



Office of  
the Schools  
Adjudicator

## Determination

**Case reference: ADA3540**

**Objector: An individual**

**Admission authority: The Governing Board of Stretford Grammar School, Trafford**

**Date of decision: 20 August 2019**

## 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 2020 determined by the governing board of Stretford Grammar School for Stretford Grammar School, Trafford.**

**I have also considered the arrangements in accordance with section 88I(5) and find that there are other matters which do not conform to 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 within two months of the date of the determination.**

## The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a person, the objector, about the admission arrangements (the arrangements) for Stretford Grammar School (the school), a foundation secondary school for pupils aged 11 – 18 for September 2020. The objector considers that the school's arrangements operate in a way which causes an unfairness to applicants who live Trafford, particularly to applicants who live in the Western M41 and M31 Trafford postcodes. The objector considers that the arrangements should give priority to Trafford residents, and not

to applicants living in the M15 and M16 postcodes situated in Manchester because applicants from these areas have more options in terms of available secondary school places.

2. The local authority (LA) for the area in which the school is located is Trafford Council. The LA is a party to this objection. Other parties to the objection are the governing board of Stretford Grammar School and the objector.

## **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by the school's governing board on 12 December 2018, which is the admission authority for the school. The objector submitted his objection to these determined arrangements on 21 April 2019. I am satisfied that 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**

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

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

- a) the objector's form of objection dated 21 April 2019 and further correspondence;
- b) the school's response to the objection, further correspondence and supporting documents;
- c) the LA's response to the objection, further correspondence and additional information provided;
- d) the LA's composite prospectus for parents seeking admission to schools in the area in September 2019;
- e) maps of the area identifying relevant postcodes areas and locations of schools;
- f) copies of the minutes of the meeting of the governing board at which the arrangements were determined on 12 December 2018; and
- g) a copy of the determined arrangements.

## The Objection

6. The objector says that the school offers a higher level of priority to applicants living in the Manchester M15 and M16 postcodes, as compared to applicants living within the Trafford Western M41 and M31 postcodes. This is due to the M15 and M16 postcodes lying closer to the school. However, he points out that residents in these M15 and M16 postcodes also have priority for other schools which cater for children of all abilities, whereas he suggests that Trafford residents living in the Western M41 and M31 postcodes do not have priority for any other all ability schools. Trafford is a wholly selective area.

7. The objector also considers that, because Urmston Grammar School has a higher qualifying score than Stretford Grammar School, applicants living in the M15 and M16 postcodes who do not achieve the qualifying score for Urmston, have the option of applying to Stretford as well as to other all ability schools, and that they have priority for these schools due to the location of their home address. In contrast, Trafford residents who are not offered a place at Stretford, and who are resident in the Western M41 and M31 postcodes, do not have a sufficient level of priority for other secondary schools. The objector considers that the effect of the school's arrangements is unfair and that the arrangements are unreasonable.

8. I have taken the term '*qualifying score*' here to mean the cut-off score for entry. The arrangements for both Urmston Grammar School and Stretford Grammar School state that the qualifying score is 334. This is the minimum score required for entry, whereas the cut-off score is the lowest score attained in order to gain admission. The cut-off score for a particular school may be considerably higher than the qualifying score. I note also that Urmston's arrangements give priority to residents in the M41 and M31 postcodes. So, as I understand it, the objector is arguing that, although residents in the M41 and M31 postcodes have priority for both Urmston and Stretford, they would need to achieve a higher score in the tests in order to be offered a place at Urmston than they would for Stretford; they do not have priority for any other selective schools; and they do not live in a postcode which is close enough to Stretford to provide a reasonable chance of being offered a place at the school.

9. Relevant paragraphs of the Code are paragraph 1.8 which states that "*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*", and paragraph 14 of the Code which states that "*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*".

## Other Matters

10. Since these arrangements have been drawn to my attention, I observed a number of other matters which appeared not to conform to the Code. I drew these to the school's attention in a letter dated 24 May 2019. These related to:

- the Automatic Review procedure;
- the definition of home address;
- the waiting list; and
- the procedure for admission outside of a child's normal age group.

## Background

11. The school is a mixed selective secondary school with a PAN of 160 for entry in Year 7. The school is part of the Trafford Grammar Schools CEM Consortium, consisting of Altrincham Grammar School for Girls, Sale Grammar School, Urmston Grammar School and Stretford Grammar School. These schools use the same entrance test, consisting of one test paper designed to test verbal, non-verbal and mathematical ability. There is a qualifying score of 334. Candidates who achieve a score of between 324 and 333 are deemed to have the right to be reviewed by a Review Panel. The test results are notified to parents by second class post no later than 18 October 2019. The arrangements say that, in order to qualify for a place at Stretford Grammar School, an applicant must gain the qualifying score of 334, and the school must be named as a preference on the LA's Common Application Form. Parents are informed that achieving the qualifying score is not an offer of a place.

12. The oversubscription criteria applied to those who meet the qualifying score are as follows:

**1. Looked After Children and all previously Looked After Children.** *A looked after child is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority, in the exercise of their social services functions (as defined in Section 22(1) of the Children Act 1989). Previously Looked After Children are children who were looked after but ceased to be so because they were adopted or became subject to a child arrangements order or special guardianship order. Section 14A of the Children Act 1989 defines a 'special guardianship order' as an order appointing one or more individuals to be a child's special guardian (or special guardians). This category includes children who have been in state care outside of England and ceased to be in state care as a result of being adopted. A child is regarded as having been in state care in a place outside of England if they were accommodated*

*by a public authority, a religious organisation or any other provider of care whose sole purpose is to benefit society.*

**2. 15 Pupil Premium Places** – *Places will be allocated to the highest performing candidates who qualify for Pupil Premium at the time of allocation, irrespective of distance. Candidates, on Pupil Premium, with equal scores to the lowest candidate in this allocation will also be offered places.*

**3. The top 20 scoring candidates**, *irrespective of home residence, will be allocated a place. Candidates with equal scores to the lowest candidate in this allocation will also be offered places.*

**4. Children who will have a sibling attending the School within Years 7 to 11 at the time of admission.**

**5. Successful candidates who live within the immediate area of the school;** *being M32, M33, M41, M15 and M16 (both within Trafford and Manchester) and including M21, this being the next closest postcode to the school.*

**6. Children who live nearest to the School**, *measured in a direct straight line from the child's permanent place of residence to the School.*

*If there are more successful applicants than can be accommodated at the School in criteria 1, 2, 3, 4 and 5 places will be offered to those children in each criteria whose place of residence is nearest to the School as defined in criterion 6. This will be measured using property co-ordinates provided through a combination of the Trafford Local Land and Property Gazetteer (BS7666), other LA data and Royal Mail Postal Address Information. In the case of a child living in a block of flats, the distance will be measured in the same manner.*

*Random allocation will be used as a tie-break to decide who has the highest priority for admission where the qualifying score and the distance between two applicants' home and the school is the same.*

13. The LA has explained that there are a total of seven grammar schools in the area of Trafford Council. In the 2019 admission round 120 places were allocated at the school under Category 5, namely applicants who were successful in the tests who lived within the immediate area of the School, this being within the M32, M33, M41, M15, M16 and M21 postcodes. The address furthest from the school was 3.2 miles from the School. 21 Places were allocated to pupils living outside the catchment area to Looked After children, applicants eligible for the Pupil Premium, highest performing applicants and applicants who had a sibling at the school.

14. The LA says that, although the LA is not the admission authority for any of its seven grammar schools, it has been able to ensure that every address in Trafford is included in at least one of the grammar school catchment areas. Two of the seven grammar schools are also schools with a religious character and give priority to children of their faith. The LA says *“Average and above qualifiers might be expected to be successful in every test, but those falling below the average score or borderline qualifiers may not meet the requirement for all the schools but, usually, can meet the requirement for their own local cohort. In a very few instances a child may not meet the requirements met by the qualifiers in its local cohort but may achieve the qualifying score for a school further away, where that cohort performance is slightly lower. To illustrate:*

*734 Trafford children achieved a place at 1 of the 5 non-faith grammar schools;*

*394 children resident in Altrincham, where the performance of the local cohort is highest, achieved places at other grammar school outside Altrincham;*

*158 children resident in Sale achieved places at grammar schools in Stretford and Urmston; and*

*15 children resident in Urmston achieved places at Stretford Grammar School.*

*It is the case that 10 children, resident in Trafford, that achieved a qualifying score at a grammar school but could not be allocated a place at any grammar school on national offer day. However, all 10 have been advised of their right to appeal and have been invited to join waiting lists for any vacancies that arise.*

*This outturn is similar year on year and, when considering the outcomes overall, the LA considers that the school’s catchment area is reasonable, being designed to prioritise children living nearest to the school and to be inclusive of those children resident in less affluent areas around the school”. The information provided by the LA in response to the objection has been informative and helpful.*

## **Consideration of Case**

### **The objection**

15. The objector considers that, as a Trafford school, Stretford Grammar School has “a responsibility to local children in providing a fully comprehensive ability range to those who do not have such other than Grammar”. He says that 110 grammar school places (approximately) have been “siphoned off” to non-Trafford residents this year from Stretford and Urmston. Stretford has become “a default school to lots of M33 (Sale) students as well as eastern M41 students at the complete neglect of western M41 and all M31 students. M15/M16/M21 all have fully comprehensive schools. This surely can only be seen as discriminatory, non-equitable

*and completely immoral...It also demonstrates that Academy and Foundation status schools have been allowed to cream off children from outside catchment areas and outside Trafford at the expense of Trafford children".* The objector considers that the school's arrangements should prioritise Trafford residents. He does not accept that the "*Greenwich judgment*" precludes this, and cites the "*Rotherham judgment*" in support of his argument.

16. The objector says that Urmston Grammar School has now "*‘upped’ their threshold entry scores to such an extent that not only are they taking a significant proportion of ‘Stretford’ children but over all they have a 2019 cohort which is close to 55% non-priority catchment. They also have a cohort made up of close to 50% from outside Trafford. This means they are providing for only close to 15% of the local population at least half of what it has been in fairly recent years. In the last 12 months the ‘furthest distance’ allocation has increased almost 2 fold from 4 miles to 7.5 miles with at least 30% beyond 4 miles and 20% beyond 5 miles. This alone is cause for concern and will be objected to in due course. These historical events have forced Stretford to recruit from beyond their recognised Trafford cohort and venture in to M15/16/21 etc. outside Trafford*".

17. The objector also says that "*‘circa 70 places for Urmston and circa 40 places for Stretford (110) out of a total of 330 PAN have been sold off to other authorities’*", and that "*‘the distribution of high schools and Grammar schools is loaded in favour of the eastern side running along the Bridgewater Canal and A56 and threshold pass marks should be the same across schools to draw a more representative cohort for each school’*". I understand the objector's argument to mean that a range of factors have combined to create a gap in the priority afforded to some applicants within the western areas of the M41 and M31 postcodes, which he holds Stretford Grammar School responsible for, although he does also say that he has concerns about the operation of the admission arrangements for Urmston Grammar School which (he says) will be objected to in due course. For the avoidance of doubt, this determination is concerned only with the arrangements for Stretford Grammar School. The objector's view is that the fact that Stretford Grammar School is located only a few metres from the border with Manchester clearly demonstrates the need for a nodal point system for allocation of places or a catchment area which does not extend beyond the borough boundary of Trafford in order to avoid "*‘prejudice’*" of the kind he is objecting to.

18. The school has informed me that it has a pre-determined catchment area which comprises the postcode areas surrounding the School. The M32, M33 and M41 postcodes are all within the Trafford Administrative Area; the M15 and M16 postcodes cover residences in both Trafford and Manchester; and the M21 postcode is in the Manchester local authority area. The school consulted on the policy, and no objections were raised regarding the postcodes adopted. The school says that the postcodes define an area which the school has traditionally recruited from. Whilst the school is a Trafford school, it sits on the border with Manchester and, as such, the postcodes seek to represent the area which the school has served in the past.

19. The LA says that the objector considers that the admission arrangements for Stretford Grammar School operate in a way which causes an unfairness to applicants residing within the Trafford area, as compared to applicants residing in the M15 and M16 postcode areas. However, a significant number of M15 and M16 postcodes are located within the area of Trafford Local Authority. Indeed, 1927 Trafford residences have a postcode beginning M15 and 8,024 Trafford residences have a postcode beginning M16. Whilst this information is relevant, my understanding is that, although the objector does refer to an unfairness to Trafford residents in general, he is referring to an unfairness which is alleged to apply more specifically to Trafford residents in the Western areas of the M41 and M31 postcodes.

20. The LA says that the school has determined a priority catchment area which includes children living in the areas nearest to the school. This is in accordance with the "*Greenwich Judgment*" which, according to the LA, established that pupils must not be discriminated against in relation to admission to a school solely because they reside outside the local authority area in which the school is situated. The LA says that the M21 postcode is located entirely within the Manchester administrative area and borders the M32 postcode close to the School. In 2019, 16 children resident in the M21 postcode were allocated places at the school, the closest living 0.37 miles from the School, and the furthest 1.19 miles from the School. In relation to the M15 and M16 postcodes, 23 applicants residing in Trafford were offered places, and 17 applicants residing in Manchester were offered places. This is a total of 33 Manchester residents offered places out of a PAN of 160.

21. The LA refers to the "*Greenwich judgment*". This is a reference to the case of *Regina v Greenwich London Borough Council, Ex parte Governors of the John Ball Primary School*". *Times Law Reports. The Times. 27 September 1989*. It is important to remember that what that judgment did was uphold that local authorities must comply with a provision in the Education Act 1980, which is now in section 86(8) of the School Standards and Framework Act 1998. I have set the relevant parts of the section out below:

*86(1) A [local authority] shall make arrangements for enabling the parent of a child in the area of the authority—*

*(a) to express a preference as to the school at which he wishes education to be provided for his child in the exercise of the authority's functions, and*

*(b) to give reasons for his preference.*

*(2) Subject to [subsection (3)] and section 87 (children excluded from two or more schools), [the admission authority for a maintained school] shall comply with any preference expressed in accordance with arrangements made under subsection (1).*



*(3) The duty imposed by subsection (2) does not apply—*

*(a) if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources; [or]*

*[...]*

*(c) if the arrangements for admission to the preferred school—*

*(i) are wholly based on selection by reference to ability or aptitude, and*

*(ii) are so based with a view to admitting only pupils with high ability or with aptitude,*

*and compliance with the preference would be incompatible with selection under those arrangements.*

*(8) The duty imposed by subsection (2) in relation to a preference expressed in accordance with arrangements made under subsection (1) shall apply also in relation to—*

*(a) any application for the admission to a maintained school of a child who is not in the area of the authority maintaining the school....*

22. Section 86(8) requires that the duty to comply with parental preference applies in relation to applicants who live outside a local authority's area in the same way as it applies to those who live within the area. This duty is considered by the LA to apply to the governing board of the school. The implications of the judgment are that an admissions policy which has been determined in order to give priority **exclusively** to residents in the local authority area in which the school is situated solely because they live in the area will be unlawful. As stated above, the school is situated in Trafford on the border between Trafford and Manchester, and its arrangements give priority to residents in both Trafford and Manchester.

23. The case law has evolved to some extent since the "*Greenwich judgment*". The objector refers to the case of *R v Rotherham MBC Ex p. T* [CA 4 November 1999] which is also relevant. In this case, a school's catchment was to some extent co-terminus with the borough boundary. The Court of Appeal held that it was lawful for a school to have a catchment area. If the catchment area could not itself be criticised, it would not be unlawful simply because it coincided to some extent with the borough boundary. The objector in this case suggests that the school should give priority exclusively to Trafford residents. The LA argues that the school cannot do this because it would be unlawful under the "*Greenwich judgment*".

24. It is important to explain my role clearly in this context. The school's arrangements afford priority on the basis of residence within particular postcodes. The school has selected postcodes within both Trafford and Manchester in areas close to the school. There is nothing

unlawful in this, and there is no case law which establishes that affording priority to applicants who reside in other local authority areas is precluded. Local authorities have an obligation to ensure that there are sufficient school places for residents within their area, but this is not the same as saying that local authorities when acting as admission authorities must not give priority to applicants who do not live in their area, and other admission authorities are not prevented from affording priority in their arrangements to applicants who do not live within the area in which the school is located.

25. It appears to me that the case law establishes that a catchment area adopted for sensible reasons (such as boundaries formed by major roads or railway lines) would be lawful, but the adoption of a catchment area for the express purpose of not giving priority to any applicants who live outside the local authority area would be unlawful. As an adjudicator, my role is confined to determining whether the admission arrangements under my consideration are lawful and in compliance with the Code. It is not for me to advise as to whether, if an admission authority chose to adopt different arrangements giving priority exclusively to Trafford residents, these would be unlawful or not. Neither is it within my powers to require an admission authority to adopt a particular set of arrangements or a different catchment area.

26. The question for me is whether the arrangements for this school are unreasonable and operate to cause the unfairness identified and alleged by the objector. Reasonableness and fairness are two separate questions. The essential difference between reasonableness and fairness is that reasonableness is judged from an objective basis, whereas a determination of what is fair will involve a subjective value judgment. A further significant difference is that, in considering whether a set of admission arrangements is reasonable, it is necessary to consider the reasons, or grounds, for adopting the arrangements, and the practical operation of the arrangements. In considering fairness, the focus of the consideration will be exclusively upon the effect or the practical application. The question is to whom are the arrangements unfair, how and why?

27. Turning firstly to reasonableness, the school is situated on the border of the Trafford and Manchester local authority areas, and the arrangements afford priority to applicants living in postcodes close to the school which fall within the areas of both local authorities. In considering whether an admission authority has acted reasonably, the test is whether no reasonable admission authority would have determined the arrangements in question, having taken into account all relevant factors. This is a high threshold, and I do not consider it has been met in this case. My view is that the school's reasons for adopting this particular set of admission arrangements are objectively reasonable. In adopting the postcodes it has, the school has established a predetermined catchment area which is described clearly to applicants, and is local to the school. This is a rational and reasonable approach.

28. Turning secondly to fairness. When considering fairness, an adjudicator must focus upon the effect, or the consequence, of the arrangements upon any relevant group. It is necessary then to identify the group of applicants which the arrangements are said to disadvantage unfairly. The objector suggests Trafford residents in general, and Trafford residents in the Western M41 and M31 postcodes in particular are unfairly disadvantaged. I do not consider that there is any basis upon which to make a finding that the arrangements disadvantage Trafford residents unfairly simply because they afford priority to some Manchester residents living in reasonable proximity to the school. The LA said that last year 33 Manchester residents were offered a place at the school. It could be said that this was at the expense of 33 Trafford residents. The table which the LA has submitted subsequently shows this to be 59 non-Trafford applicants based upon an allocation of 172 places. In any admissions year, there will be some applicants who will not be offered places where a school is oversubscribed. This could be said to disadvantage those applicants, but it does not automatically follow that the arrangements operate unfairly towards them.

29. Generally, it will be the case that an objectively reasonable set of admission arrangements could operate to cause unfairness where they have an unforeseen consequence which was not considered when the arrangements were determined. It is also possible that an admission authority could have foreseen that its arrangements might operate to cause an unfairness to some applicants, but had determined the arrangements anyway. Neither is the case here. The arrangements envisage that some applicants living in Manchester will be offered places at the school, but that more applicants living in Trafford will be offered places. I cannot see that there is any unfairness to Trafford residents in general. The law endorses cross-border admissions because this gives parents more options.

30. I can see an argument that there is an unfairness to Trafford applicants living in the Western M41 and M31 postcodes. This is said by the objector to be caused by a range of factors: Urmston Grammar School has a higher cut-off threshold for entry, and so applicants who are unsuccessful in obtaining a place at that school who also have priority for Stretford Grammar School are taking up places at Stretford which leaves fewer available places for Trafford applicants in the Western M41 and M31 postcodes; Trafford residents in these postcode areas allegedly do not have priority for other secondary schools, whereas Manchester residents living in the M15, M16 and M21 postcodes are in the objector's view able to obtain places at other non-selective secondary schools; Stretford is said to operate as "*a default school to lots of M33 (Sale) students*" as well as eastern M41 students; the objector considers that academy and foundation status schools "*have been allowed cream off children from outside catchment areas and outside Trafford at the expense of Trafford children*".

31. It appears that an applicant living in the Trafford Western M41 and M31 postcodes who has achieved the qualifying score for entry to Stretford could be 'displaced' by applicants who have not been offered places at Urmston or Sale Grammar Schools by virtue of those

applicants achieving higher scores or living closer to the school. I can see how this could be a possibility, and so I have examined this point carefully.

32. The LA had originally submitted evidence to support the argument that the arrangements do not disadvantage Trafford residents unfairly, but neither the LA nor the school had submitted arguments suggesting that there is no unfairness to Trafford residents living in the Western M41 and M31 postcodes. The LA had also said, as part of its response to the objection that, for admissions in 2019, it was the case that there were ten children resident in Trafford who had achieved a qualifying score for entry to a grammar school but could not be allocated a place at any grammar school on national offer day.

33. In light of this, my office asked the LA for further information. The LA explained that the Trafford Administrative Area is made of five distinct areas; Altrincham, Partington, Sale, Stretford and Urmston. Each of these areas, apart from Partington, has a grammar school which gives priority to children who live in the area. Partington residents are included in the catchment areas for Altrincham Grammar School for Girls and Urmston Grammar School. Six of the seven grammar schools are academies and one is a foundation school. According to the LA none of the seven grammar schools in Trafford is oversubscribed from its priority catchment area. The LA says that this means that every child who is successful in the entrance test for their catchment area grammar school who applies on time can achieve a place at their local grammar school.

34. All of the grammar schools standardise their scores against the actual outcomes of the children participating in the test. The LA says that this means there is not a standard cut-off score across Trafford, rather the cut-off score will be affected by the performance of the cohort. In general, the Altrincham cohort performs at a higher level and it is usually the case that an applicant who achieves the cut-off score for Altrincham Grammar School for Boys or Girls will also achieve the cut-off score for all of the other grammar schools. However, some residents from the Altrincham priority area will not achieve the required score for the Altrincham grammar schools but will achieve the required score for entry to other grammar schools. The same is true for Sale Grammar School where some residents from the Sale priority area do not achieve the score required for admission to Sale but will achieve the required score for entry to other grammar schools.

35. In relation to the ten children who achieved the qualifying score but were not offered a grammar school place in September 2019, these applicants "*were unsuccessful in the entrance examination for their local grammar school, did not achieve a high score and were not eligible to be considered under the pupil premium oversubscription criterion*". The LA says that places are available for each of these applicants at other local schools in Trafford, alongside other local children who did not achieve the qualifying score.

36. The LA has compiled a table setting out the allocation of places at Trafford's grammar schools in 2019 which the LA suggests indicates a surfeit of places for local children at each

grammar school, since a significant number of places are allocated to children from outside the priority area. I have set out the table below.

37.

| DfE Ref | Allocated Schools                   | PAN | Allocated | Trafford Residents | Non Trafford Residents | Non Trafford % | Other Planning Area Residents | Other Planning Area % | Planning Area |
|---------|-------------------------------------|-----|-----------|--------------------|------------------------|----------------|-------------------------------|-----------------------|---------------|
| 3584029 | Sale Grammar School                 | 180 | 198       | 194                | 4                      | 2%             | 88                            | 44%                   | Sale          |
| 3585404 | Altrincham Grammar School for Boys  | 173 | 199       | 190                | 9                      | 5%             | 53                            | 27%                   | Altrincham    |
| 3585407 | Altrincham Grammar School for Girls | 174 | 218       | 150                | 68                     | 31%            | 119                           | 55%                   | Altrincham    |
| 3584025 | Stretford Grammar School            | 128 | 172       | 113                | 59                     | 34%            | 74                            | 43%                   | Stretford     |
| 3585405 | Urmston Grammar School              | 150 | 154       | 87                 | 67                     | 44%            | 85                            | 55%                   | Urmston       |
| 3585901 | Loreto Grammar School               | 150 | 161       | 90                 | 71                     | 44%            | 113                           | 70%                   | Altrincham    |
| 3585900 | St. Ambrose College                 | 140 | 179       | 77                 | 102                    | 57%            | 129                           | 72%                   | Altrincham    |

38. The table does show that the percentage of other planning area applicants offered places for Stretford Grammar School was 43 and the percentage of non-Trafford residents was 34. The LA also says that many parents choose not to enter their children for selective tests or, when the child has not achieved the qualifying score at the local grammar school will, instead, apply for places a local non-selective school along with other children from their local primary school. Therefore it is the case that a number of high performing children attend the 12 non-selective secondary schools in Trafford which provide education appropriate to the full range of abilities and aptitudes.

39. The LA says that, in terms of non-selective schools:

- Boys residing in the M41 postcode area have priority at Wellacre Technology Academy.
- Girls residing in the M41 postcode area have priority at Flixton Girls School.
- Pupils residing in the M31 postcode area have priority at Broadoak School.
- Baptised Roman Catholic pupils residing in the M41 postcode area who attend an associated primary school also have priority at St Antony's Catholic College.
- Baptised Roman Catholic pupils residing in the M31 and M41 postcode area who attend a catholic primary school in Trafford also have priority at Blessed Thomas Holford Catholic College.

40. The objector responded to the information provided by the LA by suggesting that none of his comments had been questioned or refuted, and so they must be assumed to be valid. The objector observes that the Trafford grammar schools are undersubscribed from within priority catchment because the schools self-standardise their entrance scores with respect to cohort. If Urmston or Stretford had a lower threshold entry level more local/Trafford children would be offered places. *"The fact that many hundreds of children from outside Trafford take the exam/s, (Altrincham Boys has its own distinct exam, whereas Sale, Urmston, Stretford and Altrincham Girls use data from the same exam), means that standardisation will be influenced by these 'external' candidates. As Trafford schools surely the cohort to consider are Trafford children. We are now in a situation where schools are creaming off from other authorities and acting, especially in the cases of Altrincham Girls and Urmston, in a wholly independent manner because they can... What the data actually shows quite clearly is that in the cases of Altrincham Girls, Stretford and Urmston the threshold standardised scores are set too high for local children and therefore more and more external candidates have been allowed access over the years. As externally based parents have become more knowledgeable of this fact more and more take the test. We end up with cohorts such as Urmston this year where circa 25% of the year 7 intake will be travelling more than 5 miles. 44% from outside Trafford. One pupil travelling 7.5 miles"*.

41. If it is the case that many parents choose not to enter children for the selection tests, this means that a whole group of children are taken out of the standardisation process. The objector says that these local children do tend to be, in the vast majority of cases, the lower ability children, and that this therefore skews the data in favour of the very top end performers. This, in turn he says, prevents many middle to high performers gaining access due to high performing candidates who are resident in other areas being allocated places. Originally, all children took a single 11+ test and a simple normal curve was used to standardise based upon the number of places available. What is now in place is *"a wholly skewed set of cohorts where the external candidate cohort are actually higher ability generally than the Trafford cohort"*. The

objector says that very few high ability children choose the non-grammar school route. The objector considers that Trafford's non selective schools cannot provide the same support for high ability children as the grammar schools do because these schools teach in mixed ability classes and he maintains that by default teachers will teach to the general level across the classes. He says that *“Without top end children in these schools the children who miss out on a grammar school place because of externals do not have any aspirational targets as they are 'Top' of their class etc.”*

42. The objector says that that socio-economically the boroughs of Trafford and Greater Manchester are totally different. Manchester is much less affluent than Trafford. He suggests that Stretford and Urmston Grammar Schools are not taking top ability children from Manchester, they are admitting relatively less able applicants from Manchester, bringing their attainment levels down whilst Trafford children who would certainly have gained a grammar school place in the past are being allocated places in non-selective schools, thus boosting the Attainment 8 scores in some of Trafford's non-selective schools. I can see that it is the case that the arrangements could mean that a non-Trafford child in catchment who reached the qualifying score would be given a place ahead of an out of catchment Trafford child with a higher score. The objector suggests that the grammar schools, which are *“a massive resource fought for by Trafford councillors over many years”* are *“being 'sold off' by wholly elitist self-governing schools”*. Finally, the objector has described his personal experience. Although this is an important part of the arguments he has raised which I have considered carefully, I have not described these circumstances in the determination because it is a public document. Suffice to say, the objector considers that the whole system needs changing as it is not fit for purpose in the ways he has described.

43. It is clear that the objector feels very strongly that there is an unfairness here, and that the combined operation of the admission arrangements for the Trafford grammar schools has caused this unfairness. I have considered all of the objector's points very carefully indeed. Taking into account all of the information I have received, my conclusion is that, if there is any unfairness here in terms of some Trafford residents being unable to secure a place at the school, this arises as the objector says through a combination of factors. As the objector himself acknowledges, the situation is caused by different admission authorities adopting their own arrangements. Whilst these arrangements may be reasonable on their own, their effect when considered alongside the effect of other admission authorities' arrangements may leave some sort of 'gap', into which some children could fall. Where unfairness is caused by a range of factors and admissions policies, it is not possible to attribute the unfairness to any one set of admission arrangements. This is a consequence of allowing individual admission authorities to determine their own arrangements, which is specifically sanctioned by the law.

44. However, I am not convinced there is necessarily an unfairness to applicants living in the Western M41 and M31 postcodes. The arrangements make clear that achieving the qualifying score is not a guarantee of a place. The LA says that most applicants resident in

Trafford who achieve the qualifying score do obtain a place at their local grammar school. There are a few applicants every year who do not, and I understand fully that this can be devastating for those applicants and their parents. It is one thing not to be offered a place because an applicant has not attained the qualifying score, it must feel inappropriate to attain the qualifying score but still not be offered a place. However, achieving a qualifying score will not always mean that a child can be offered a place and whenever more children reach the qualifying score than there are places, some will be disappointed. In Trafford, such applicants do have priority for other non-selective secondary schools, and I do not agree with the objector that an academically able pupil will necessarily achieve less well at a non-selective school. The academic achievements of any individual depend upon that individual. There is no right to a grammar school place which arises from the fact of living in a local authority area where there are grammar schools, and there will inevitably be some applicants who are disappointed. Where a perceived unfairness arises from a range of circumstances which combine to create an adverse outcome for a particular child, as opposed to arising from one set of admission arrangements, this is not a situation which the adjudicator can remedy. However, parents do have the right to lodge an appeal against the decision not to offer their child a place at the school, and the appeal Panel will focus upon the effect of the decision upon an individual applicant, as opposed to the arrangements themselves. **My view is that the school's arrangements do not themselves create an unfairness, and for this reason I do not uphold this aspect of the objection.**

## **Other Matters**

### **The Automatic Review Procedure**

In relation to the Automatic Review Procedure, I have written to the school separately on this point as it is a complex point which has not been raised by the objector. For the purposes of this determination, I will simply say that the school need not make any revisions in relation to this aspect of its arrangements. The definition of home address

45. The definition of '*home address*' excludes the addresses of relatives. Whilst I understand that the purpose of doing this is to deter applicants from using the address of a relative who lives close to the school as their home address in order to gain an unfair advantage, some children actually do live with relatives. Examples of this are children whose parents have died or are unable to look after them, and looked after children who have been placed with relatives by the local authority. In these cases, the child has no other home address.

46. In relation to separated parents, the home address in a case where both parents live within the priority areas is said to be the average of the distances from the school. Where one parent lives within a priority area, and the other does not, the child is taken to live outside the priority area. Neither aspect of the definition arrives at the address where the child actually lives. Whilst I understand the desirability of certainty in any definition adopted for the purpose



of admission arrangements, the definition used here is capable of creating an unfairness to the children of separated parents. For example, if a child lived with a parent in the M16 postcode from Sunday to Friday, but lived outside the priority areas on Saturdays, that child would be deemed to be living outside the priority areas, which would not in fact be the case during the school week. The definition of “*home address*” as it applies in these instances conflicts with the principle enshrined in the definition of “*residence*” in the arrangements, which states that an applicant’s residence is the main permanent home of the applicant.

47. Paragraph 14 of the School Admissions Code states that “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”. The school has said that its notes my comments and has made changes to this definition. However the definition of “*home address*” in the arrangements which were attached to the school’s email of 11 June 2019 did not appear to have addressed this point, as its read:

48. *“The child’s home address means the address where the child normally and permanently lives on a full-time basis, not the address of any child-minder, grandparent or any other relative. In the case of parents/carers who are separated or divorced **and** where child-care arrangements are shared between two addresses in the priority admissions area, the average of the distances of the two addresses from the School will be used for the purpose of determining priority for admission. Where one of the addresses is outside the priority admission area the applicant will be regarded as living outside this area and the average of the distance of the two addresses from the School will be used for the purpose of determining priority.*”

49. Perhaps this is an oversight. I am grateful to the school for its cooperation, however **the definition of home address remains unreasonable and may operate unfairly in the situations I have highlighted. Accordingly, the definition will need to be revised in order to conform to the requirements of paragraph 14 of the Code.**

#### The waiting list

50. The arrangements did not state how long the Y7 waiting list remains in operation for. They stated that, should a place become available, the oversubscription criteria would be applied to those on the waiting list. But what was not explained was how this would work in relation to applicants who apply after the normal admissions round, and whether or not these applicants are tested. If they are not tested, the arrangements were unclear as to how they would be ranked against those on the list who have been tested. This part of the arrangements appeared to me to be unclear, and not to conform to paragraph 14 of the Code.

51. The waiting list provisions also appeared not to conform to paragraph 2.14 of the Code which states: *“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, previously looked after children, and those allocated a place at the school in accordance with a Fair Access Protocol, **must** take precedence over those on a waiting list”*.

52. The school responded by saying it had amended its arrangements to clarify the operation of the waiting list, and explained that its custom and practice is to keep the waiting list open for all five years. The school regularly contacts parents whose children’s names are on the waiting list to ask whether they wish their child’s name to remain on the list for consideration in the future. The amended version of the arrangements which was sent to me does now say: *“Applicants for in year admission may join the waiting list if a place is not available within the relevant year group, providing they have qualified through the School’s Entrance Test or have met the criteria to be considered for admission to the Sixth Form”*. I am grateful to the school for its cooperation, and for making this clearer in the arrangements. However, the arrangements still do not make clear whether the school will test all applicants who have not been tested in the normal admissions round. This must be made clear one way or another. If the school does not intend to test these applicants, it should be made clear that they will be placed on the list after the applicants who have been tested, and will be tested only if a place becomes available. Alternatively, if the school intends to test each applicant when they apply and then rank them on the list, the arrangements must state that this is the case.

#### The procedure for admission outside of a child’s normal age group

53. The arrangements for admission in September 2020 which were sent to the OSA did not make any provision for admissions outside of a child’s normal age group. This appeared to be contrary to paragraph 2.17 of the Code which states: *“Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1. Admission authorities must make clear in their admission arrangements the process for requesting admission out of the normal age group”*. This procedure is now set out clearly in the arrangements which were sent to me on 11 June 2019.

54. The school’s website and the local authority’s website did not show the admission arrangements for September 2020, but this has now been rectified. The LA has produced maps of the postcode areas, which have been very useful to me in terms of being able to see the location of the various different postcode areas. I am grateful to the LA for doing this.

55. There is a further technical matter which concerns a mandatory provision of the Code which I did not mention in my letter to the parties dated 24 May 2019. This is that the first oversubscription criterion refers to Looked After and previously Looked After children as including children who have been in state care outside England and those who have ceased to be in state care as a result of being adopted. I am aware that the Department for Education has written to admission authorities recommending that they afford priority for this group of children in their admission arrangements, and the school has rightly done so. However, I am also aware that the law requires that first priority must be afforded to Looked After and previously Looked After children, and that the legal definition of these children does not include children who have been in state care outside England. The advice of the Department was that admission authorities should give **second priority** to these children. The fact that the legal definition of Looked After and previously Looked After children does not include children who have been in care overseas precludes admission authorities giving first priority to these children. This aspect of the arrangements will therefore need to be revised.

## Summary of Findings

56. In summary, I find that the school's arrangements are not unreasonable and do not themselves operate to create an unfairness. Therefore, for the reasons set out above, I do not uphold this objection. I find that aspects of the arrangements referring to the Automatic Review and Local Review processes, will not need to be revised. I find that the school has revised its arrangements to make them clearer in relation to the operation of the waiting list, however the revised arrangements remain insufficiently clear about the procedure for applicants who have not been tested in the normal admissions round, and so they will need to be revised further in order to make this sufficiently clear. I find that the arrangements contain clear provision for children admitted outside of their normal age group. Finally, I find that the arrangements will need to be revised to ensure that children who have been in state care outside England and those who have ceased to be in state care as a result of being adopted are not afforded first priority.

## Determination

57. 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 2020 determined by the governing board of Stretford Grammar School for Stretford Grammar School, Trafford.

58. 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.

59. 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.

Dated: 20 August 2019

Signed:

Schools Adjudicator: Dr M Vallely