



## DETERMINATION

<b>Case reference:</b>	<b>ADA3303</b>
<b>Objector:</b>	<b>A member of the public</b>
<b>Admission Authority:</b>	<b>The Governing Body for Dover Grammar School for Boys</b>
<b>Date of decision:</b>	<b>16 August 2017</b>

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2018 determined by the governing body of Dover Grammar School for Boys, Kent.**

### **The objection**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the Office of the Schools Adjudicator (OSA) by an individual, (the objector). The objection concerns the admission arrangements (the arrangements) for September 2018 for Dover Grammar School for Boys, (the school), a selective foundation school for boys aged 11-18. The objection concerns the testing arrangements for admission to this selective school.
2. The school is located in Kent and Kent County Council is the local authority which maintains the school. The school's governing body, the objector and the local authority are parties to the case.

### **Jurisdiction**

3. The governing body of the school, which is the admission authority for the school, determined these arrangements on the 7 February 2017. The objector submitted the objection to these determined arrangements on 11 May 2017. The objector has asked to have their identity kept from the other parties and has 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 name and address to me.
4. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## **Procedure**

5. In considering this matter, I have had regard to all relevant legislation and the School Admissions Code (the Code).
6. The documents I have considered in reaching my decision include:
  - a) the objection form dated 11 May 2017 and supporting documents;
  - b) comments from the school in response to the objection together with supporting documents;
  - c) comments from the local authority in response to the objection together with supporting documents;
  - d) the LA's composite prospectus for parents seeking admission to schools in the area in September 2017; and
  - e) a copy of the determined arrangements for 2018.

## **The Objection**

7. The objection concerns the tests that are used to select pupils at this grammar school and is in two parts. The objector argues that the test is based on taught curriculum skills and that this means it is not fair to children attending primary schools where the teaching of Maths and English is not good. The objector argues that the testing of these elements can be influenced by the amount of after school help a child receives through parental help or paid-for tuition, or by the quality of the school attended. The objector considers that this makes the testing unfair.

8. The second part of the objection is that this grammar school uses two admission tests for entry, a test provided by GL Assessment (GL) and administered by Kent County Council (the Kent Test) and the school's own admission test which is provided by the Centre for Evaluation and Monitoring (CEM) based at Durham University (the Dover Test). An applicant is eligible for a place at the school if he reaches the required level in either one or both of the tests. The objector argues that it appears clear that the Dover Test is easier than the Kent Test. The objector says it is not a fair and open process if parents are not told this and that many will choose the Kent Test without knowing this and may not get places.

## **Background**

9. Dover Grammar School for Boys is a selective school as designated by the Education (Grammar School Designation) Order 1998. It has a published admission number (PAN) of 120 for 2018. For admissions in both 2016 and 2017 the school informed the local authority that it has had the capacity to admit over its PAN if required and admit up to 150 children into the school. As

it happened, the school has not admitted this number of boys for 2017 as not enough applicants who reached the required standard sought places. The school reports that for September 2017, it expects to have 143 Year 7 pupils and seven unfilled places in that year group. The school says that in recent years all eligible boys seeking a place have been admitted. The school is a designated grammar school and is permitted, by virtue of the Act, to keep places empty if not enough applicants who reach the required standard in its admission tests apply for places. As a Kent grammar school, the school uses the Kent Test, which is provided by one test provider (GL Assessment), and the school also offers its own school arranged test, the Dover Test, which is provided by another test provider (Durham CEM). Any boy who reaches the required level in either one or both of the two available tests is eligible for admission to the school. Applicants may choose whether to take either one or both tests.

10. The school explains that although the principles of selection are the same for the two tests, there is a different methodology for how the results of the tests are calculated. The Kent Test makes use of three multiple-choice tests provided by GL Assessment, one in English, one in Maths and one which combines Verbal and Non-Verbal Reasoning. An applicant must achieve a minimum score in each of the papers, as well as achieving a minimum aggregate score. Once an initial selection threshold is applied, there is an opportunity for schools to refer assessments based on scores to a local Head Teacher Assessment Panel. The panel will consider other evidence, including, where relevant, anything which may have affected the child's progress or the delivery of the curriculum in their primary school. For the Dover Test, there are separate papers as in the Kent Test but there is only one aggregate score with one pass mark, so an applicant can do less well in one paper but compensate with a high score in another paper. In the Dover Test, a piece of extended writing is marked and included in the overall result.

11. In the event that there are more eligible applicants than places available, the following oversubscription criteria will be used (these have been abbreviated):

1. Boys who are looked after or previously looked after.
2. Current Family Association - a brother already attending the School at the time of entry.
3. Health and Special Access Reasons – boys whose mental or physical impairment means they have a demonstrable and significant need to attend this particular school.
4. Distance between the boy's permanent address and the school, measured in a straight line using Ordnance Survey address point data, with priority given to those living closest to the school.

### **Consideration of Case**

12. The objector provided an extract from the 2014 admissions newsletter produced by GL Assessment who set the Kent Test. *"The school you went to can have a huge impact on how much you learn. Therefore, in the interests of*

*balance, we believe that an entrance assessment should bear little resemblance to the national curriculum or other tests children take in school. If this is not the case, it dilutes the validity of the test; the child from the outstanding primary school or the independent sector would most likely have an advantage in a standard test of reading comprehension, for example, than say a child who attended a school in special measures. Tests need to include, as far as possible, a test on 'pure' ability in order to assess a child's potential rather than 'what they know'. This ensures that a child is not discriminated against if they have had fewer opportunities to develop good reading skills and vocabulary, for example."* The objector agrees with this point but observes that GL Assessment sets an admission test in Kent based on a minimum score in English and Maths. The objector argues this will benefit pupils in the best schools, and disadvantage pupils in schools with a lower quality of teaching and that this is not fair. The objector considers that children from low socio-economic status families are more likely to attend schools with poor Ofsted ratings and lower test results. The objector provided a bar-chart as evidence that showed that a greater proportion of the children from schools with an outstanding Ofsted judgement passed a selection test for a grammar school than the proportion of children from schools requiring improvement or with special measures. The objector also provided a table that showed the proportion of children who passed the Kent Test by geographical area. It showed that there was a lower percentage of successful applicants in more deprived socio-economic areas. The average percentage across Kent of those who reached the required standard over a three-year period was in round figures 40 per cent and for the same period, Tunbridge Wells and Sevenoaks had average success rates of over 50 per cent while Sheppey and Thanet had average success rates of around 30 per cent. The figures for Dover were around 34 per cent.

13. The school comments that the objection appears to be about the fairness of selection in general rather than the specific process adopted at this school. The school says that it is in the same position as all other Kent Grammar schools with regard to the Kent Test. It notes that there is a significant difference in the pass rates across the various districts within Kent and that there will be many factors contributing to this including some of those highlighted by the objector. The school says that the Dover, Deal and Sandwich district has historically had relatively low pass rates and is one of the more socially disadvantaged areas of Kent. The school says that it is for this reason that it introduced its own Dover Test to improve the accessibility to grammar school places for local children.

14. The school says there is no intended difference in the difficulty level of the questions in both tests. The school uses tests produced by Durham DCEM for its Dover Test questions. The school says that Durham CEM also provide 11 plus assessment tests to several other Grammar schools within Kent, all to exactly the same standard. The school argues that the Dover Test is not an easier test by question design. As noted above, however, the school explains that there is a different methodology in how the results of the test are used. For the Kent Test there is a required pass mark for each individual section in addition to an overall pass mark but for the Dover Test there is one

aggregate score with one pass mark. In addition, the piece of extended writing is not assessed as part of the Kent Test. It is, however, marked and included in the overall results of the Dover Test.

15. The objection goes on to say that while the objector does not think there is anything wrong with having a local grammar school with a lower ability profile than other Kent grammar schools. However, the objector does consider there is potential unfairness for pupils who only take the Kent Test and do not achieve the qualifying mark. Such applicants may not have been aware that they might have reached the qualifying standard for the school if they had entered the school's own test.

16. The school says that it explains the differences between the two tests to all those attending the school's annual information evening for Year 5 parents. The school encourages all parents to register students for both tests rather than choose just one. With around 350 families attending its information evening each year, the school says it is likely that almost all parents within the local area will be aware of these differences prior to the deadline for registration for each test.

17. The school says that it wishes to ensure the most able students in the local Dover area can access a grammar school place without pass marks being skewed by higher scores achieved in more affluent areas in Kent. As evidence that its approach is successful, it points out that in its two most recent cohorts for admission 22 per cent of students are eligible for the pupil premium. It considers that this indicates that the test is making a grammar school place more accessible to children in the area than the Kent Test alone. The school further notes that the school is sited in the midst of the Tower Hamlets area of Dover, which is an area of significant deprivation. Therefore, should the school become oversubscribed at some point, distance from the school would be applied as a criterion for over-subscription and this would give priority to local children over children from out of the area.

18. The local authority provided data about the 2017 applications for the school. The total number of applications to the school in this year was 291 including 146 first preferences. 244 applicants were eligible through one or both of the selection test processes, but I note that some of these boys will not have put the school as their first preference – given that the total number of first preference applicants was 146. 138 places were offered on National Offer Day. Of these, 28 qualified under both tests, two only under the Kent Test, and 108 only under the Dover Test. Five further places had been offered since the national offer day leaving seven places unfilled.

19. The local authority comments that paragraph 1.31 of the Code says: *"Tests for all forms of selection **must** be clear, objective, and give an accurate reflection of the child's ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority to decide the content of the test, providing that the test is a true test of aptitude or ability."* While the local authority would prefer it if individual grammar schools did not run their own selection tests alongside council-administered selection process used by all

Kent's grammar schools, it says the Dover Grammar School for Boys has done so for many years. In 2007 the local authority objected to the use of the Dover Test and the adjudicator at the time concluded that *"the arrangements determined by the governing body of the Dover Grammar School for Boys do not contravene the School Admissions Code. The arrangements seek to assess boys fairly and to meet parents' preference for the school. The objectors may not like the arrangements and they may not be tidy in administrative terms, but these are not reasons for rejecting the arrangements."*

20. The local authority says that since then, additional tests have also been adopted by the academy grammar schools Folkestone School for Girls, the Harvey Grammar School (the equivalent grammar school for boys in Folkestone), Mayfield Grammar School (a girls' grammar school in Gravesend) and, most recently, Highsted Grammar (a girls' grammar school in Sittingbourne). Dover Grammar School for Girls, which remains a Community grammar school, has operated an additional test since the adoption of additional testing by the boys' grammar in the 1990s, as it was felt that to allow a difference in practice between the two schools would create a gender inequality in the process. After the 2015 admission round, Dover Grammar School for Boys changed its test provider and currently, all the schools listed above, with the exception of Dover Grammar School for Girls, use the Durham CEM tests as their school tests.

21. The local authority says that it has reviewed its selection process periodically, most recently in 2012, agreeing changes, which first applied to the 2015 admissions round. The most significant of these was the reintroduction of a measure of literacy at the request of some grammar schools, who were concerned that coaching might influence the results of reasoning tests. The local authority says that *"...while assessing children for admission to grammar school is highly likely to involve testing ability, aptitude or a combination of both, Kent County Council does its best to make sure that the interests of disadvantaged pupils are taken into account before a final assessment is given."*

22. The local authority agrees that more of the children admitted to Dover Grammar School for Boys have been assessed suitable on the basis of the school's own test than on the basis of the Kent Test. It notes that parents in the area certainly register their children for both tests, and it is not apparent that there is any failure to understand that doing so gives a child two opportunities to pass a grammar assessment. Any parent who might also wish to name a different grammar school among their preferences is made aware that they will need to enter their child for the Kent Test alongside the Dover Test, as the latter is only valid for admission to the school.

23. The objector says that it is also likely that more children will enter the council operated Kent Test because this takes place in primary schools on a school day. The Dover Test is taken at a weekend and some children may have parents who find it easier to use the Kent Test, and do not bother to use the Dover Test on a Saturday. While it is possible that this could be a factor

in test selection, the school says it has taken steps to ensure that it informs parents about the selection process and it also has a system for offering an alternative date if it is notified of reasons why a child cannot attend the scheduled test session. I am satisfied that the school takes reasonable steps to address these issues and ensure that parents are aware of them.

24. In drawing the arguments from the different parties together, the first part of the objection is a concern that children who attend a poorly performing primary school are less likely to succeed in the selection tests for a selective school. I consider that this is similar to the argument that a child who has not had individual coaching in the tests may not perform as well as a child who has been coached. Test designers try to eliminate any bias resulting from these factors in the questions set. This school is a designated grammar school that selects its entire intake on the basis of high academic ability.

25. The Code requires selection tests to be “*clear, objective and give an accurate reflection of the child’s ability or aptitude, irrespective of sex race or disability.*” There is no requirement in the Code that grammar schools must set the same tests and even in an area such as Kent where there are many grammar schools, there is no requirement that the schools in an area must use the same tests. In practice, the Kent Test is used by all the Kent grammar schools and a child who passes this test is eligible to apply for any of the Kent grammar schools. Kent has confirmed that it reviews its tests with the support of the participating schools and the test provider, GL Assessment, to ensure that they meet the requirements of the Code and the needs of the area. The tests were last changed in 2015. The local authority makes provision for the selection tests to be taken in school time in the area’s primary schools.

26. Test designers seek to design tests to meet the requirements of the Code and to identify the most able proportion of the pupil population for the purpose of selection. Both the tests referred to in this determination are designed by reputable large scale organisations with a history of test design and wider pupil assessment. The objector provided a chart as evidence that some schools may be better at preparing their pupils for the tests than others. It showed that a greater proportion of the children from schools with an outstanding Ofsted judgement passed a selection test for a grammar school than the proportion of children from schools requiring improvement or with special measures. We know that Ofsted judges schools on the basis of their consolidated test results amongst other factors. It is also likely that there is a positive correlation between those children who achieve high scores in their national curriculum Key Stage 2 SATs tests and those who achieve high scores in the selection tests.

27. The objector provided the extract from the GL Assessment newsletter that said selection “*tests need to include as far as possible a test on ‘pure’ ability in order to assess a child’s potential rather than ‘what they know’.* This ensures that a child is not discriminated against if they have had fewer opportunities to develop reading skills and vocabulary, for example.” In demonstrating that they are aware of this issue, I consider that this is

evidence that the test designers are considering how to remove possible bias in the tests. I also recognise that this is not easily done and that the testing is under continual development. Nonetheless, grammar schools have to select by ability and to do this they test pupils. The school introduced the Dover Test because it wants to help more local children to qualify for a selective school place in their local grammar school. It explained how the marking scheme can assist those applicants who are stronger in some areas of testing but weaker in others. The objector gave figures that show that the proportion of applicants passing the Kent Test is different in different areas and that there is a correlation between the success rate and the socio-economic wealth of an area. The Kent Test is designed to try and identify the most able 25 per cent in a cohort across Kent. The school has put in place a response that may not entirely eliminate socio-economic differences but its Dover Test does provide a means to try and keep the differences to a minimum. Both the tests are seeking to identify the most able children and as such may be considered unfair by those who are unsuccessful in the tests. I am not persuaded that the evidence provided is sufficient to argue that the selection tests are unfair. The local authority has also explained that admission authorities in its area have a mechanism to take other factors into account when judging whether or not a child would be able to thrive in a grammar school in cases of doubt. For these reasons, I do not uphold this part of the objection.

28. The second part of the objection concerns the school's use of the Dover selection test as an alternative to the Kent Test. In many ways, this is a response to the points that have been discussed in the previous paragraphs. The school was concerned that the way the Kent Test was scored was to the disadvantage of local pupils. The objector appears to be quite content that there is an alternative or additional test available. The objection is more that the school should make a greater effort to ensure that parents know that there are two tests and that it could be to a child's advantage for them to take both. Having read the school's response to this point and viewed what it said at information meetings for parents and on the website, I consider that it takes a balanced approach to this and ensures that parents know enough to make an informed decision. I conclude that the school takes a balanced approach to this and that parents are likely to receive sufficient information to be able to take an informed decision in this matter. I do not therefore uphold this part of the objection.

### **Summary of case**

29. I have considered all the arguments made and have concluded that I do not uphold this objection. The objection is based on Dover Grammar School for Boys and this school provides two different tests for its applicants and the objector argues that the selective testing system is unfair for applicants who have attended a poor primary school. The school explains that it provides the Dover Test because the Kent Test identifies too few boys in the local area for a selective place, a point noted by the objector. The school argues that the Dover Test is more appropriate than the Kent Test for the local ability profile and allows strength in one area of testing to

compensate for an area of weakness. It argues that the Dover Test provides the most able local children with the opportunity to attend their local selective grammar school.

30. Reputable and long established providers who specialise in setting tests that meet the requirements of the Code provide both the Kent Test and the Dover Test. I have seen no evidence that the tests themselves are unfair. This school and the other Kent grammar schools are designated as selective schools and as such must select their applicants by academic ability. The Code requires selection tests to be “*clear, objective and give an accurate reflection of the child’s ability or aptitude, irrespective of sex race or disability.*” I have seen no evidence that this is not the case.

31. The school advises applicants that they should take both the Kent Test and the Dover Test and the reasons for this are explained to them. If an applicant wishes to apply for other grammar schools in Kent then they must pass the Kent Test. I am satisfied that the school takes reasonable steps to ensure that sufficient information is available for parents to enable them to make an informed decision concerning testing and I do not uphold this objection.

### **Other Matters**

32. When I reviewed the arrangements as a whole in the course of considering the objection, I noted that there was a matter that did not comply with the Code and raised this with the school. On the school’s website I could only find the admission arrangements for 2018 displayed. Paragraph 1.47 of the School Admission Code that says that admission authorities “*must publish a copy of the determined arrangements on their website displaying them for the whole offer year (the school year in which offers for places are made.*” The school has since taken action to rectify this omission and placed the arrangements for the relevant years on its website.

### **Determination**

33. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2017 determined by the governing body of Dover Grammar School, Kent.

Dated: 16 August 2017

Signed:

Schools Adjudicator: David Lennard Jones