signed:

Schools Adjudicator: Jennifer Gamble

Appendix: Map of Gosforth Academy, the three feeder schools and the permanent site of Great Park Academy

