



## Determination

**Case reference:** REF4389

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

**Date of decision:** 20 September 2024

### Determination

I have considered the admission arrangements for September 2025 determined by The Gosforth Federated Academies Limited for Jesmond Park Academy, which is in the local authority area of Newcastle upon Tyne, in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that there are matters in the arrangements that do not conform with the requirements for such arrangements. Those matters are set out in this determination.

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 4 October 2024. This will allow the trust to make the necessary revisions before the closing date for 2025 applications.

### Referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection was referred to the Office of the Schools Adjudicator (OSA) about the admission arrangements for Jesmond Park Academy (the school, JPA), for September 2024. The objection was from a parent who had unsuccessfully applied for a place for their child at the school for 2024.
2. The objection relates to the clarity of the arrangements. As I explain later, the objection was made after the statutory deadline for objections but, as they have been brought to my attention, I have exercised my power to consider the arrangements for 2025 (the arrangements) under section 88I of the Act.

## Jurisdiction

3. The terms of the academy agreement between the academy 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 foundation and voluntary aided schools. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by The Gosforth Federated Academies Limited, which is the admission authority for the school, on 18 January 2024 on that basis.
4. Paragraph 3.5 of the School Admissions Code (the Code) states that objections to admission arrangements must be referred to the adjudicator by 15 May in the determination year. As the objection was received after this date, I have concluded that I do not have jurisdiction to consider it under section 88H(4) of the Act. However, having had sight of the school's arrangements it appeared to me that the matters raised might not conform with the requirements relating to admissions. I have accordingly used my power under section 88I(5) of the Act to consider the arrangements for the school. As this case is being considered under section 88I of the Act, I use the terminology "the referral" and "the referrer".
5. When I considered the arrangements I identified some matters, including but not limited to the matters raised by the referrer, which it appeared to me did not or may not meet the requirements relating to admission arrangements. I set out my findings in regard to those matters not raised by the referrer in the section in this determination which is entitled 'Other Matters'.
6. The parties to this case are The Gosforth Federated Academies Limited (the trust, the admission authority) and the local authority.

## The referral

7. The matters raised in the referral concern the clarity of the arrangements regarding:
  - a) the prioritisation of the children of staff;
  - b) the use of, and process for, random allocation; and
  - c) the prioritisation of siblings from multiple births.
8. As the referral concerns the clarity of the arrangements the following paragraphs of the Code are relevant:

Paragraph 14: "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."

Paragraph 15a): “All schools **must** have admission arrangements that clearly set out how children will be admitted, including the criteria that will be applied if there are more applications than places at the school. Admission arrangements are determined by admission authorities.”

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

## Procedure

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

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

- a) evidence that the arrangements were determined;
- b) a copy of the determined arrangements;
- c) comments from the trust on the matters raised;
- d) further information provided by parties at my request or invitation; and
- e) information available on the websites of the school, the local authority and the Department for Education (DfE).

## Background

12. JPA is a non-selective, co-educational academy school for children aged eleven to eighteen. The school does not have a religious character. JPA is situated in Jesmond Park West, within the local authority area of Newcastle upon Tyne. JPA opened in August 2019 and received its first Ofsted inspection in June 2022, when it was judged to be Good; the school has not yet been re-inspected.

13. For September 2025 the school has a published admission number (PAN) of 310 for Year 7; I discuss the PAN for Year 12 in the section in this determination which is entitled ‘Other Matters’.

14. JPA is part of The Gosforth Federated Academies Limited, a multi-academy trust which contains five other schools: North Gosforth Academy and Callerton 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; Great Park Academy is for children aged nine to sixteen; and Gosforth Academy for those aged thirteen to eighteen.

15. Objections have been brought in respect of three of the other schools within the trust: Gosforth Academy (case references ADA4253-4257, ADA4259-4260, ADA4262-4269, ADA4271-4272, ADA4276-4277, ADA4279, ADA4314, ADA4318-4319, ADA4333-4335); Gosforth Junior High Academy (case reference ADA4317) and Great Park Academy (case reference ADA4307).

16. The oversubscription criteria which are applied in the event of oversubscription to Year 7, 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 seven named feeder schools.
5. Siblings of pupils attending the school at the time of admission.
6. Children living nearest the school, measured as a straight-line distance.
7. “In the case of a tie in any of the above categories, random allocation will take place. This will be overseen by the Local Authority”.

17. 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.
6. “In the case of a tie in any of the above categories, random allocation will take place.”

18. 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.

## Consideration of Case

19. The first aspect of the referral relates to the prioritisation of children of members of staff. The Code provides for such prioritisation in the following paragraphs:

- 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.”

20. The arrangements prioritise children of members of staff under the third oversubscription criterion for entry to Year 7, as follows:

“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 academy is made, or members of staff who have been recruited to fill a vacant post for which there is a demonstrable skill shortage.”

21. The arrangements for entry to Year 12 provide the same prioritisation, save for a slight difference in wording, again under the third oversubscription criterion:

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

22. The referrer asserted that the arrangements do not correctly state the employer of staff to whom priority is afforded, and explained this in respect of the arrangements for Year 7:

“It is not clear what is meant 'children of staff employed directly by the Academy' - all staff are employed by the Trust so what does this mean?”.

23. I raised this matter with the trust, which confirmed that the employer of staff is the trust and not the school. I find that the arrangements are contrary to paragraphs 1.40 and 14 of the Code as they do not specify to which groups of staff priority will apply (indeed priority is conferred to a group which does not actually exist), and do not fulfil the requirement that parents are able to easily understand how places at the school are allocated.

24. The trust proposed the following amendment to the criterion, which should provide the clarity required:

“Children or step-children of members of teaching and support staff employed by the Gosforth Group (Trust) and who [have worked] at Jesmond Park Academy on a part or full time basis for two or more years at the time at which the application for admission to the academy is made.”

25. Further to this I find that the arrangements do not specify how priority afforded to the children of staff who have been recruited to fill a demonstrable skill shortage will be applied; this renders the arrangements unclear contrary to the requirement in paragraph 14 of the Code that the practices and the criteria used to decide the allocation of school places are clear.

26. The arrangements for both years of entry must be revised so that the employer of staff is correctly stated and the arrangements explain clearly the circumstances in which priority is afforded to staff who have been recruited to fill a demonstrable skill shortage. As the relevant criteria are identical in their meaning, in my view they should be identical in their wording in order to be sufficiently clear to parents.

27. In respect of the prioritisation of staff who have been recruited to fill a demonstrable skill shortage, I recognise that it may not be possible or desirable to include in the arrangements a list of all such posts. However, the requirements of paragraph 14 of the Code could be met by, say, stating how staff can access such information.

### **Random allocation**

28. I will next consider the assertion that the arrangements fail to comply with the Code in respect of random allocation.

29. The following paragraphs of the Code deal with 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.”

30. The referrer alleged that the arrangements do not make it clear when random allocation is used, and do not make it clear how random allocation is carried out. The referrer stated:

“Random allocation comes at the bottom of a numbered list and is numbered as a separate category. It was not clear that it could be applied at any stage.

How was the random allocation carried out? The Code says it must be clear and as a parent, we are not told anything.”

31. The referrer did not specify the year of entry this aspect of the referral relates to. As random allocation appears as the final, numbered criterion for entry to Year 7 and Year 12, I have considered it for both.

32. Random allocation is shown as the seventh oversubscription criterion for entry to Year 7 and the fifth criterion for entry to Year 12. Both criteria state:

“In the case of a tie in any of the above categories, random allocation will take place. This will be overseen by the Local Authority

33. The arrangements make no reference to random allocation other than as set out above.

34. The arrangements state, as an introduction to the oversubscription criteria for each point of entry, that these criteria will be applied “strictly in order of priority”. Parents and others who read the arrangements may therefore understand that, say, the fifth criterion for entry to Year 7 should and will be applied before the seventh. 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. The wording of the final criterion contradicts this position, however.

35. The arrangements say both that all the numbered oversubscription criteria will be applied in order of priority, and that the final 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.

36. 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. The arrangements must be revised to make it clear that random allocation is not the final oversubscription criterion for either year of entry but the method by which applicants within any other criterion are prioritised.

37. In response to my queries regarding the process for random allocation, the trust stated:

“This is carried out by the Local Authority”.

38. Due to the lack of information within the arrangements, I find that the arrangements do not comply with the Code in that they do not set out clearly how random allocation will operate. It is the responsibility of the trust, as the admission authority for the school, to ensure that the arrangements contain the information required by paragraph 1.34 of the Code.

39. 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).

### **The prioritisation of siblings from multiple births**

40. The final aspect of the referral was in respect of prioritisation of siblings from multiple births, such as twins. The referrer alleged that the arrangements were unclear regarding any such priority and stated:

“Were multiple births prioritised or not?

Do multiple births have one number, or do they get a number each? This is not mentioned in the policy. They have not been transparent or clear, which I feel is a breach in the admissions code. This makes the policy unlawful.”

41. It is my understanding that reference to “one number” and so on in the referral relates to the process for conducting random allocation. Although no mention of this is made in the arrangements, I have been provided with a description of the random allocation process in the course of my consideration of the objections that have been raised in respect of other schools within the trust. This description states that the random allocation process uses a random number generator to assign a number to each application, and that siblings from multiple births are “kept together” during this process.

42. The matter for my consideration is whether the priority which is afforded to siblings of multiple births is clear in the arrangements, if such priority exists.

43. It is for admission authorities to decide whether or not to afford priority to siblings from a multiple birth; if no priority is afforded to such applicants then there is no requirement for this to be stated in admission arrangements. Where priority is afforded this must be made clear, and this generally means that when one child is offered a place through the normal application of oversubscription criteria their sibling from a multiple birth will also be offered a place.

44. The arrangements do not include any reference to siblings from multiple births. I asked the trust whether any priority is afforded to these applicants, for entry to either Year 7 or Year 12 at the school. I also asked the trust to provide details of any such priority, including to which oversubscription criteria it applies. The trust responded:

“JPA has admitted siblings of multiple births. This has not been an issue in the past.”

45. The brevity of the trust’s response on this matter is such that it is not clear to me exactly what priority is afforded to siblings of multiple births. More importantly, I am concerned with what is set out in the arrangements. It is apparent that some priority is afforded to siblings from multiple births but this is not made clear in the arrangements.

46. Paragraph 14 of the Code requires that admission authorities make clear in their arrangements the practices used to allocate school places, and that parents can easily



understand, from the arrangements, how places at the school are allocated. I therefore find that the arrangements do not provide the required clarity for parents. I also find that the arrangements are inaccurate, in that the allocation of places which takes place in practice is apparently different from that which is set out in the arrangements.

47. For the sake of completeness, I note that where priority is afforded to siblings from multiple births, admission arrangements should state whether this applies to offers made under every oversubscription criterion or only to specific criteria. As the arrangements use random allocation they must also make it clear whether, if one child gains a place through the process of random allocation, their multiple-birth sibling will also be offered a place.

## Other Matters

48. In looking at the arrangements, it would appear to me that the following matters do not conform with the relevant legal requirements. As stated above, paragraph 14 of the Code requires that arrangements must be clear for parents on how places are allocated. The issues listed below apply to that paragraph of the Code unless otherwise specified. I raised these matters with the trust, which provided a helpful response for which I am grateful. I have included their response where it serves to better illustrate the matters concerned.

49. The arrangements for entry to both Year 7 and Year 12 refer to students with a “statement of special educational needs” as well as to those with EHCPs. Statements of special educational needs no longer exist, and arrangements should therefore only refer to EHCPs. (Code 1.6)

50. The arrangements prioritise, in criterion 1 for admissions to both Year 7 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 the arrangements refer to “residence” orders, which were replaced by the Children and Families Act 2014 with child arrangements orders. (Code 1.7).

51. The arrangements provide definitions of looked after children on page 3 (in respect of admission to Year 12) and on pages 5-6 (in respect of admission to Year 7). These two definitions differ, and neither is the same as that provided in the Code. The arrangements therefore fail to comply with the Code. (Code 1.7).

52. The arrangements state:

“Applications for Academy places in Year 7 are co-ordinated by the Local Authority in accordance with the published time scales in the co-ordinated admission scheme [CAF]. Parents wishing to apply for a place at the Academy should complete the common application form provided by their Local Authority and return it by the required date.”

53. No further information is given regarding how or where to obtain the CAF or the deadline for completing this; neither do the arrangements include that parents must apply via their home local authority. Although a weblink is included at the end of the document to access a “timetable of dates” this does not relate to school admissions. Paragraph 14 of the Code requires that the practices used to decide the allocation of school places are clear, and that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated. In my view, information as to how and where to obtain the CAF and the date by which it must be returned is a crucial part of the application process, without which applicants may lose out on their opportunity to be considered for a place at the school. The arrangements therefore fail to provide the clarity for parents that is required by the Code. (Code 14).

54. The arrangements for entry to Year 7 and Year 12 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.”

55. 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.

56. The arrangements state:

“We have a PAN (Published Admission Number) of 250 for Year 12 admissions”  
and:

“The admission number for students entering the Sixth Form from outside of Jesmond Park Academy will be approximately 50 each year.”

57. 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).

58. In respect of this matter the trust stated:

“It is made extremely clear to our Year 11 students that everyone is guaranteed a place if they meet the entry requirements into our Sixth Form. However, we will make sure that this is explicitly clear in the policy that everyone continues to be guaranteed a place if they meet our Sixth Form entry requirements and that the PAN does not apply to internal students. We will remove the point referring to an approximate number as this may lead to ambiguity.”

59. What is or is not communicated to its students is separate from, and perhaps a complement to, the arrangements rather than a replacement for those arrangements. The arrangements must be revised to address the above matters, as the trust has recognised.

60. 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”.

61. 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, 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 2.6).

62. In respect of this, the trust has assured me that “If students do not meet the entry requirements for a specific course we always make sure there are suitable alternatives that are open to them. No-one is turned away if they meet the requirements for our Sixth Form.” The arrangements must be revised in order to make this clear.

63. The arrangements state, in respect of the fair access protocol:

“... outside the normal admission round, the Trustees are empowered to give absolute priority to a child where admission is requested under any local protocol. The Trustees have this power, even when admitting the child would mean exceeding the published admission number.”

64. The PAN only applies to the normal year of entry. However, the above statement implies that the PAN also applies to other year groups. As admission authorities are able to admit pupils above the level of the PAN at any time and for any reason, this statement is unnecessary and therefore misleading which renders the arrangements unclear. I note that the trust intends to remove the reference to PAN in the above paragraph. (Code 1.4).

65. The arrangements state:

“There is a right for people to object about the policy to the Schools Adjudicator . . . Objections for the admissions arrangements for 2025/26 must be made by 12 May 2025”.

66. As the deadline for objections to the arrangements for 2025 was 15 May 2024 this is incorrect and may have prevented parents or other parties from making an objection within the required timescale. (Code 3.5).

## Summary of Findings

67. I have detailed above the elements of the admission arrangements which are non-compliant with the Code and the law governing admissions. These require amendment.

## Determination

68. I have considered the admission arrangements for September 2025 determined by The Gosforth Federated Academies Limited for Jesmond Park Academy, which is in the local authority area of Newcastle upon Tyne, in accordance with section 88I(5) of the School Standards and Framework Act 1998 and find that there are matters in the arrangements that do not conform with the requirements for such arrangements. Those matters are set out in this determination.

69. By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 4 October 2024. This will allow the trust to make the necessary revisions before the closing date for 2025 applications.

Dated: 20 September 2024

Signed:

Schools Adjudicator: Jennifer Gamble