Office of the Schools Adjudicator

Determination

Case references: **ADA3511 Camp Hill School for Boys**
ADA3512 Camp Hill School for Girls
ADA3513 Aston School
ADA3514 Five Ways School
ADA3515 Handsworth Grammar School for Boys
ADA3516 Handsworth School for Girls

Objector: An individual

Admission authority: King Edward VI Academy Trust Birmingham for Camp Hill School for Boys, Camp Hill School for Girls, Aston School, Five Ways School, Handsworth Grammar School for Boys and Handsworth School for Girls

Date of decision: 17 January 2020

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, we do not uphold the objections to the admission arrangements for September 2020 determined by the King Edward VI Academy Trust Birmingham (the admission authority) for each of the following six Birmingham Grammar schools:

Camp Hill School for Boys;

Camp Hill School for Girls;

Aston School;

Five Ways School;

Handsworth Grammar School for Boys; and

Handsworth School for Girls.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), the objections have been referred to the adjudicator by a member of the public (the

objector) about the admission arrangements for the six King Edward VI grammar schools (the KEVI schools), each of which is a selective secondary academy for children aged 11 to 18. Of these, Camp Hill School for Boys (Camp Hill Boys), Handsworth Grammar School for Boys (Handsworth Boys) and Aston School (Aston) admit only boys. Camp Hill School for Girls (Camp Hill Girls) and Handsworth School for Girls (Handsworth Girls) admit only girls and Five Ways School (Five Ways) admits both boys and girls.

2. The local authority for the area in which the school is located is Birmingham City Council (the LA) which is a party to the objection. The other parties to the objection are the objector and the admission authority which is the King Edward VI Academy Trust Birmingham (the Trust) along with the Headteachers and Chairs of Local Governing Boards for Camp Hill Boys, Camp Hill Girls, Aston, Five Ways, Handsworth Boys and Handsworth Girls. The local authority (LA) for the area in which the school is located is Birmingham City Council.

Jurisdiction

3. The terms of the Academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the admission authority on that basis. I am satisfied that the admission arrangements were determined at the latest on 18 March 2019 when the decision of the Directors of the admission authority by electronic vote was recorded in the minutes of a Directors' meeting. Although the deadline for determining admission arrangements was 28 February 2019, I do not find that any prejudice arose as a result of a late determination. A late determination does not affect the status of the arrangements or my jurisdiction to consider the objections (which can only apply to determined admission arrangements). The objector submitted an objection to the determined arrangements of each of the schools on 25 March 2019. We are satisfied the objections have been properly referred to us in accordance with section 88H of the Act and are partly within our jurisdiction to the extent explained below.

4. Joint adjudicators have been appointed to deal with this and other objections by the same objector, Dr Bryan Slater and Tom Brooke. I am the lead adjudicator for this matter and have drafted this determination which is agreed by Dr Slater. Specific provision is made in the Education (References to Adjudicator) Regulations 1999 for the chief adjudicator to allocate a case to more than one adjudicator and to appoint one of them to be the lead adjudicator.

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. a copy of the determined arrangements including maps of the catchment areas;

b. the objector's form of objection dated 23 March 2019 and supporting documents;

c. the comments of the trust on the issues raised in the objection

7. I have not found the submissions and evidence as presented by the objector easy to follow. In addition to several documents containing submissions, the objector submitted 14 emails attaching a very large number of documents in September 2019. In order to try to clarify the points the objector wished to make and how he considered these points were supported by the evidence submitted, the objector was asked to set out his submissions in single document and to present his evidence in a chronological and paginated bundle. This he has refused to do. Nevertheless, I have considered all the submissions and evidence presented by the objector and, insofar as it is relevant to the issues I have needed to decide, I have taken it into account.

Background and oversubscription criteria

8. Each of the KEVI schools to which these objections relate is designated as a grammar school by order made by the Secretary of State under Section 104 of the Act. The published admission number (PAN) for entry to each school in September 2019 for Year 7 and the number deemed to constitute 25 per cent of the PAN (for the purposes of criterion 3 of the oversubscription criteria, relating to pupil premium) is as follows:

School	**PAN**	**25%**
Camp Hill Boys	120	30
Camp Hill Girls	150	38
Aston	140	35
Five Ways	180	45
Handsworth Boys	150	38
Handsworth Girls	160	40

9. Entrance to each of the schools is determined by a child's performance in an entrance test. The schools are all part of a consortium of schools, along with five other grammar schools in Warwickshire and two other grammar schools in Birmingham, which use a common entrance test (the Entrance Test).

10. The Entrance Test consists of standardised tests of verbal, numerical and non-verbal reasoning ability. Each child taking the Entrance Test will be awarded a combined score, standardised according to the age of the pupil. For admission to any of the schools all

children must attain at least the “qualifying score”. Admission under criterion 4 depends on a child attaining the higher “priority score”. The “qualifying score” and the “priority score” are to be published prior to the date of the entrance test.

11. The oversubscription criteria are the same for each school save that the catchment areas differ and that the definition of siblings in the case of Camp Hill Boys and Camp Hill Girls and in the case of Handsworth Boys and Handsworth Girls includes older siblings (of the opposite sex) attending the twin school. In category 3 the number of places which constitute 25 per cent of PAN will, of course, vary according to the PAN for each school as set out in the table above. The oversubscription criteria in so far as they are common to all the KEVI schools are as follows:

> *“Applicants are required to sit an entrance test and must achieve the qualifying score in order to be eligible for admission to the school. Where the number of eligible applications for admission exceeds the number of places available at the school, places are offered as follows:*
>
> *1. Looked After Children / Previously Looked After Children who achieve the qualifying score. Applicants in this category will be ranked by test score and then by distance from the school.*
>
> *2. Children attracting the Pupil Premium who achieve the qualifying score and live within the school catchment area. Applicants in this category will be ranked by distance from the school.*
>
> *3. If fewer than [xx] places (25% of the PAN) are filled by applicants in category 2, offers will be made to children attracting the Pupil Premium who achieve the qualifying score and live outside the catchment area, until a total of [xx] children attracting the Pupil Premium have been offered. If [xx] or more places are filled by applicants in category 2, there will be no offers made from this category. Applicants in this category will be ranked by test score. Where scores are equal, priority will be given to those with a sibling at the school; then by distance from the school.*
>
> *4. Applicants who achieve the priority score and live within the school catchment area. Applicants in this category will be given priority if they have an older sibling at the school; then ranked by distance from the school.*
>
> *5. Applicants achieving the qualifying score. Applicants in this category will be ranked by test score. Where scores are equal, priority will be given to those with a sibling at the school; then ranked by distance from the school.”*

12. All of the KEVI schools are heavily oversubscribed, with many more applicants who meet the qualifying score than there are places available.

Consideration of Case

Matters not within our jurisdiction

13. The jurisdiction of adjudicators under section 88H of the Act relates only to valid objections about the schools' admission arrangements. In this case, we have concluded that there is no jurisdiction to consider the following matters:

a. Issues relating to admissions appeals.

b. Issues relating to allegations of wrongdoing.

Matters that are within our jurisdiction

13. The matters which are within our jurisdiction are set out below. The objector has referred a large number of objections to the Schools Adjudicator under Section 88H of the School Standards and Framework Act 1998 (the Act) over the past several years. Each of the objections relates to a school which is a designated grammar school or a bilateral school with selective places. Each school objected to requires applicants to have sat a test of ability. In every case that test is set by the Centre for Evaluation and Monitoring (CEM). Many, although not all, of the objections relate to grammar schools situated in Warwickshire and Birmingham. The same issues have been raised in numerous of the objections.

14. The objector has referred 14 objections to the Schools Adjudicator in 2019, which follow the pattern described above and raise issues that have been the subject of the previous determinations. In order to ensure the efficient the use of public money and resources which this gives rise to, while also ensuring that we discharge our statutory duties properly in dealing with these multiple objections, the adjudicator has decided to adopt a broadly common format for considering the issues that the objector has raised.

15. We have set out our conclusions and the reasons for those conclusions in a table attached to this determination as Appendix 1. When setting out the conclusions and reasons on each point dealt with below I will refer, where appropriate, to the relevant paragraphs of text in Appendix 1.

16. The objector has raised procedural points relating to documents filed in High Court actions to which he refers and previous test papers. These points are dealt with in Appendix 1 part 1.

In respect of all six objections.

The consultation.

Whether the consultation was compliant with the provisions of the Code and/or relevant statute and common law.

17. The admission arrangements for 2020 have changed significantly from those in preceding years. The number of children given priority because they are entitled to pupil premium has increased from 20 percent to 25 percent (2020 criteria 3 and 4). The schools have introduced catchment areas (2020 criteria 2 and 4). The "cut off" scores (the "qualifying score" and the "priority score" for 2020) have been standardised across all six schools, having previously differed from school to school.

18. Paragraphs 1.42 and 1.43 of the Code and paragraphs 12 to 17 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) set out the requirement for consultation, who is to be consulted and the manner of consultation. This is set out in paragraph 1.42 of the Code as follows "*When changes are proposed to admission arrangements, all admission authorities **must** consult on their admission arrangements (including any supplementary information form) that will apply for admission applications the following school year*". There are some changes for which consultation is not required but these do not concern us here as it is not in dispute that the introduction of the changes outlined above required consultation.

19. The Code sets out the requirements for consultation in paragraph 1.43-1.44 as follows:

> *"1.43 For admission arrangements determined in 2015 for entry in September 2016, consultation **must** be for a minimum of 8 weeks and **must** be completed by **1 March 2015**. For all subsequent years, consultation **must** last for a minimum of 6 weeks and **must** take place between **1 October** and **31 January** in the determination year.*
>
> *1.44 admission authorities **must** consult with:*
>
> *a) parents of children between the ages of two and eighteen;*
>
> *b) other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
>
> *c) all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
>
> *d) whichever of the governing body and the local authority who are not the admission authority;*
>
> *e) any adjoining neighbouring local authorities where the admission authority is the local authority; and*
>
> *f) in the case of schools designated with a religious character, the body or person representing the religion or religious denomination.*
>
> *1.45 For the duration of the consultation period, the admission authority **must** publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website together with details of the person within the admission authority to whom comments may be sent and the areas on which comments are not sought[38]. Admission authorities **must** also send upon request a copy of the proposed admission arrangements to any of the persons or bodies listed above inviting comment. Failure to consult effectively may be grounds for subsequent complaints and appeals."*

20. The consultation was conducted by Birmingham City Council (the Council) on behalf of the admission authority. This is common practice. The responsibility for ensuring that the

consultation is compliant with the requirements of the Code and the law relating to admissions and consultations remains that of the admission authority.

The persons who must be consulted.

21. Paragraph 1.44 a) of the Code requires that *"parents of children between the ages of two and eighteen"* are consulted. Regulation 12 includes the additional words "…*who are resident in the relevant area*". The precise definition of the "*relevant area*" is not in dispute and for my purposes it is sufficient to take it to be the wider area in which the KEVI schools are situated. I do not consider that it would be practical for an admission authority to identify the name and home address of every such parent and to write to each individually, nor that this is what was envisaged by the wording of the Code or the Regulations. Emails with information about the consultation were sent by the Council to the governing bodies of all primary and secondary schools in Birmingham and to all Birmingham nurseries. Information about the consultation was published on the admission authority's website, the Council's website and the Birmingham Be Heard website, where the Council publishes details of consultations by public bodies. Information was sent by the admission authority to parents of children at all the KEVI schools, to MPs and councillors together with regular posts and updates on social media. An open consultation meeting was held at Camp Hill Boys on 11 December 2018. The Trust arranged appearances on TV and radio and in the press publicising the proposals. Schools passed on information about the consultation to parents. The proposals were controversial and were widely known and discussed. We find that the steps taken to consult "*parents of children between the ages of two and eighteen"* were reasonable and are satisfied that the great majority of parents with any interest in the proposals were aware of them and able to respond to the consultation.

22. We do not find that the provisions of the Code or of the Regulations required consultation nationally as suggested by the objector.

23. We do not uphold the objection on this point.

24. **The manner of consultation.** The requirement set out in paragraph 1.45 is that "*details of the person within the admission authority to whom comments may be sent"* must be published. This reflects the requirement in paragraph 16(1)(a) of the Regulations. The consultation was published on the Birmingham City Council website (the Birmingham website) and included a contact email address and number. Information published on the admission authority's website clearly referred anyone interested to the Birmingham website. No specific person was named. In that respect the consultation does not strictly comply with the requirement in paragraph 1.45 of the Code. However, it was in our view clear to anyone seeking to respond to the consultation how they could do so. No evidence has been presented to me to show that anyone wishing to respond was unable to respond or deterred from doing so by the omission of a named person and we think it very unlikely that this was the case. We do not find that any prejudice arose from this omission. I do not uphold the objection on this point.

The consideration of the consultation.

25. The admission authority "*received 991 responses to the consultation, of which 56% being not in favour of the proposals and a further 17% suggested various amendments- leaving only 27% generally in favour of the proposals made*". We accept these statistics but do not find that they in any way demonstrate that the responses to the consultation were not considered. A consultation is not a vote and there is no requirement that a decision maker follows the view of the majority of respondents.

26. The Academy Trust Board met on 21 January 2019 and 11 February 2019 after the consultation on the proposed admission arrangements. At these meetings the responses to the consultation were discussed and analysed. On 25 February the Board voted electronically on the proposals. On 18 March the Board noted the outcome of that vote, which was unanimously in favour of the proposals. We find that the trust did sufficiently consider the responses to the consultation. The objection is not upheld on this point.

27. It is also submitted that the stated rationale of a reduction in travel distances is not achieved by the introduction of catchment areas. It is common sense that where a school is highly oversubscribed, as all of these schools are, if priority is given to applicants living in catchment areas which surround the schools then many of those admitted will live closer to the school. It is also the case that in the past where greater priority was given on the basis of scores in the entrance test, with less account taken of where children lived, that children will have travelled to the schools from significant distances. In some cases this would have involved lengthy travel within Birmingham, as it was necessary to achieve a higher pass mark to gain a place at some of the schools than at others. The schools' new arrangements do give priority to those who live in catchment areas and I find that this is likely to reduce travel distances. We find that this aspect of the rationale is met by the 2020 arrangements. The objection is not upheld on this point.

28. The objector raises a number of points dealing with the rationale for catchment areas and what he considers to be the proper definition of grammar schools. We do not accept these points. The admission arrangements preserve the grammar school status of the schools and are compliant with the law and the Code relating to grammar schools, catchment areas and priority for pupils eligible for pupil premium.

The definition and setting of the "priority score" and the "qualifying score"

29. The admission arrangements make it clear that "*qualifying score*" is a basic threshold that all applicants must meet in order to be considered for admission. It is also clear that "*priority score*" refers to a higher score which must be achieved in order to be considered under criterion 4 of the admission arrangements. The admission arrangements state clearly that the scores will in each case be published on "*the school website and www.birminghamgrammarschools.org prior to the entrance test*". We do not consider that further explanation is required. The objection is not upheld on this point.

The inclusion of provision for pupils who move into the "local area" including testing of such applicants after the main test date

30. The admission arrangements make provision for children who move into the "*local*

area" after the deadline for test registration has passed. The "*local area*" is defined more widely than the various catchment areas as applications may be made by those living outside the catchment area for any given school under oversubscription criteria 1,2,3 and 5. It is clear that this provision applies to children who move "*into the local area*", that is from somewhere outside that area. The provision is clear. It is reasonable to make such provision for this group of children. The issue of late testing of applicants is considered elsewhere in this determination.

The priority given to siblings where test scores are equal

The Code, at paragraph 1.9 states "*It is for admission authorities to formulate their admission arrangements, but they* ***must not****…*j) *in designated grammar schools that rank all children according to a pre-determined pass mark and then allocate places to those who score highest, give priority to siblings of current or former pupils*". The admission arrangements provide for priority within criterion 5 for those with siblings at the school as follows "*Applicants in this category will be ranked by test score. Where scores are equal, priority will be given to those with a sibling at the school; then ranked by distance from the school".* It is clear that the priority given to siblings in the admission arrangements is only effective to distinguish a tie on score for the last place available under criterion 5, so that if two or more pupils tie on score for that place and one or more has an older sibling at the school (or the twin school, see below) the pupils with a sibling will gain the place. Otherwise it is decided by distance. The position in clarified by the provisions of the Code relating to tests for selection. Paragraph 1.33 states "*Admission authorities* ***must not*** *adjust the score achieved by any child in a test to take account of oversubscription criteria, such as having a sibling at the school*".

31. In my view the provision in paragraph 1.9 j) is intended to prevent siblings being given an advantageous weighting in the ranked score such as is prohibited by paragraph 1.33. That is not the case in these admission arrangements. Where scores are equal for the last available place any reasonable tie breaker provision may be applied, including priority for a child with a sibling attending the school (or a twin school). The objection is not upheld on this point.

The provision for electronic registration for the test.

32. The Code does not make specific provision for the method by which parents or carers are to register to take tests of ability. However, paragraph 14 of the Code requires admission arrangements to be fair. The objector points out that some people do not have access to the internet, or the necessary skills, to make an electronic application. Nevertheless, electronic only access to information and indeed to benefits and services is increasingly widely accepted. Provision for postal applications would not benefit those who are illiterate. The local authority, on behalf of the trust, process many thousands of applications every year. These applications are processed using software which links to the electronic registration process. There will be significant administrative advantages in an electronic only registration process. Some people may find electronic registration difficult, just as some would find postal applications difficult. On balance we find that the provision

for electronic registration is fair. The objection is not upheld on this point.

The provisions relating to an applicant's home address:

a) in relation to the dates of residence

33. The admission arrangements set out clearly that an applicant's home address is the address where they are living on the date of the application. This is a sensible provision as that is the deadline for parents/carers to sign and submit the application form. In the normal admissions round application will be made on the common application form (CAF) to the local authority for the area in which the parents/carers live. The deadline for submitting the CAF in relation to secondary schools is 31 October 2019. A home address is necessary in order to process the applications as it is relevant to the oversubscription criteria. Some pupils may move home address after the date of application, that is inevitable, but a cut off date must be set and the trust have chosen for this to be the application date. We find that they are entitled to do so. The objection is not upheld on this point.

b) in relation to the evidence of residence required

34. The admission arrangements state only "*An applicant's home address will be verified by the local authority as part of the school application process*". We find that this is clear. It is not necessary to set out how such verification will be carried out, although many admission authorities are more specific. The objection is not upheld on this point.

Whether the words "fraudulent or intentionally misleading" require any further definition and who decides the issue

35. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 6 of Appendix 1 to this determination. It is not necessary to state who decides this issue as it will obviously be decided by the admission authority. The objection is not upheld on this point.

The provisions relating to the withdrawal of places

36. There is provision for withdrawal of a place where an application is "*fraudulent or intentionally misleading".* As stated above the words are clear and require no further definition. We do not consider that it is necessary to set out a full list of examples of what may be considered "*fraudulent or intentionally misleading"* and an admission authority cannot be expected to anticipate and list every possible type of wrongdoing. The objection is not upheld on this point.

Setting a score for applicants in receipt of pupil premium which is lower than the score required of other applicants and giving priority to applicants in receipt of pupil premium under oversubscription criteria 2 and 3

37. We note that the same or substantially the same issue was raised by the objector in an objection to the then admission arrangements for Lawrence Sheriff School in 2014. Although in each case the admission arrangements differ in the wording and the provisions

of the Code (which was revised in 2014) are not identical, in essence the facts and law are the same. That determination is not a precedent and is not in any way binding on us. However, we agree with the reasons and conclusions of the adjudicator in that determination (ADA2608) which did not uphold the objection. Paragraph 1.39A of the Code now in force expressly permits priority for pupils in receipt of pupil premium. There is no provision in the Code or in the law relating to admissions which prevents the use of lower scores in the qualifying test for this group of pupils. It is correct that this will disadvantage applicants who are not in receipt of pupil premium. All oversubscription criteria advantage some and thus disadvantage others. The question for us is whether any advantage or disadvantage is fair. The purpose in this case is to provide an advantage to a group of pupils who are otherwise disadvantaged. This is a legitimate aim explicitly contemplated in the Code. Consequently, we find that such disadvantage as results for applicants not entitled to the pupil premium is not unfair. The objection is not upheld on this point.

38. The objector states that this provision discriminates against "*racial groups*". He does not supply data to substantiate this claim so we make no finding on that point. If it is the case that significantly fewer pupils from a particular racial group are eligible for pupil premium then indirect discrimination may arise. If so, we find that the priority afforded to applicants who qualify for pupil premium is, as in the provisions of section 19(2)(a) of the Equality Act 2010, "*a proportionate means of achieving a legitimate aim*" namely of supporting the opportunity for disadvantaged children (of any racial background) to achieve a grammar school place and that consequently there is no unlawful discrimination.

The requirement that parents must tick the pupil premium box when registering their child for the test.

39. This information is relevant to the oversubscription criteria and consequently is necessary in order to administer the application process. The evidence will be required at some point. This information is not requested in the local authority's common application form which all applicants must complete by 31 October 2019. All applicants for the school must register for the test by a deadline set in June or July 2019. Requiring parents to complete a separate form dealing only with eligibility for pupil premium at a later stage of the process would unnecessarily complicate the process. The requirement for this information to be provided when registering for the test is proportionate and reasonable.

40. It is conceivable that a child may become eligible for pupil premium at some point between registration for the test and the closing date for applications. The Code does not set a date on which a child must be eligible. As we have found in the above paragraph it is reasonable to set the cut off point at the time of registration for the test. The objection is not upheld on this point.

The catchment areas

41. Section 104 of the Act provides for the designation of schools as grammar schools where "*all (or substantially all) of its pupils [are] to be selected by reference to general ability, with a view to admitting only pupils of high ability*". Section 104(2) states that in "*deciding whether a school's admission arrangements fall within* [the criteria set out above]

any such additional criteria as are mentioned in section 86(9) shall be disregarded". The additional criteria mentioned in section 86(9) are "*additional criteria where the number of children in a relevant age group who are assessed to be of requisite ability or aptitude is greater than the number of pupils which it is intended to admit to the school in that age group*". The application of additional criteria, such as catchment areas, to determine admissions where too many applicants have the necessary ability, does not preclude designation as a grammar school. To put it another way selection by reference to general ability does not necessarily mean selecting the most able. It is perfectly lawful for a grammar school to set an ability threshold and then decide among those who have met that threshold are to be admitted on the basis of criteria which are not related to ability. Many grammar schools take this approach. In addition, such an approach is explicitly contemplated in the Code at paragraph 1.20 which is concerned with grammar schools only and which states "*Where admission arrangements are not based solely on highest scores in a selection test, the admission authority* ***must*** *give priority in its oversubscription criteria to all looked after children and previously looked after children who meet the pre-set standards of the ability test*."

42. I have dealt above with the question of whether grammar schools may have oversubscription criteria in addition to selection by reference to ability. It is clear that they may. Included in oversubscription criterion 2 and 4 is a degree of priority based on catchment areas. These are included in the oversubscription criteria for 2020 for the first time. Previously applicants were ranked by score in each criterion.

43. We do not accept the objector's points relating to catchment areas being elitist, unfair or unreasonable. Catchment areas are specifically envisaged by paragraph 1.14 of the Code. The Trust have set out their intention in introducing the catchment areas. They wish "*to enhance our historic mission of providing high-quality education for the children of Birmingham, regardless of background*". In pursuit of this aim they wish to improve accessibility for local pupils eligible for pupil premium. The 2020 admission arrangements achieve this by giving a high priority to this group of pupils. The effect of this is likely to be that every child eligible for pupil premium who achieves the qualifying score and lives within the catchment of one of the schools will be able to attend his or her catchment grammar school. I also note that by equalising the required scores between schools, pupils will be more likely to attend a school nearer their home, so reducing transport costs, which is particularly beneficial for less well off families. We find that these goals are both rational and lawful. If any disadvantage arises in relation to any social or ethnic group, as the objector suggests, I do not find that this arises as a result of any direct discrimination. With regard to indirect discrimination I have been provided with data which shows the ethnic make up of the pupils admitted to the school in recent years. Without data on the ethnic make up of the local area from which pupils come and without data of the extent to which, if at all, the ethnic make up of pupils admitted in September 2020 will change, I am unable to reach any conclusion regarding indirect discrimination. If any indirect discrimination arises, we find that the priority afforded to applicants based on catchment areas is, as in the provisions of section 19(2)(a) of the Equality Act 2010, "*a proportionate means of achieving a legitimate*

aim" namely of giving priority to those who live in the area local to the school. We do not uphold the objection on this point.

In respect of Camp Hill School for Boys only.

The provisions for the waiting list

44. The provision referred to by the objector reads as follows:

"*Year 7 (first term) If a vacancy arises during the first term of Year 7, the waiting list in existence from 1 March of that year will be used and the place offered in accordance with the admissions criteria above. This is a list of those who sat the entrance test in September 2019 and who did not receive an offer from this school or a more preferred school*"

Provision for late testing is not set out here or elsewhere in the admission arrangements. However, the schools' website sets out the arrangements, as follows:

"If your child is unable to sit tests on Saturdays for religious reasons we are able to arrange an alternative date. Please tick the box on the registration form and email a supporting letter from your religious leader if you would like us to do this. ***An alternative date will not be offered without a supporting letter.*** *This letter must be submitted no later than Friday 28 June 2019."*

It is clear that late testing is allowed in these circumstances. Since it is not stated that it will be a different test it is reasonable to assume that the same test will be used. For 2020 entry the main test date was Saturday 7 September 2019 it is also reasonable to assume that any alternative date would also be in September. There are no other provisions for late testing in the first term of Year 7 and so it is reasonable for the waiting list for that period to apply only to those who sat the test in September 2019. The objection is not upheld on this point.

Whether use of the same test for selection by ability for later additional sittings is compliant with the provisions of the Code and the law relating to admissions.

45. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 2 of Appendix 1 to this determination. The objection is not upheld on this point.

In respect of all of Camp Hill School for Boys, Camp Hill School for Girls, Handsworth Grammar School for Boys and Handsworth School for Girls only. The priority afforded to siblings attending the corresponding school for pupils of the opposite sex.

46. The previous arrangements contained no provisions for priority for younger siblings of pupils at the schools. The 2020 arrangements allow for sibling priority where test scores are equal for criteria 3, 4 and 5. Although there was no sibling priority under the prior arrangements some parents would have expected siblings to follow their older brothers or sisters provided they achieved a high enough score. For some applicants, the new

arrangements, and particularly the introduction of catchment areas, will make this less likely. The consultation asked for comments on this issue and it is clear that responses were received on this point and that these were considered by the Trust before the determination decision was reached. In the end the Trust decided, as it was entitled to do, that it would limit the sibling priority to that set out in the determined arrangements.

47. Paragraph 1.12 of the Code specifically anticipates this position as follows: "*Some schools give priority to siblings of pupils attending another state funded school with which they have close links (for example, schools on the same site, or close links between two single sex schools). Where this is the case, this priority must be set out clearly in the arrangements*". The provision in the admission arrangements is clear and compliant with the Code. The objection is not upheld on this point.

Determination

48. In accordance with section 88H(4) of the School Standards and Framework Act 1998, we do not uphold the objections to the admission arrangements for September 2020 determined by the King Edward VI Academy Trust Birmingham (the admission authority) for each of the following six Birmingham Grammar schools:

Camp Hill School for Boys;

Camp Hill School for Girls;

Aston School;

Five Ways School;

Handsworth Grammar School for Boys; and

Handsworth School for Girls.

Dated: 17 January 2020

Signed:

Schools Adjudicator: Mr Tom Brook

Appendix 1

The parts of this Appendix set out below cover points raised by the same objector in a number of objections to the admission arrangements of a number of schools. Not all points are relevant to the determination of each objection. Each determination makes specific reference to the parts that are relevant to that determination.

Part	
1	**Procedural points** 1. In his submissions the objector raised some procedural points. He invited me to request documentation from the courts which dealt with injunction proceedings. We have seen and considered the published judgments. The issues before the High Court are not the same as those being considered here although some of the facts are relevant. I am satisfied that I have all necessary information. We do not consider that documentation such as statements of case would assist us in reaching a decision. 2. The objector has also asked me to seek copies of earlier tests from the test provider. We do not consider that a comparison of earlier tests or a cross reference of the content of earlier tests to information published on websites would assist us in our consideration of this matter. 3. The objector has suggested that we hold a meeting of the parties. Where an adjudicator seeks a meeting it is in order to clarify issues raised where these are unclear, or to gather further information where information is lacking. In this case neither arises. We do not consider that a meeting would assist us in reaching a decision.
2	**Whether use of the same test for selection by ability for later additional sittings is compliant with the provisions of the Code and the law relating to admissions.** 1. In 2018, for the first time, the Schools Adjudicator adopted a "first case" procedure, whereby an issue or issues raised in multiple objections could be considered in a first case, with adjudicators (either the same adjudicator or another adjudicator) considering the same issue in other cases then able to adopt that that reasoning, subject of course to providing all parties with an opportunity to comment on that reasoning and with consideration of any reasons advanced by those parties for why it should not be followed. In those cases, adjudicators have found (in very short summary) that the re-use of the same test does not breach paragraphs 14 or 1.31 of the Code, because: a. Children will recall some of what they have encountered when taking tests, however this recall is likely to be limited (see ADA3349, paras 25-30), b. The likelihood of such knowledge being passed on in the normal course of events is limited (see ADA3349, paras 31-35);

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	c. The likelihood of such content, if passed on, significantly affecting test results is limited (see ADA3349, paras 36-40); d. Some late testing is necessary, to allow for matters such as the unavoidable indisposition of candidates (see ADA3349, paras 41-43); e. It is, on balance, fair and reasonable to use the same test, rather than different tests, for later sittings and doing so can yield an accurate reflection of the child's ability (see ADA3349, paras 44 to 46). 2. A letter was sent to the objector by the Office of the Schools Adjudicator (OSA) explaining the process to be followed in this case. That letter sets out the matters to be considered. The letter refers to earlier determinations of objections relating to Alcester Grammar School (ADA3349) and Rugby Grammar School (ADA3351). In relation to this issue, in which the same or substantially the same issue has been considered and determined in ADA3349 and ADA3351, the letter stated: a. *"the lead adjudicator notes that the same or substantially the same issue has been considered and determined in ADA3349, dated 27 July 2018, a copy of which can be accessed by this* link*. The whole determination should be considered but paragraphs 18 to 48 specifically address this point. Further matters in relation to this issue have considered in ADA3351 dated 12 December 2018, a copy of which can be accessed by this* link*. The whole determination should be considered but paragraphs 21 to 30 specifically address those further matters. On initial consideration it appears to the lead adjudicator that the conclusions and the reasons given in ADA3349 and ADA3351 apply equally to this issue as raised in the current objection;* b. *the lead adjudicator invites any representations as to why this issue in the current objection ought to be considered or determined differently."* 3. The objector responded to the letter, following any responses from the local authority and the school which were copied to him, with a document headed "*Invited Submission*" together with attachments. This document sets out the reasons why he disagrees with the consideration and conclusions in the determination of his objection regarding ADA3349 and ADA3351. It is clear that the objector considers that ADA3349 and ADA3351 were wrongly decided on this issue. 4. ADA3349 was published on the OSA website on 27 July 2018 and ADA3351 on 12 December 2018. Decisions of the adjudicator are binding on the admission authority in question and any other person or body. There is no provision in the statutory framework for an appeal from an adjudicator's determination. A person who considers that the decision is defective may apply to the High Court for leave to bring proceedings for judicial review and if leave is granted may bring such

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	proceedings. No application to bring proceedings for judicial review had been made at the time of completing this determination. Consequently ADA3349 and ADA3351 stand as published. 5. ADA3349 and ADA3351 do not constitute precedents and we are required to consider this objection on its own merits. We have considered all of the points raised by the objector in relation to ADA3349 and ADA3351. In particular, we have considered whether any point raised would cause us to consider that this issue, identified as being the same or substantially the same issue in the present case, should be looked at differently from the way they were looked at in ADA3349 and ADA3351. 6. We find that the points raised by the objector regarding ADA3349 and ADA3351 do not lead us to consider that any point in ADA3349 and ADA3351 was wrongly decided. A number of the points made in the "*Invited Submission*" are based on the assertion that the injunction proceedings brought against the objector by Warwickshire County Council showed that there was a real risk of the test process being compromised if children could remember information from the tests. In fact, as I explained at paragraphs 37-38 of ADA3349, that was not the finding of the Court. 7. The objector refers in the "*Invited Submission*" to what he calls an "*independent research study*" which is published on his website. There are no details of how, where or when this study took place or of any methodology used or any review carried out by any reputable academic body. The study purports to show that children can remember some of the content of a test devised and administered by the objector. The question for us in this case is not in fact whether children can remember some of the content of tests. They may well do so. The question is whether having remembered content, they will do so accurately and pass it on to other children who will then remember it accurately and whether such sharing of information will compromise the integrity of the testing regime. All this has been addressed in the earlier determinations ADA3349 and ADA3351. In this context and for the reasons relating to the nature of the study, we find that the study has very little relevance or evidential value in our consideration of these cases. 8. The objector refers to a "*later High Court case*". We have read the judgment in this case and we find that it adds nothing new to the matters considered in the other judgments referred to above and considered in ADA3349 and ADA3351. 9. The objector refers to a response by Durham University regarding the reuse of tests "*Durham University does not make recommendations for the reuse of tests. The University makes the tests available for reuse by customers in response to customer requirements*". This is a neutral stance and certainly does not endorse the objector's view that the reuse of tests is unfair or improper. I note in passing that CEM is no longer part of Durham University having become part of Cambridge University. 10. The objector states in the objection that "*there is no reason for children*

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	not to pass on content once they have been offered places". This would not arise until some months after a child has taken the test. While some tests are used for up to two years, the "second" tests for reasons of illness or religion take place within a few days or weeks of the main tests. This is likely to be early in the autumn term of say 2019 and thus well before children who took the test on the first day have been offered places which will not be until early March 2020. This does not change our view on whether and to what extent test content may be recalled and/or passed on. 11. The objector's further criticisms of the evidence given to the Court that I referred to in ADA3349 and ADA3351 do not persuade us that any of the factual conclusions we reached were wrong. 12. The objector also disagrees with a number of the conclusions reached in ADA3349 about the likelihood of information being passed on, the likely impact of a child knowing in advance what one or more of the questions would be, the difficulties of ranking where different tests are used and the level of accuracy that is achievable in tests of ability. We have considered the points made by the objector, but disagree with him for the reasons already set out in ADA3349. 13. The objector has not given any reason or reasons why the facts in the present case mean that it should be considered differently to ADA3349 and ADA3351. 14. The objector raises this point in the same or substantially the same terms to those he raised in ADA3349 and ADA3351. In deciding this issue we adopt the reasons and conclusions set out in paragraphs 18 to 48 of ADA3349 and summarised above. It is not necessary to set out the relevant paragraphs of ADA3349 here. We do not uphold the objection on this point. 15. The objector also states: "*Late testing is unfair, as people may know content and allows one to leap frog to the top of the waiting list*". We find that the use of late testing is not unfair for the reasons set out above. We do not uphold the objection on this point.
3	**Setting a score for applicants in receipt of pupil premium which is lower than the score required of other applicants.** 1. We note that the same or substantially the same issue was raised by the objector in an objection to the then admission arrangements for Lawrence Sheriff School in 2014. Although in each case the admission arrangements differ in the wording and the provisions of the Code (which was revised in 2014) are not identical, in essence the facts and law are the same. That determination is not a precedent and is not in any way binding on us. However, we agree with the reasons and conclusions of the adjudicator in that determination (ADA2608) which did not uphold the objection. Paragraph 1.39A of the Code now in force expressly permits priority for pupils in receipt of pupil premium. There is no provision in the Code or in the law relating to admissions which prevents the use of lower scores in the qualifying test for this group of

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	pupils. It is correct that this will disadvantage applicants who are not in receipt of pupil premium. All oversubscription criteria advantage some and thus disadvantage others. The question for us is whether any advantage or disadvantage is fair. The purpose in this case is to provide an advantage to a group of pupils who are otherwise disadvantaged. This is a legitimate aim explicitly contemplated in the Code. Consequently, we find that such disadvantage as results for applicants not entitled to the pupil premium is not unfair. 2. The objector states that this provision discriminates against "British-Indian children". He contends that a lower proportion of this group are eligible for pupil premium, and that it is indirect race discrimination. He does not supply data to substantiate this claim so we make no finding on that point. If it is the case that significantly fewer pupils from this group are eligible for pupil premium then indirect discrimination may arise. If so, we find that the priority afforded to applicants who qualify for pupil premium is, as in the provisions of section 19(2)(a) of the Equality Act 2010, "*a proportionate means of achieving a legitimate aim*" namely of supporting the opportunity for disadvantaged children (of any racial background) to achieve a grammar school place and that consequently there is no unlawful discrimination. 3. We do not uphold the objection on this point.
4	**The provisions relating to an applicant's home address in relation to dates of residence.** 1. The admission arrangements set out clearly that an applicant's home address is the address where they are living on the date of the application. This is a sensible provision as that is the deadline for parents/carers to sign and submit the application form. In the normal admissions round application will be made on the common application form (CAF) to the local authority for the area in which the parents/carers live. The deadline for submitting the CAF in relation to secondary schools is 31 October 2019. 2. In addition, there is provision for a change of address after the date of application up to 31 December 2019. This reason for choosing this date is not explained but presumably is chosen in order to allow sufficient time for the schools and the local authority to process all applications by the National Offer Day 2 March 2020. For that reason changes of address after 31 December 2018 are processed as late applications. It is inevitable that there will be a cut-off date after which changes of address will have to be processed separately. 3. We find that these provisions are clear, fair and reasonable and are in compliance with the relevant provisions of the Code and consequently we do not uphold the objection on this point.
5	**The provisions relating to an applicant's home address in relation to the evidence of residence required.**

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	1. Provisions in the admission arrangements relate to proof of residence at the stated address at the relevant time. Proof of the address at which the child is living at the time of application is required by 31 December 2019. Separately, where there is a change of address prior to 31 December 2019, proof of address is also required by 31 December 2019. 2. The address is to be verified by evidence produced by the parents/carers. Paragraph 2.5 of the Code states "*Admission authorities may need to ask for proof of address where it is unclear whether a child meets the published oversubscription criteria*". In the arrangements this takes the form of copies of official documents. I note that copies are required, not originals, and therefore that the objector's concern that these are not returned is misplaced. We find that the documents required (in each case from a list of possible documents) are typical of those required as proof of address by admission authorities across the country and by various institutions for many purposes. The vast majority of families would be able to provide this evidence. We find that the requirements documentary evidence of address are clear, reasonable and fair. 3. The arrangements also make it clear that in some circumstances further investigation may be carried out. This is stated a number of times, including the right to carry out random checks at any time which may include a home visit. It is also clear that if the address at which the child is living at or after the start of Year 7 changes, further checks may be carried out. This is clearly designed to prevent the use of fraudulent or intentionally misleading addresses. Unfortunately, admission authorities across the country have problems with false addresses being given by parents/carers in order to increase a child's chances of gaining a place at a particular school. This is probably the most common instance of "*a fraudulent or intentionally misleading application*" as addressed in paragraphs 2.12 and 2.13 of the Code. 4. The admission arrangements (relating to both address at the time of application and change of address by 31 December 2019) also flag up that subsequent changes of address may lead to further investigation and to a requirement for further proof of address. The issue is that some parents/carers will move temporarily to a different address, without an intention permanently to reside there, in order to apply to a school from that temporary address. We find that it is fair and reasonable for the admission authority, or, as here, a local authority on behalf of the admission authority, to take these steps in order to investigate what may be *"a fraudulent or intentionally misleading application*". There is no difficulty with a move undertaken for genuine reasons. 5. We find the provisions relating to proof of address to be clear, reasonable and fair as required by the Code.
6	**Whether the words "fraudulent or intentionally misleading" require any further definition.**

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	1. These words appear in paragraph 2.12 of the Code, as follows: *'An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application. Where the parent has not responded to the offer, the admission authority **must** give the parent a further opportunity to respond and explain that the offer may be withdrawn if they do not. Where an offer is withdrawn on the basis of misleading information, the application **must** be considered afresh, and a right of appeal offered if an offer is refused."* 2. They carry their ordinary meaning, which is clear in this context. The wording in the admission arrangements follows the wording in the Code. We do not consider that any further definition is required and consequently we do not uphold the objection on this point.
7	**The provisions relating to the potential withdrawal of a place where an applicant has sat the same test twice. The provisions relating to an individual taking the same test more than once.** 1. It is obvious that a child taking the same test a second time would be likely to have an unfair advantage over a child who is taking the test for the first time. This would be obvious to the great majority of people, including parents entering their children for the test. It is also obvious that this is completely different from matters concerned with the passing of content from one child to another. 2. There is provision for the first test result to be used where it becomes apparent that the later result comes from a second sitting of the same test. This is clear, fair and reasonable. 3. There is provision for withdrawal of a place where an application is "*fraudulent or intentionally misleading".* The words are clear and require no further definition. In the unlikely event that a parent in all innocence had their child sit the same test twice, in relation to different schools, perhaps because that parent was unaware that the same test is used in relation to different schools, then that would not be *"fraudulent or intentionally misleading*" and provision is made for the result of the first sitting to be used. We do not consider that it is necessary to set out a full list of examples of what may be considered "*fraudulent or intentionally misleading"* and an admission authority cannot be expected to anticipate and list every possible type of wrongdoing. 4. We do not uphold the objection on this point.
8	**The provisions for sharing test scores between the Warwickshire and Birmingham elements of the "consortium of grammar schools"; and** **The wording of the provisions relating to a late request for sharing test results and the effect of late registration where the test has not been taken**.

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	1. The testing process requires parents to register their child for the test by a deadline in June or July 2019. A child will sit the test administered by either Birmingham City Council or by Warwickshire County Council. The schools are part of the "*consortium of grammar schools*" comprising schools in each of those authorities. Parents may opt to have their raw test scores shared with the other local authority and can thereby apply to consortium schools within either or both authorities. 2. Parents must positively indicate that they wish the test scores to be shared. It is raw scores that are to be shared. Standardisation of those scores will be carried out separately in each authority. We find that it is reasonable and fair to require parents to state that they wish scores to be shared at a point early in the normal admissions round to allow efficient administration. It would not be practical for authorities to have to amend documentation and inputs to the software used to process applications on an ad hoc basis throughout the process. Where a request for sharing is received after the registration date the original registration stands and registration for the other authority (with whom sharing is now requested) will be considered as late. 3. The paragraph in the arrangements which reads "*If your registration is considered to be late your child will not be tested until after 2 March 2020*" does come after the provisions discussed above but is clearly intended to refer to late registrations in general. Where registration with one authority is considered to be late because sharing of results was not requested the test would be taken at the usual time and could not, of course, be taken again. When read in context we do not find this to be unclear. 4. The issues regarding later testing using the same test are dealt with elsewhere in the determination. 5. We find that these arrangements are clear, fair and reasonable and consequently we do not uphold the objection on this point.
9	**The timescale for testing applicants whose registration is considered to be late.** 1. As the admission arrangements state, those registering late for the test are treated the same as those submitting a late application for a school place. Such applicants can sit the test but only after the on-time applications have been processed. There are separate considerations and a separate process for sitting the test late where an applicant is unable to sit on the original test date. We do not find that this is inconsistent or unclear. It is a practical provision to allow efficient administration of the testing and applications process. Consequently, we do not uphold the objection on this point.
10	**The provisions for additional testing sessions for applicants who have moved house and candidates who cannot sit the test on a Saturday for religious reasons.** 1. We find that it is clear from the context that the provision of additional

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	sessions for movers gives flexibility for those who have moved into the school's area from elsewhere. It allows them to register for a test to be held in January 2020. The objector points out that it is not specified that the move is to be into the school's area from elsewhere. We find that it is reasonable to assume that this situation would not arise unless the move was from elsewhere to an address close enough to the school for it to be practical for the child to attend. We find that the objector's point is unnecessarily literal. Consequently we do not uphold the objection on this point. 2. We find that provision of alternative later test days, not on Saturdays, for candidates who cannot sit on a Saturday is fair and reasonable. The issues relating to later testing using the same test are dealt with elsewhere in the determination. Consequently we do not uphold the objection on this point.
11	**The provisions for signing and dating photographs of an applicant by a third party.** 1. Children sitting the test are required to arrive at the venue with a photograph signed and dated by their headteacher or, if home educated, by "*a responsible person drawn from the range of professionals acceptable for passport identification purposes*". The relevant provisions for identity confirmation for passport applications, including a list of acceptable professions, are clearly set out online within the **gov.uk** website. We find that the objector's point that *"it is not clear what is meant by the "range of professionals acceptable for passport identification purposes""* is misconceived. Consequently we do not uphold the objection on this point.
12	**For in year applications the provisions for taking into account previous test results or for testing applicants.** 1. Where a child applying in-year for a place in Year 7 has sat the test in one or other authority a valid test score will be available. These will be no need to have the child sit a further test. The test result can be shared between authorities where appropriate. This is outside the main admissions round and the provisions for sharing test results between the two authorities in the normal admissions round do not apply. Consequently we do not uphold the objection on this point.
13	**The provisions which apply in the event of multiple in year applications where some children have taken the CEM entrance test and some children have sat the school's tests.** 1. This is a situation which is unlikely to arise in practice. It would only arise if a place at the school became vacant and there were two or more pupils seeking that place and at least one had taken the test and at least one other had not. As an indication of the infrequency with which this may happen, Lawrence Sheriff school have informed me that it has never arisen at that school. The objector has provided no examples or evidence that it has happened at any other school, However, as it is possible if unlikely, it is sensible that provision is made for it. That

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	provision is set out in the arrangements as follows: "*the admission panel will compare the results of the in-year tests against the ability range of the cohort to determine equivalent entrance test scores*". The objector states that this is not comparing like with like as the test is one of general ability and the school tests are in English and maths. That argument has some force but we find that the method proposed by the school is satisfactory and, given the unlikelihood of it arising at all, proportionate to the circumstances. The objection is not upheld on this point.
14	**The provisions for providing evidence of eligibility for pupil premium. Why it is necessary to identify a child as a pupil premium candidate before she sits the test. Whether there is any requirement to give details of the position if a child ceases to be eligible for pupil premium prior to the date of application.** 1. This information is relevant to the oversubscription criteria and consequently is necessary in order to administer the application process. The evidence will be required at some point. This information is not requested in the local authority's common application form which all applicants must complete by 31 October 2019. All applicants for the school must register for the test by a deadline set in June or July 2019. Requiring parents to complete a separate form dealing only with eligibility for pupil premium at a later stage of the process would unnecessarily complicate the process. The requirement for this information to be provided when registering for the test is proportionate and reasonable. 2. It is conceivable that a child may cease to be eligible for pupil premium at some point between registration for the test and the closing date for applications. The Code does not set a date on which a child must be eligible. As we have found in the above paragraph it is reasonable to set the cut off point at the time of registration for the test. The objection is not upheld on this point.
15	**Whether a request for information relating to pupil premium constitutes a request for personal details about financial status prohibited by paragraph 2.4 a) of the Code.** 1. Priority for pupils in receipt of pupil premium is expressly provided for in paragraphs 1.39-1.39B of the Code. 2. Paragraph 2.4 of the Code specifically refers to paragraph 1.9 f). Paragraph 1.9 f) provides an exception regarding financial status as follows: *"It is for admission authorities to formulate their admission arrangements, but they **must not**:…* *give priority to children according to the occupational, marital, financial or educational status of parents applying. The exceptions to this are*

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	children of staff at the school and those eligible for the early years pupil premium, the pupil premium and the service premium who may be prioritised in the arrangements in accordance with paragraphs 1.39 - 1.39B;" 3. When paragraphs 2.4 and 1.9 are read together it is clear that the Code permits requests to be made for information confirming a child's eligibility for pupil premium. The objection is not upheld on this point.
16	**The provisions relating to late applications (after the 31 October deadline) who subsequently take the test and are placed in ranked order with those applications remaining after the initial allocation of places in March 2020.** 1. It is reasonable for those who apply after the 31 October deadline for submitting applications to be treated as late applicants and consequently for their applications to be considered after the initial round of allocations. We do not uphold the objection on this point.
17	**The provisions for testing in year applicants.** 1. The admission arrangements refer to the school's website where the following provision is set out: "*Required academic standard* *In year applicants take a MIDYIS/YELLIS test, alongside a test in Mathematics and one in English. The test candidate's score is compared to the results of the existing students in the given cohort. If results fall within the range in each of the three components then the candidate is considered to be of the required academic standard*." 1. We find that the school's approach is a pragmatic way of dealing with an issue affecting a relatively small number of applicants. It is reasonable in these circumstances to use tests including English and maths to assess a pupil's ability by comparison with their cohort peer group. The alternative would be either to have them sit the same test as the other pupils, which is not suitable for those who are 12 years old or above, or to sit an entirely new test which could not easily be compared to other sitters. 2. We do not uphold the objection on this point.
18	**The same test being sat a few days earlier in other schools.** 1. A letter was sent to the objector by the Office of the Schools Adjudicator (OSA) explaining the process to be followed in this case. That letter sets out the matters to be considered. The letter refers to an earlier determination of an objection relating to ADA3374 Calday Grange Grammar School. In relation to this issue, in which the same or substantially the same issue has been considered and determined in ADA3374, the letter states: a. *"In relation to the point made by the objector relating to the same*

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	test being sat a few days earlier in other schools (in and around Torquay) the lead adjudicator notes that the same or substantially the same issue has been considered and determined in ADA3374 dated 12 December 2018, a copy of which can be accessed by this link. The whole determination should be considered but paragraphs 28 to 32 specifically address this issue. On initial consideration it appears to the lead adjudicator that the conclusions and the reasons given in ADA3374 apply equally to this issue as raised in the current objection; *b. the lead adjudicator invites any representations as to why these issues in the current objection ought to be considered or determined differently".* 2. The objector raises this point in the same or substantially the same terms to those he raised in ADA3374. In deciding this issue we adopt the reasons and conclusions set out in paragraphs 28-32 of ADA3374. It is not necessary to set out the relevant paragraphs of ADA3374 here. We do not uphold the objection on this point.
19	**The meaning of the words "qualifying standard", "required standard" and "academic standard for entry" and how the "required standard" is applied in the oversubscription criteria.** 1. The admission arrangements for Stroud and Crypt Grammar schools, both in Gloucestershire, use the phrase "qualifying standard" and "required standard" and "academic standard for entry" interchangeably. In our view parents would be able to read the arrangements and understand that each of these phrases refers to the same requirement, being a minimum score to be achieved in the entrance test in order to be eligible for admission, subject to the other oversubscription criteria. 2. We do not find that the Code requires the process for setting this score to be set out in the admission arrangements. 3. We find that it is clear from the wording of the admission arrangements that the words "qualifying standard" refer to a minimum score which must be attained in order to be considered for entry to the school. 4. The objection is not upheld on this point.
20	**The provisions relating to children of staff. Whether any method for determining a "demonstrable skill shortage" is required to be set out. Whether "staff" requires any further definition.** 1. The Code explicitly allows for priority to be given to the children of staff in certain circumstances. The word "*staff*" and the term "*demonstrable skill shortage*" are taken directly from the Code. The Code does not contain any further definition of these terms. The word "*staff*" will be taken to mean people employed to work in the school. There is no need for any further definition. There will be a number of ways in which a "*skill shortage*" may be demonstrated, which will vary according to the circumstances in a particular school at a particular time. There is no

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	need for a process to be set out in the admission arrangements. The objection is not upheld on this point.