



## DETERMINATION

**Case reference:** ADA3251

**Referrer:** A member of the public

**Admission Authority:** The governing body of Gosforth Central Middle School, Newcastle

**Date of decision:** 7 December 2016

### **Determination**

**In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for September 2017 determined by the governing body for Gosforth Central Middle School in Newcastle. I determine that there are matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.**

**By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements by 28 February 2017.**

### **The Referral**

1. The admission arrangements for September 2017 (the arrangements) for Gosforth Central Middle School (the school), a foundation, middle deemed secondary, school for children aged 9 to 13 in Newcastle, were brought to the attention of the Office of the Schools Adjudicator by a member of the public (the referrer) on 17 October 2016. The referral was about the naming of feeder schools and the consultation undertaken by the school before determining the arrangements.

### **Jurisdiction**

2. The school is a foundation school so its admission authority is the governing body. The 2017 arrangements were determined by the governing body on 22 February 2016. As it appeared to me that the arrangements brought to my attention did not or may not conform with the requirements relating to admission arrangements, I have used my power under section 88I(5) of the School Standards and Framework Act 1998 to consider the arrangements as a whole.

3. The local authority for the area in which the school is located is Newcastle City Council. Together with the school and the referrer, the local authority is a party to this referral.

## **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the Code.
5. The documents I have considered in reaching my decision include:
  - a. the referrer's form dated 17 October 2016 and subsequent documents from the referrer;
  - b. the school's response to the referral, supporting documents and responses to my enquiries;
  - c. the local authority's comments on the referral;
  - d. confirmation of when consultation on the arrangements last took place;
  - e. copies of the minutes of the meetings at which the governing body of the school determined the arrangements;
  - f. a map showing relevant schools; and
  - g. a copy of the determined arrangements.

## **The Referral**

6. In the referral it was stated that the school had introduced new admission arrangements for September 2017 which included a criterion referring to feeder schools that did not meet the requirement of paragraph 1.9b of the Code for feeder schools to be named. The referral also said that the consultation undertaken by the school on its new arrangements did not comply with paragraphs 1.42 to 1.45 of the Code.
7. The referrer also claimed that the introduction of the new criteria was unfair to some children. Paragraph 14 of the Code requires that admission arrangements are fair.
8. Under section 88I of the Act I am only permitted to make a determination on the arrangements themselves and not the consultation which came before them. In this case it would appear to me that the school did not consult with parents as extensively as required by paragraph 1.44a of the Code, however I cannot take that into account in considering the arrangements. It is possible for a school to conduct an exemplary consultation and then determine admission arrangements which did not comply with the Code or for a school to conduct a consultation which did not meet requirements and then to determine admission arrangements that did comply with the Code.

## **Other Matters**

9. When I considered the arrangements as a whole I noted two references to sixth form students. The school does not have a sixth form so

these references may be unclear to parents. Paragraph 14 of the Code requires that arrangements are clear.

10. The arrangements also appeared to be unclear about the method used to measure distance from children's homes to the school as required by paragraph 1.13 of the Code.

## **Background**

11. The school is part of a three-tier system serving the Gosforth area of Newcastle comprising one high school for children aged 13 to 19, three middle schools for children aged 9 to 13 and nine first schools for children aged 4 to 9. One of the schools is a voluntary aided school, the others are either foundation schools or academies. The rest of the local authority has a two-tier system comprising primary and secondary schools. The local authority has informed me that Gosforth schools are amongst the most popular in the city, attracting applications from children living outside their immediate area.

12. The school has a published admission number (PAN) of 126 and the oversubscription criteria can be summarised as:

1. Children who are currently looked and children who were previously looked after.
2. Children attending one of the 'designated' feeder schools:
  - Archbishop Runcie First School
  - Grange First School
  - South Gosforth First School
3. Children attending any other Gosforth first school that is not a designated feeder school.
4. Children not attending a designated feeder or other Gosforth first school, who have a brother or sister (a sibling) who will be on roll at the school on the date that the child will be admitted in September 2017.
5. Children with an exceptional medical reason that means they can only attend the specific school.
6. Children living nearest to the school as measured in a straight line distance.

13. If oversubscription is reached among children attending feeder schools, priority is given to siblings, with distance and random allocation being used to discriminate further if necessary within all criteria.

## Consideration of Case

### Naming of feeder schools

14. The local authority informed me that historically each of the three middle schools had three first schools designated as feeder schools. The local authority said that in recent years new housing in the area has led to pressure on school places and the expansion of some first schools. As a result of these school expansions, the local authority told me that the number of places available at one of the other two middle schools is no longer sufficient to accommodate all the children attending its three designated feeder schools. The local authority continued to explain that Gosforth Central Middle School and the third middle school both have more places available than the number of children attending their feeder schools. In order to address concerns about continuity for children in the three-tier system the school introduced priority for children attending the other first schools in the area ahead of children who might wish to transfer from 4 to 11 primary schools elsewhere in the city to the middle schools at the age of nine.

15. This priority is set out in the third oversubscription criterion "*Children attending any other Gosforth first school that is not a designated feeder school*"

16. The referrer pointed out that Paragraph 1.9b of the Code says "*It is for admission authorities to formulate their admission arrangements, but they **must not**: ... b) take into account any previous schools attended, unless it is a named feeder school*". The response from the school said "*Gosforth First Schools is a recognised set of schools. Therefore they have, I feel, been named.*" The local authority said "*In our view there would be no confusion among parents over which first schools Gosforth Central was referring to. We have advised the school to add a footnote to name the specific schools.*"

17. To meet the requirement found in paragraph 1.9b for the feeder schools to be named, each feeder school must be named individually; referring to a group of schools, no matter how well known in the local area, is not sufficient. I find that the third oversubscription criterion does not meet the requirements in paragraph 1.9b of the Code.

### The fairness of the new feeder school criterion

18. Paragraph 14 of the Code says "*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.*" The referrer has identified a group of children for whom the introduction of the new criterion could be unfair. That is children who live close to the school who were unable to secure a place at a first school in Reception (Year R) and now attend a primary school elsewhere in the city. The introduction of the new criterion has lowered the priority that these children have for the school. Children moving into the area after the allocation of places would be similarly affected. Furthermore, attendance at one of the three middle schools leads to greater priority for a place at the 13 to 18 high school, Gosforth Academy, at the top of the three-tier pyramid. A family with

aspirations for their child to attend that school would have low priority for it if they could not secure a place at one of the middle schools.

19. The argument presented by the school and the local authority for the inclusion of the new criterion is to promote continuity within the three-tier system for children. This is a strong argument; a child in Year 4 in a first school must find a new school place for the next school year, a child in Year 4 at a two-tier primary school will have the security of a school place in Year 5. If a first school child transferred to Year 5 in a two-tier primary school, then a further transfer would be necessary after just two years, it is well established that frequent changes of school adversely affect children's progress.

20. The referrer has however argued that the increases in the number of children admitted to first schools occurred after 2012 when the current Year 4 was admitted to first schools and so no change is justified for 2017. He also indicated concerns about accessibility of the two-tier secondary schools that a child unable to join the three-tier system would attend at the age of 11.

21. The following table is based on data from the annual school census taken in January 2016. It shows the number of children on roll at each of the nine first schools. Year 4 transferred to middle schools in September 2016 and Year 3 will transfer in September 2017.

| <b>Year group</b>  | <b>R</b>   | <b>1</b>   | <b>2</b>   | <b>3</b>   | <b>4</b>   |
|--|------------|------------|------------|------------|------------|
| Archbishop Runcie CE   | 30         | 30         | 31         | 30         | 30         |
| Grange   | 60         | 30         | 30         | 30         | 30         |
| South Gosforth   | 60         | 46         | 44         | 45         | 45         |
| <b>Total of Gosforth Central feeder schools (PAN 126)</b>            | <b>150</b> | <b>106</b> | <b>105</b> | <b>105</b> | <b>105</b> |
| Archibald  | 60         | 60         | 59         | 61         | 61         |
| Regent Farm  | 60         | 60         | 58         | 60         | 56         |
| Brunton  | 90         | 61         | 60         | 63         | 60         |
| <b>Total of Gosforth Junior High Academy feeder schools (PAN120)</b> | <b>210</b> | <b>181</b> | <b>177</b> | <b>184</b> | <b>177</b> |
| Dinnington   | 30         | 31         | 30         | 31         | 26         |
| Gosforth Park  | 44         | 45         | 45         | 45         | 44         |
| Broadway East  | 45         | 45         | 45         | 45         | 45         |
| <b>Total of Gosforth East feeder schools (PAN 120)</b>               | <b>119</b> | <b>121</b> | <b>120</b> | <b>121</b> | <b>116</b> |

|                                   |            |            |            |            |            |
|-----------------------------------|------------|------------|------------|------------|------------|
| <b>Total of all first schools</b> | <b>479</b> | <b>408</b> | <b>402</b> | <b>410</b> | <b>397</b> |
|-----------------------------------|------------|------------|------------|------------|------------|

22. Information from the local authority's website about the allocation of places at middle schools for September 2016 is tabulated below. Between them the three middle schools admitted 415 children including 367 of the 397 children due to transfer from the first schools. It would appear that 30 children chose to transfer to two-tier schools and 45 transferred the other way, from this it can be deduced that all first school children whose parents wanted them to remain in the three-tier system were able to do so. However, it was only possible to accommodate all of the first school children because Gosforth Junior High Academy offered 49 places above its PAN.

|                              | Looked after, medical, SEN | Feeder schools | Siblings | Distance | Total |
|------------------------------|----------------------------|----------------|----------|----------|-------|
| Gosforth Central             | 1                          | 99             | 9        | 17       | 126   |
| Gosforth Junior High Academy | 1                          | 160            | 8        | 0        | 169   |
| Gosforth East                | 1                          | 108            | 4        | 7        | 120   |

23. The local authority justified the new criterion with reference to the expansion of first schools, from the data above this would not appear to have any impact on the number of children requiring Year 5 places until 2020. Furthermore 45 of the additional places are in schools traditionally feeding into Gosforth Central with just 30 in schools feeding into the Junior High Academy. From the data it would appear that there is a problem accommodating all first school pupils who want to remain in the three-tier system now.

24. The school's headteacher said "*I recognise that every parent has the right to apply to any school they choose. However by adding in the third criteria [sic] this means that there are enough places for all pupils in their specific year of transfer (Year 4) with other applicants able to access residual places. Therefore, I feel that this ensures the policy is fair to both children already in the first schools as well as those wishing to move from a primary school to a middle school at age 9.*" If the pattern of parental preference is similar in 2017 to that in 2016, and no school offers more places than set out in its PAN, then with the new third criterion in place, I have concluded that there would be little likelihood of any child being offered a place at the school unless they attended one of the first schools.

25. I am left therefore to consider the balance of interests of first school children who, without the new third criterion in place would have to transfer to a two-tier primary school, against those of children who were unable to secure a place in Year R or moved into the area at a later date and may now want to take the opportunity to join the local three-tier system.

26. I begin by considering the options for a child living in the area if they cannot obtain a place at one of the local first schools. I am unable to evaluate the situation for every address in the area so I am taking the postcode of Gosforth Academy as a sample. Some addresses will have more options than those I find for this postcode and others fewer.

27. The Department for Education's database of schools called Edubase lists alongside eight of the first schools 14 two-tier primary schools within a two-mile radius of my chosen postcode. I have taken two miles because that is the statutory walking distance to school for children aged less than eight above which the local authority is required to provide home to school transport. The ninth first school, Dinnington First School, is about three and a half miles from in a straight line from my chosen postcode, one of the other first schools and another primary school are within two miles of Dinnington. Having considered the locations of these schools on a map, with the possible exception of Dinnington, I conclude that there is a range of alternative primary schools for families in the area if they are unable to secure a place in one of the first schools.

28. For children aged above eight the statutory walking distance is three miles. Edubase lists six two-tier secondary schools within this distance of Gosforth Academy. Although two of these schools have religious designation I am of the view that there is a range of alternative two-tier secondary schools within a reasonable distance of the area for children unable to obtain places in the three-tier secondary schools. If, as the referrer says, walking routes to these alternative schools are unsafe the local authority would be required to provide transport.

29. A child in Year 4 at a two-tier primary school has the security of a school place in Year 5 and a range of options for transfer to a two-tier secondary school in Year 7 alongside their peers as part of a planned induction programme. I will now consider the implications for a child attending Year 4 in a first school who is unable to obtain a place at one of the middle schools for Year 5.

30. There is much evidence in the many studies by Galton, Grey and Ruddock of Cambridge University and others that changing school adversely affects the progress of many children. From these studies good practice has been identified to support transfer between schools. While as identified above there would be a range of two-tier primary schools within a reasonable distance for a child to travel to if they could not be offered a place at a middle school, a child moving into Year 5 at a two-tier primary school would not be transferring with their peers as part of the usual planned transfer process. Two years later, they would have to change schools again.

31. Given the range of alternative schools with a reasonable distance of the area, I am of the view that the adverse impact on a child who has to change school at the end of Year 4 and cannot be part of a planned transfer with their peers to a middle school, followed by another change of school two years later, will be greater than any disadvantage to a child with a secure place at a two-tier primary school continuing to attend schools which are a little farther from their home.

32. I find that the third oversubscription criterion, while not meeting the requirement of paragraph 1.9b to name the feeder schools is fair.

### Other matters

33. Paragraph 14 of the Code says "*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 1.13 says "*Admission authorities **must** clearly set out how distance from home to the school will be measured, making clear how the 'home' address will be determined and the point in the school from which all distances are measured.*"

34. The full wording of the sibling criterion concludes with the sentence "*Sixth form students are not eligible as sibling links*" and there is a further reference to "*sixth form*" in the tie-breaker. Middle schools do not have sixth forms. In response to my enquiries on this matter the school said this was an "*oversight*". As the school does not have a sixth form these references make the arrangements unclear and so they do not meet the requirements of paragraph 14 of the Code.

35. The full wording of the sixth oversubscription criterion is "*Children living nearest to the school as measured in a straight line distance from a single fixed central point at the school to a point in the centre of the home address of the child, using the Local Land and Property Gazetteer or a suitable alternative geographical information system.*" This does not say precisely which point in the school measurement is taken from and says that more than one system of measurement is used.

36. In response to my enquiries on this matter the school said "*The centre point of every property is given a geographical reference by the Gazetteer team in the Local Authority and I can confirm that the Local Authority provides the school with the distance measurements.*" If that is how the measurement is done, then that is what the arrangements must describe. I find that the statement in the arrangements is ambiguous and not sufficiently clear to meet the requirements of paragraph 14 and 1.13 of the Code.

### **Summary of Findings**

37. I find that the arrangements do not comply with the Code in the ways set out above.

38. Paragraph 3.1 of the Code requires that admission authorities revise their arrangements to give effect to the Adjudicator's decision within two months of the decision or by 28 February 2017 whichever is sooner, unless an alternative timescale is set by the adjudicator. None of my findings will affect the order in which the applicants for places in September 2017 are ranked and as it is deemed to be a secondary school, application for 2017 have closed and the processing of those applications has begun. The school is required to determine its arrangements for September 2018 by 28 February

2017 and taking these considerations into account, that is that date by which I require the revisions to be made.

### **Determination**

39. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements for September 2017 determined by the governing body for Gosforth Central Middle School in Newcastle. I determine that there are matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

40. 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 by 28 February 2017.

Dated: 7 December 2016

Signed:

Schools Adjudicator: Phil Whiffing