Office of the Schools Adjudicator

Determination

Case reference: ADA3662

Objector: An individual

Admission authority: The Governing Board of Stratford Girls Grammar School

Date of decision: 13 October 2020

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, Dr Vallely and I do not uphold the objection to the admission arrangements for September 2021 determined by the governing board of Stratford Girls Grammar School for Stratford Girls Grammar School, Stratford, Warwickshire.

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 Stratford Girls Grammar School (the school), a selective academy school for girls aged 11 – 18 for September 2021. The objection is to the following aspects of the arrangements for admission to Year 7:

a) the re-use of the same selection tests for late sitters and late applicants;

b) the use of age standardisation in the selection tests;

c) the exclusion of male students from the sixth form and a lack of clarity in the arrangements as to how an application made by a boy to the sixth form who self-identifies as a girl would be treated;

d) the detail of the residency requirements; and

e) the availability of late testing for some students who miss the tests.

2. In his response to the representations of the admission authority, the objector raised an additional issue which was not part of the original objection. This related to the minutes of a governing board meeting at which it was recorded that the school paid for 'logins' to test preparation materials for those pupils who were in receipt of the pupil premium and not for other students. As it is a matter of clarification of the documentation sent from the school we have responded to this issue in the determination as point six.

3. The local authority for the area in which the school is located is Warwickshire County Council. The local authority, the governing board of the school and the objector are the parties to this objection.

4. This is one of twelve objections to the admission arrangements for September 2021 for twelve different schools referred to the Office of the Schools Adjudicator by the same objector. Dr Marisa Vallely and I have been appointed as joint adjudicators for these twelve objections as permitted by the Education (References to Adjudicator) Regulations 1999. I have acted as the lead adjudicator for this case and have drafted this determination.

5. There are a number of aspects which are common to all twelve objections. We are aware that the objector has made objections to other schools in previous years about these same aspects. Those objections have been determined by different adjudicators. We have read the relevant previous determinations and taken them into account. Those determinations do not form binding precedents upon us, and we have considered each of these aspects afresh. The approach we have taken is to discuss each of the common aspects in the objections which have been made this year and agree the wording of our determinations in relation to those aspects. Some identical wording will appear in each of the twelve determinations in relation to these common aspects.

6. Where an objection also contains aspects, which are unique to that objection, the lead adjudicator has made a determination on each of those aspects which has then been read and agreed by the other adjudicator prior to completion of the determination.

Jurisdiction

7. 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 governing board, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 3 April 2020. We are satisfied the objection has been properly referred to us in accordance with section 88H of the Act and it is within our jurisdiction.

Procedure

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

9. The documents we have considered in reaching our decision include:

a. a copy of the minutes of the meeting of the governing board at which the arrangements were determined;

b. a copy of the determined arrangements;

c. the objector's form of objection dated 3 April 2020, supporting documents and subsequent correspondence;

d. the school's response to the objection and subsequent correspondence;

e. information provided by the local authority;

f. confirmation of when consultation on the arrangements last took place; and

g. relevant previous determinations, research papers and court judgments referred to in the text.

Objection

10. There are six aspects to this objection. We have identified the relevant paragraphs of the Code here, but not set them out. The relevant paragraphs are set out in full when we come to our detailed consideration.

11. First, the objector considers that re-using the same selection tests for late sitters and late applicants renders the testing process subject to abuse, as those who sit the tests in the main round may pass on the questions to those sitting the tests at a later date. The objector argues that this abuse of process, which he suggests is widespread, renders the tests unfit for purpose. Relevant paragraphs of the Code are 1.31. and 14.

12. Second, the objector considers that the use of age standardisation in the selection tests is unnecessary, rendered obsolete by the widespread practice of tutoring and gives an unfair advantage to younger children, particularly those who have been tutored. Relevant paragraphs of the Code are 1.31. and 14.

13. Third, the school admits only girls in Years 7 to 13, and the objector considers that the arrangements are unfair to boys at sixth form level and also that the arrangements are unclear as to whether a boy who self-identifies as a girl could be admitted to the sixth form. Paragraph 14 of the Code is relevant.

14. Fourth, the objector suggests that the use of different deadlines for residency requirements as described in the admission arrangements is unreasonable and contrary to paragraph 14 of the Code.

15. Fifth, the objector states that the arrangements are unfair because the school does not allow the late testing of some children who have taken the test in the neighbouring local authority. He suggests this is contrary to paragraph 2.9e of the Code

16. Sixth, the objector draws our attention to the fact that the school provides paid 'logins' for pupil premium pupils in order to prepare them for the test as mentioned in the governing board minutes of 13 November 2019. Paragraph 14 of the Code is relevant.

Background

17. Stratford Girls Grammar School is a single sex girls' grammar school with academy status located in Stratford upon Avon, Warwickshire. This academy school was rated by Ofsted as Outstanding in its latest Ofsted inspection in 2009 The school has a Published Admission Number (PAN) of 120 for admissions to Year 7, and a PAN of 50 sixth form places available to external applicants. It is heavily oversubscribed. Data provided by the local authority shows that in 2020, 263 first preference applications were received; in 2019 the figure was 191; and in 2018 the figure was 216.

18. The objection relates to the admission arrangements for Year 7 and Year 12. The arrangements for Year 7 admissions provide that all candidates are required to sit an Entrance Test organised by the school. Parents are told their child's score and whether she has met the qualifying standard for entry to the school. The arrangements say that the parent of a girl who has met the qualifying standard may express a preference for the school through the common applications process. Only candidates who meet the qualifying standard in the Entrance Test will be eligible to be considered for admission to the school. The arrangements say that the qualifying standard is not a pre-defined pass mark, but reflects a candidate's position in the rank order of standardised scores in the Entrance Test.

19. Where applications from candidates who have met the qualifying standard exceed the number of places available, the following oversubscription criteria will be applied:

a. Any looked after or previously looked after girls who have met the qualifying standard.

b. Any candidate attracting Pupil Premium funding (those who have been registered for free school meals at any point in the six years prior to the test day) who have met the qualifying standard.

c. Girls who live in the priority circle who have met the qualifying standard.

d. Girls who live outside the priority circle who have met the qualifying standard.

e Girls who score below the qualifying score but above the minimum score for the waiting list scores for this school for this particular year of entry.

20. Of relevance to this objection is the section in the arrangements on late testing. This says: "Illness; If your child is ill on the test day and is unable to sit the test, you must notify either Warwickshire Admissions or The Grammar Schools in Birmingham (depending with whom you have registered for the Entrance Test) by 11.59pm on the Monday immediately

following the test. A medical note (scanned copy, faxed or hand delivered) must be submitted by noon on the Wednesday immediately following the test for an alternative date to be arranged and for the registration to remain as on time."

Consideration of Case

21. We have divided our consideration of the case into six headings, each of which comprises one aspect of the objection. As we have said, the objector has made objections on the same points for twelve schools. He has helpfully provided us with generic representations on the subjects of the setting of the qualifying score; priority for applicants eligible for the Pupil Premium; re-use of the same tests for late sitters and late applicants; and age standardisation. Because the representations are generic, our consideration of the points is also generic, and so the text will be largely the same in all twelve determinations. It may not be identical as all of the schools have different arrangements.

Re-use of the same tests for late sitters and late applicants

22. The school uses the same tests for late sitters and late applicants. The local authority responded on behalf of the school on this issue. The local authority said that it was not aware of any evidence that exists to support the objector's claims that children recall content and pass it on to late sitters which would in turn support the part of the objection that suggests that the reuse of tests is not compliant with the Code. The school made no comment on this element of the objection.

23. In all twelve of the objections he has made this year, the objector has claimed that late sitters are advantaged unfairly and has suggested that the adjudicator determining these objections is obliged to answer a set of questions. The joint adjudicators have considered these questions carefully; we have considered the additional submissions made and information provided by the objector in relation to the objections he has made this year; we have read previous determinations on this issue; and we have looked at relevant court papers provided.

24. All twelve of the schools objected to this year use verbal and non-verbal reasoning 11+ tests (VR and NVR tests) designed by an organisation called The Centre for Evaluation and Monitoring (CEM). Some use exactly the same set of tests for the first round of testing as they do for all subsequent testing rounds for entry to Year 7, and some use a different set of tests of the same type for the purposes of late testing. By this we mean a different set of 11+ VR and NVR tests designed by CEM. Schools using the former practice, as this school does, argue that it is unfair to use a different test, albeit a test of the same type because it is necessary to compare like with like in order to ensure parity of results and therefore fairness. CEM does not publish its test papers, and those administering the tests are required to hold them confidentially and only to disclose the papers to candidates at the time the tests are taken.

25. The objector's view is that re-use of the same tests for applicants seeking admission to selective schools is not compliant with the Code because children recall the content of the tests and may pass it on to late sitters. He has tested this proposition using his nephew whom he says was able to describe questions to him after sitting CEM 11+ tests. The nephew took tests for entry to selective schools in Shropshire, Walsall and Wolverhampton, which he sat as 'mock exams' before being offered a place at a selective school in Berkhamsted. The objector then published the information provided by his nephew on a public website and was forced by a court injunction to take it down. The objector suggests that other children sit tests for a number of grammar schools as practice.

26. The judge considering the injunction proceedings made the following findings, which were upheld by the Court of Appeal, and which we accept:

- "It is doubtless the case that some children who have sat a selection test will tell their parents, and possibly some others, something about it, but there is no good reason to think that any, let alone, much information has become generally known or available…;
- Any reasonable person knows that unauthorised disclosure of the content of an examination or test yet to be taken in a way that may come to the attention of candidates about to sit that examination risks undermining the purpose and integrity of the examination or test, and that such information is therefore confidential…;
- There is a difference between a child telling a parent and a parent telling another parent about test content, and the posting of such material on a public website;
- If all, or part of test content is disclosed, there is at least a risk that the integrity of the tests and public confidence in them would be compromised…;
- Candidates sitting the tests and their parents are under a duty of confidentiality, so that if the parent of a child who had recently taken the selection tests was to publish the questions on a website knowing that other children are about to take the same test, the parent could be injuncted to take down the content of the website…"

27. CEM said, in the course of these court proceedings, that if a comprehension title, words from the synonyms questions, the subject matter of Maths questions, or the type of NVR questions were disclosed to a candidate about to take the same selection tests, this would be unlikely to make a difference to the marks achieved, however CEM also said that a difference of one raw score mark can equate to up to six standardised marks, which could alter a candidate's ranking significantly.

28. The courts accepted that it was reasonable for schools to use the same tests for late applicants in order to ensure consistency of standards and to avoid the additional cost of commissioning separate tests for each occasion. Candidates are tested late because there is a genuine reason why they are unable to sit the tests on the original test date or because they move into the area after the deadline for registering to take the tests has passed. Admission authorities generally require substantiating evidence before they will agree to a particular candidate being late tested. Where there is a gap of many months between the original test and the late test (as may be the case where a child has moved into the area), the use of age standardisation ensures that age provides no advantage. CEM has said:

“The choice of how candidates are tested is the schools, which is guided by their admissions policy. CEM would only be able to compare candidate’s performance to provide an ordered age standardised score if the same test is taken”. We return later to the wider question of age standardisation for those tested at the same time.

29. The objector also alleges that there is a practice of candidates being paid £1000 to take the 11+ tests and feed-back the content. He says: “E.g. some parents have decided on a private school and would like £1000 to help with fees. They engage in a deal with tutors - c£1000 for providing feedback. Any intelligent child can recall a lot. They select the brightest. Some children wear badges with a pin-camera recording every page of questions on a micro-SD card automatically. More advanced ones have a sim card and mobile data is used to transmit pages in real time outside the hall. But, these 4G badges cost a substantial amount. The child is simply told to wear the badge and sometimes does not know what it does! It is not so difficult to gain the content for late sitters…”.

30. The allegation that children (or their parents) are paid to pass on test questions or to take the tests wearing hidden cameras is a serious one. Whilst no system of testing can be made cheat-proof, we are sure that admission authorities and those administering the tests will be vigilant to the practice and that there are steps available to them to combat it, whether that involves more rigorous searching of candidates to detect any hidden cameras, disqualification of individuals found to have cheated (as provided for in the school’s admission policy in cases of fraud). We do not consider however that the entire system must be designed on the basis that the kind of cheating envisaged by the objector will be a widespread issue.

31. We have agreed to adopt a rather simpler approach to this particular alleged breach of the Code than has been adopted in previous cases. Relevant paragraphs of the Code are 1.31 and 14. Turning first to paragraph 1.31, this says that: “Tests for all forms of selection **must** be clear, objective, and give an accurate reflection of the child's ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority to decide the content of the test, providing that the test is a true test of aptitude or ability.”

32. Our view is that what paragraph 1.31 requires is that **the test itself** must be clear, objective and give an accurate reflection of the child’s ability (in the case of selective schools). So, in order to comply with paragraph 1.31, the particular test used by the school must fulfil these requirements. There is no reference here to **the procedures for taking the tests,** (requirements in relation to procedures fall under paragraph 14, as we will explain later). Paragraph 1.31 is a requirement that the selection test must be fit for purpose. The objector suggests several reasons why CEM 11+ tests are not fit for purpose. This is because in his view the test scores should not be standardised for age, and because he considers that the tests do not establish whether candidates are of grammar school ability. We have dealt with these points elsewhere.

33. Looking at the second sentence of paragraph 1.31., references to ‘the test’ strongly suggest that what is envisaged is one set of tests to be used for all applicants in a particular year group. Although this wording is not conclusive, it is more difficult to argue that the form

of selection used produces an objective reflection of ability where different tests are taken by different applicants. CEM's response supports this.

34. As set out above, what the objector is referring to is what we would call cheating. In any examination or test where a child passes on a test question, and another child uses that knowledge to his/her advantage, that would be cheating. This is very different to preparation or coaching. Coaching, in the context of VR and NVR tests, is providing help with the skills and techniques needed to do well in those particular types of tests. Giving people the questions before they take the test in the context of these particular tests is neither preparation nor coaching.

35. The objector argues that the results of the tests taken by late sitters are not an accurate reflection of their ability because late sitters can cheat, and therefore the test is not fit for purpose. There is the possibility of cheating in any examination – GCSEs, A Levels etc (pupils smuggling in notes etc). The possibility of cheating does not apply exclusively to late testing of 11+ candidates. Forms of cheating other than candidates passing on questions to other candidates who take the test at a later date are possible. For example, a rogue employee at CEM or an A Level examining board could give away the questions before the test or examination is taken. The person at the school/local authority who is responsible for keeping the CEM 11+ tests confidential could give the questions to candidates in the first round of testing before they sit the tests. The fact that candidates may cheat does not render the test itself unclear, not objective, or not a true reflection of ability. Cheating is always a possibility.

36. We emphasise that what we are considering here is whether the selection test being used for **this school** in 2021 gives an accurate reflection of a candidate's ability. In order that we can ensure that we have explained our role with absolute clarity, we considered the hypothetical possibility that we had evidence which we considered to be proof that there is a systemic practice of cheating in place which is subverting the test scores for late applications to this school. Our view is that, even if we had such proof, which we do not, this would not mean that **the test itself** does not conform to paragraph 1.31.

37. What the objector is referring to is that the **practice** of using exactly the same set of tests more than once may lend itself to an abuse. Put simply, if the school used a different test of the same type for late sitters, people could not abuse the process in the way he suggests is a possibility. Certainly, if a different 11+ test was used for late sitters, what we have described as cheating would not be possible in the way the objector describes. However, we need to make clear here that it is not our function to suggest that one method or process might be 'better' than another, and we cannot require an admission authority to adopt a particular form of test or procedure for conducting a test. Our role is confined to determining whether the admission arrangements comply with the Code.

38. As the objector has rightly said, paragraph 14 of the Code is relevant. What this says is that admission authorities must ensure that the practices used to decide the allocation of school places are fair and objective. Our view is that there is a strong argument that in order for the testing **practice** to be considered objective, all applicants must take the same set of

tests where this is possible. It is not for us to say whether a practice that is different to the one used by the school would be more or less objective. We are not able to comment upon whether or not it can be guaranteed that an applicant who scores 121 in one set of CEM VR and NVR 11+ tests is of exactly the same ability as an applicant who scores 121 in a different set of CEM VR and NVR 11+ tests. Our view is that a practice of having all applicants take the same test, albeit a few months apart, is an objective practice for deciding the allocation of places.

39. Finally, we come to the crux of the objection, which is the assertion that the practice of using the same set of tests more than once creates an unfairness. The unfairness is said to arise because this practice allows for the possibility of cheating. As we have said, cheating is always a possibility in any set of tests or examinations. The objector has produced no evidence that there is a practice of cheating in place in relation to the selection tests for this school. Our view is that the risk of cheating in the way the objector has described producing an advantage to the late sitter is lower in VR and NVR tests than in other examinations. An applicant taking A Level History will be asked four questions and is likely to remember all of them. A late sitter with advance notice of the questions could be helped considerably by knowing the questions before taking the examination.

40. Applicants taking CEM VR and NVR tests answer some 250 questions in total. The ability of a 10-year-old child to remember test questions in a set of tests comprising some 250 questions might be improved if the child took several selection tests for different schools or areas as in the case of the objector's nephew. There is also reference in the correspondence to 'dodgy tutors who get tutees together who have sat the tests and pump then for information to aid 'late sitters'. We have not been provided with any evidence that such a practice is operating in relation to this school.

41. If a person passed on one correct question and answer, this could mean that a late sitter might achieve the pass mark when he/she would not otherwise have achieved it, or that the late sitter might achieve a standardised mark which is up to six marks higher than the mark which he/she would have achieved. But even if this were the case, (and the chances are remote), this would still not guarantee the offer of a place because the oversubscription criteria would then need to be applied. In order to pass on any advantage to the late sitter, a child of 10 would need to remember questions exactly and know which one of four multiple choice options is the correct answer. The child would also need to be willing to do something which he/she would surely know is wrong; and to pass on an advantage to another child possibly to his/her own detriment since the tests are a competition and all the tests are taken before any child knows whether he or she has obtained a place at the school. The person receiving the answer would need to use that information knowing this to be cheating.

The objector has provided evidence in the form of a Twitter feed about the CEM 11+ tests for the King Edward Consortium Schools. This appears to be an exchange of information between members of the 11+ Exams Forum. The Forum is an organisation which provides advice to parents whose children are intending to take the CEM 11+ tests. The information in the Twitter feed relates to tests taken from 2011 – 2016. There is no evidence that this

exchange of information is continuing. The information in question appears to have been passed on by candidates who had taken the tests. However, it also appears that the King Edward Consortium of Schools were in discussion with the Forum about these postings, and were not concerned that they would prejudice the integrity of the selection tests because comments about a particular set of tests were not being posted whilst those tests were still being used for late applicants. The postings took place after the relevant tests had ceased to be used; and the latest post was in 2016. We have not seen any evidence that the Forum is continuing to pass on information obtained from candidates who have sat the Birmingham Consortium Schools tests, or evidence that any similar exchanges of information are in operation for this school. We have not been provided with any evidence that candidate sit the tests for this school wearing hidden camera or are likely to do so for the 2021 admissions tests.

42. We do not consider that general allegations of cheating and evidence of exchanges of information about the content of tests after they have ceased to be used provide any basis upon which we can conclude that the practice of re-using the same tests for late sitters for admission to this school in September 2021 is compromised. In the absence of any such evidence, our conclusion is that re-use of the same tests for late sitters does not operate to confer an unfair advantage upon them.

43. In the light of that conclusion we have not sought to establish the precise cost to the school or other schools of commissioning a separate test for late sitters. We accept that there would be some cost attached, and that it would be extremely difficult to ensure fairness as between candidate sitting different tests. Given that we have concluded that the practice of reusing the same test is reasonable, objective and fair there is no reason for the school to expend money or time exploring whether a second test could be provided for late sitters.

44. We therefore do not uphold this aspect of the objection.

Age standardisation

45. The objector says in the form of objection: “It appears age standardisation is used, yet this is not clear in the admissions policy. Age standardisation is flawed. No age standardisation occurs for A levels, GCSEs or year 6 SATs (tests where an expected standard of 100 is expected), the latter which is sat just 8 months after the main 11+ date. It was not even used in the old year 2 SATs tests. It is not used for phonics tests or multiplication tests. Age standardisation is never used in any public examination”. He asks whether all of these other forms of testing are wrong not to use age standardisation, and why age standardisation is required for the school’s selective tests but not required for SATs.

46. The objector’s view is that age standardisation is used in 11+ tests based upon the claim that different age groups score different marks as they are younger. However, he considers that the research which has led to this claim is flawed and rarely challenged. What does make a difference to an applicant’s score (he says) is preparation. Preparation and tutoring for the tests effectively mean that the applicant’s age becomes irrelevant, and

most applicants prepare or are tutored. Therefore, age standardisation provides an unfair advantage to younger applicants. The objector suggests that there is no evidence that age standardisation will lead to fair outcomes in a situation where the majority of applicants have prepared or are tutored.

47. In the objector's words: "It is obvious that age standardisation is not required when tests are prepared for. A 16-year-old is no better at recalling multiplication tables than a 10-year old who has been practising. A 10-year old who has been practising NVR questions can beat a number of MBA graduates taking the same test (this I have demonstrated further, with my own sons). Age is irrelevant to the score if one prepares. Preparation is king". The objector later produced more detailed information in support of his arguments. He suggests that, although some children taking the school's selection tests are inevitably younger than others, they will have had the same number of years of schooling. By Year 6, after nearly seven years of being taught the same things, any disadvantage caused by being younger will (he says) have narrowed considerably. The objector claims that the only content of the 11+ tests which is not taught in schools is Non-verbal Reasoning.

48. The objector's argument is that all children begin at the same level and have to prepare themselves and are capable of reaching their "theoretical maximum". Some children will take longer to reach their theoretical maximum than others after which extra practice has negligible benefit. "This is not simply age dependent, it is skill dependent. Age has no great advantage.10-year olds fare no worse in NVR than MBA graduates if they prepare; in the same way 10-year olds fare no worse than an MBA graduate in a multiplication tables test. I would anticipate that the 10-year-old would be faster than the MBA graduate."

49. The objector's statements appear to be opinion possibly based upon his own experience. The question we are considering here is whether standardising 11+ test scores by age creates an unfairness. A 10-year-old may do better in a multiplication test than an MBA graduate because he/she has learned the multiplication tables more recently or has a better memory. Repeating tables is a test of memory, not a test of reasoning. The difference between Verbal and Non-verbal reasoning tests and many other types of tests is that success cannot be achieved simply by repeating specific learned information. For example, to do well in the comprehension questions, it will be necessary to have a wide vocabulary and the ability correctly to deduce answers from what is said in a piece of text. Candidates are required to have absorbed information from many sources and to apply it correctly. Whilst the ability to memorise may not be improved by maturity, the ability to reason is something entirely different.

50. If maturity is developed over time, it would seem to us that children may not all be able to approach these tests from the same level, as the objector suggests. Nobody would suggest that a three-year-old would be capable of approaching these tests in the same way as a ten-year-old, for example. There is an age gap of nearly a year between the oldest child taking the 11+ test and the youngest. The questions for us are whether age makes a difference; if so, what that difference is; whether standardising the tests by age compensates for the difference; and whether it compensates effectively. The tests are a

competition, and in order for any competition to operate fairly, the objective must be that all competitors come to the starting gate at the same time and that there is a level playing field insofar as the tests themselves are capable of achieving this. Familiarisation with the types of questions asked and practice may improve scores, but admission authorities and test providers have no control over whether children prepare or are coached.

51. The local authority responded to the objection on behalf of the school which made no comment. The local authority said that "Standardisation is a statistical process that removes variable elements from test scores so as to allow the children who sit the same test to be compared equally. Such factors include the amount of questions within each section of the test, the time allocated to complete each section, and the age of the child when they sit the test. Age standardisation is a common practice nationally. However, it may not be relevant to examinations such as SATs, GCSE's, and A-Levels as they are a different type of assessment to an 11+ selection test."

52. In dealing with the twelve objections which have been referred to us, we were conscious that admission authorities were in a difficult position in being asked to respond to questions about the selection tests they use, and that CEM was the appropriate body to answer detailed questions about the 11 plus tests which they sell to grammar schools. We asked CEM a series of questions. The ones specifically relevant to this aspect of the objection were:

- Could CEM provide us with the methodology it uses for age standardisation of test results? What is the evidence base which underpins the need for this age standardisation?

- Could CEM advise us on the process it uses to ensure that the selection assessments are a true test of ability?

53. CEM's response was as follows:

> "The reason that CEM uses age standardisation, is that in assessments of ability it is expected that the older learners achieve higher scores than the younger learners. In a typical classroom, some learners will be up to 12 months older than their youngest peers. When CEM interpret assessment results our interest is in comparing learner's ability against the ability of a wider group and it is important that any differences seen are down to ability and not purely down to the age of the learners. Age standardised scores correct for the effect age has on assessment scores. Age standardised scores allow meaningful comparisons to be made between learners in a class, school or larger group.
>
> The age standardised scores are calculated from the raw scores to allow candidates to be compared when their age profiles are quite different. The age standardisation is based on the age of learners on the day they take the assessment.
>
> CEM cannot provide full details of how the calculations are done. Under Section 43(2) of the Freedom of Information Act, information that would prejudice a

commercial interest can be withheld. CEM believe that disclosing this information would be likely to prejudice our commercial interest as it would enable competitors to understand our standardisation process. This could enable our competitors to understand our general approach to the test.

In terms of assessment development – all questions are selected from a bank of items that have been specifically written and designed to be appropriate for assessing pupils at the beginning of the Autumn term in Year 6 of the English school system.

Our tests correlate highly with KS2 SATs results: separate studies have shown correlations of around 0.75 on samples of 4000-5000 pupils".

54. The objector suggests that the tests do not give an accurate reflection of an applicant's ability because they give an unfair advantage to younger applicants. Additionally, if the school's tests operate unfairly, this may mean that the practices used to decide the allocation of places are not objective or reasonable.

55. Paragraph 14 of the Code requires that the practices and the criteria used to decide the allocation of school places are clear, and that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated. Details of how to undertake the tests and familiarisation materials are available on the school's website in the admission section. We take the view that the arrangements are sufficiently clear to comply with paragraph 14 where any additional information about the tests which parents need to read is published alongside the main admission arrangements, clearly signalled to parents and accessible via a one-click. As this is the case, we do not find the arrangements to be unclear in the manner suggested by the objector. Therefore, we do not uphold this aspect of the objection.

56. As we have said above, the objector also suggests that the process of age standardisation provides an unfair advantage for younger children. He believes that the extensive preparation for the tests which children undertake renders the need for age weighted standardisation of test results "null and void". The objector cites paragraphs 14 and 1.31 of the Code. We have set these paragraphs out in full above. Paragraph 14 requires that the criteria used to decide the allocation of places are fair and objective, and paragraph 1.31 requires that selection tests must be objective and give an accurate reflection of the child's ability.

57. The objector asks why other major assessment events such as SATs or GCSEs are not age standardised and suggests that, because these other assessments are not age standardised, the selection tests for grammar schools should not be age standardised. This issue could of course be argued both ways; if age standardisation is deemed appropriate for grammar schools' tests then why is it not introduced into the SATs and GCSE processes? A look at the online conversations about this topic shows clearly that there are strong views on both sides of this argument, both from parents and assessment providers. This determination, however, concerns the fairness of the admission arrangements for a specific school and deals only with the selective school tests for that school. We will

therefore limit our conclusions in this matter to the school in question, its admission arrangements and the selective assessment tests which are part of them.

58. There is significant and compelling research evidence that children who are 'summer born' perform less well in tests of ability than children born at other times of the year. This gap is clear in primary aged children and remains an issue even into the later stages of secondary school. A study by the Institute of Fiscal Studies entitled 'When You Are Born Matters; The Impact of Date of Birth on Child Cognitive Outcomes in England" collates many previous pieces of research and looks at the reasons why summer born children perform less well. The paper also puts forward some suggestions about mitigating this effect. A copy of this paper has been sent to all parties.

59. It is important to be clear about the purposes and rationale of age standardisation and why it might be (or not be) necessary. Age standardisation assumes that the period of birth does not affect the innate intellectual ability of the pupil at the time of taking the test but that the test performance may be affected by age. A younger child might well not perform as well in the test simply because of age and experience rather than because of lower ability. At the time pupils take the 11+, one child taking the test might be born on the first day of the school year (September 1) while another might be born on the last day (August 31). With what amounts to a whole year's difference in their ages, the older child is clearly at an advantage; for example, they will have been exposed to more language and, on average, a greater range of vocabulary. As children are exposed to a new vocabulary at the rate of more than 1000 words per year, the difference can be very significant for the 11+ tests. Age standardisation removes this potential unfairness and the marks are adjusted to make them 'standard' for all children regardless of their age.

60. We are of the view that age standardisation removes some of the potential unfairness for summer born children in the 11+ tests and therefore its inclusion in the admission arrangements for these schools is fair.

61. The objector makes the point that age standardisation is made 'null and void' by the extensive preparation which children receive before the 11+ tests. He maintains that "Most children who sit tests prepare. Many are tutored. Some are prepared in outreach programmes free of charge." The objector has not produced any evidence to substantiate this statement, so therefore we do not know how many pupils are tutored and we have no evidence of preparation through outreach programmes. We are aware that test familiarisation materials are made available to pupils who will be sitting the tests and these documents appear on the admission sections of the websites of some of the schools. These materials are familiarisation information to show how the tests are carried out, completed and marked and they provide examples of the type of question which will be asked in the tests. They are designed to prevent undue anxiety for those pupils who are sitting the tests.

62. We are also aware that many pupils receive additional preparation through tutoring for the 11+ tests. A literature review commissioned by the Office of the School Adjudicator (OSA) (this paper has been sent to all parties) which looked at disadvantaged pupil

performance in the 11+ test studied this element of the process and confirmed that “Pupils that have been tutored are more likely to access a grammar school, and children in households with larger incomes are more likely to have access to tutoring. Tutoring is found to be effective at supporting pupils to pass the 11-plus.” However, there is nothing in the law or the Code which forbids the use of paid tutoring or additional coaching. Indeed, the law relating to admissions and the Code apply to admission authorities, local authorities, governing boards and adjudicators. But they do not and could not interfere with what parents choose to do in supporting their children’s learning whether through commercial tutoring or other means. We are unaware of the scale of additional tutoring/mentoring/support for pupils in the primary schools in this case. If, as the objector suggests it is widespread for this school then we do not believe that it makes the use of age standardisation ‘null and void’. If all pupils are tutored and improve their scores because of it then the attainment gap between summer born children and others would remain the same- albeit at slightly higher score levels.

63. The objector refers to the fact that the Key Stage 2 Standard Attainment Tests (KS2 SATs) are within a few months of the 11+ tests and are not age standardised. This is correct, but it is also true that summer born children as a group do less well in these tests than autumn and spring born children. Of course, KS2 SATs tests serve a different purpose and the fact that there is no need for them to be age-standardised has little bearing on what is appropriate for 11 + tests.

64. In summary we are of the view that there is substantial and compelling research which shows that ‘summer born’ children are at a disadvantage when being tested for ability towards the end of their primary education and that the application of an age standardised weighting to the test scores reduces this disadvantage and makes the tests ‘fairer’. Whilst tutoring/coaching/mentoring appears to improve the test results of many pupils, there is no evidence in the research materials we have looked at and the objector has not produced any evidence to suggest that it diminishes the achievement gap due to age. We therefore do not accept that additional preparation for the 11+ tests negates the need for the age standardisation weighting, and we do not uphold this aspect of the objection.

The exclusion of male students from the sixth form and a lack of clarity in the arrangements as to how an application made by a boy to the sixth form who self-identifies as a girl would be treated

65. The objector says that all grammar schools in Warwickshire are co-educational except this school. He suggests that the Headteacher is against the admission of males into the sixth form, that the exclusion of males in the sixth form is unfair and that, as the school has a higher PAN than the local boys grammar school, males are already disadvantaged. The objector says that the local boys school, which has a co-educational sixth form, admits more girls than boys into year 12 and that this deprives males of a place. He suggests that this exacerbates the disadvantage as boys are not allowed into the girls’ school sixth form. He suggests that is discrimination. Paragraph 14 of the Code is relevant here; it 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."

66. The local authority responded to the objection on behalf of the school which made no comment. The local authority quoted an extract from the Equality Act 2010 as contained in the Code; "Single sex school are lawfully permitted to discriminate on the grounds of sex in their admission arrangements. The first paragraph of the admission arrangements reads; "Stratford Girls' Grammar School is designated a single-sex grammar school under Section 104 of the School Standards and Framework Act (1998); it is a selective single sex academy for girls aged between 11 and 18".

67. The Code and the law are clear that those schools designated as single sex schools are permitted to admit only pupils of that gender. The decision to retain this policy at sixth form level is for the admission authority of the school, in this case the governing board of the school. The governing board has determined the arrangements annually to include only girls in the sixth form. The objector is incorrect in his statement that all grammar schools in Warwickshire are co-educational except for this school; the Warwickshire County Council website lists the five fully selective school in Warwickshire and indicates that two are boys only, two are girls only and one is mixed.

68. As the school is designated single sex, then to admit only girls across the school is within the law and conforms to the Code. The school is under no legal obligation to admit boys to its sixth form. This remains the case albeit that single sex boys schools in the same local authority area are choosing to admit girls to their sixth forms. It is not the responsibility of the school to ensure that there are an equal number of sixth form places available for boys and girls at the Warwickshire grammar schools.

69. We are of the view that these arrangements are fair, clear and objective and in line with paragraph 14 of the Code. We do not therefore uphold this element of the objection.

An application by a boy who self-identifies as a girl

70. The objector suggests that the sixth form arrangements are unclear about how an application made by a boy who self-identifies as a girl would be dealt with. Paragraph 14 is relevant.

The Equality Act 2010 ("the 2010 Act") at section 85(1) requires the responsible body of a school not to discriminate against a person in the arrangements it makes for deciding who is offered admission as a pupil; the terms on which it offers to admit the person as a pupil; or by refusing to admit the person as a pupil.

Schedule 11 of the 2010 Act disapplies section 85(1) in the case of single sex schools. Schedule 11 of the 2010 Act explains that a single-sex school is a school which (a) admits pupils of one sex only; or (b) would be taken to admit pupils of one sex only.

The ability of a person to apply for a gender recognition certificate is set out in The Gender Recognition Act 2004 (the 2004 Act). Section 1 of the 2004 Act states that a person of

either gender who is aged at least 18 may make such an application. To use the Objector's example, a boy who wishes to self-identify as a girl is unable to change his gender (or sex) by way of formal process until the age of 18.

Section 9(1) of the 2004 Act states "Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman)."

On that basis, it is lawful for the school not to cater in its admission arrangements for a boy who wishes to self-identify as a girl at the age of 17 (or younger) and who wishes to apply to join the school at sixth form level. As a boy (legally), he is not eligible for admission to the school.

The admission arrangements of the School make it clear that it is a selective girls' grammar school. That is lawful and clear.

71. The arrangements are clear that the school is a single sex girls school for Years 7 – 13. A boy who self-identifies as a girl would not be eligible for admission to these year groups and would not be capable of obtaining a gender recognition certificate to acquire a different gender in order to be eligible. We find no reason for the arrangements to say anything other than what they do say in order to be clear, which is that the school is a girls school. We do not uphold this aspect of the objection.

Residency requirements

72. The objector says that the common application form (CAF) has a national deadline for the submission of applications for school places, applications are made via the home local authority and the applicant's address is should be verified automatically by local authority council tax bills. He says that the school admission arrangements have a different, arbitrary deadline date of 31 December for determining an applicant's home address and he suggests that this serves no reasonable purpose as anyone can move again after this date. He says that the address used by the school should either be that recorded on the CAF or the address on the first day of term if the school wants people to live locally. He argues that allowing different schools to determine different address requirements on different dates is unlawful and goes against the principles of the CAF and the national deadline. He goes on to say that it is not unlawful to move temporarily to gain a school place, that there is no definition of 'temporary', there is no requirement to stay in an address for any specific length of time. The objector also considers it unfair that selective schools have catchment areas.

73. The paragraphs of the Code which are relevant here are paragraphs 14 (referenced earlier) and paragraph 1.14 which says that "catchment areas **must** be designated so that they are reasonable and clearly defined".

74. We will deal firstly with the issue concerning applicants' home addresses. The admission arrangements say that "the child's home address is the address where they are

living on the date of the application". This is the date on which the CAF is submitted. "This is the address used to apply the school's oversubscription criteria such as distance from the school". The local authority then writes to the parents at the beginning of December and requests evidence of residency. If the child has moved house between applying to the school and the end of December, then evidence of the new home address is required. If the evidence verifies that the family is living at the new home address, this will then be treated as the home address for the purposes of the application. If the child moves house between the end of December and National Offer Day, then the new address is not treated as the child's home address until after 1 March and the application is considered as a late application and will not be processed until after 1 March.

75. The school says that the 31 December deadline acts a check enabling the admission authority to confirm whether the home address remains the address on the CAF. This is considered by the school to be a sensible provision and 31 December is considered to be a sensible point between the date of registering a preference on 31 October and National Offer Day on 1 March and is intended to avoid any offers being made on the basis of incorrect, fraudulent or misleading information.

76. The local authority says that council tax bill information is not, as suggested by the objector, held by the county council but by the local district councils and therefore the local authority does not have the facility to undertake residence checks automatically as the objector suggests. It also says that other evidence of residency is permissible. It goes on to say that schools which are their own admission authority are able to define their own residency requirements. 31 December is used by the local authority as a deadline date and it is not aware of any school in the local authority which uses a different date.

77. Applications submitted via the CAF to the local authority by 31 October will include the address of the applicant at that date. Checks on this address are carried out by the local authority in December to confirm the CAF details. If a child moves house after 31 October but before 31 December then it is reasonable to treat the new address as the home address. If this date was set at the time of the application then that could be unfair to families who move soon after that date. It is certainly helpful to such families that a later date is set. However, there must be a date which allows enough time for the processing of applications and it therefore seems reasonable to us that a 'cut-off' date is fixed part way between the application deadline and the national offer day. If the cut-off date was fixed too late in this time period, there would be insufficient time to process the checks necessary and therefore we are of the view that 31 December is a reasonable date for verifying applicants' homes addresses. This date is published in the school and the local authority documents and, as suggested by the local authority, is used in all the schools. The arrangements are well set out and clear in this respect. We do not consider it unlawful for the school and the local authority to set a 'cut-off' date for treating a new address as the home address or for verifying the address submitted on the CAF. We do not consider that this process goes against the principles of the CAF and a national deadline.

78. In addition, and in line with the Code at paragraph 2.12 additional checks can be undertaken if there is a concern that a place has been obtained through a fraudulent or intentionally misleading application. In such cases the offer of a place can be withdrawn.

79. The objector is of the view that it is unfair for selective schools to have catchment areas. The Code is clear at paragraph 1.10 that it is for admission authorities to decide which criteria would be most suitable to the school according to local circumstances. It also identifies catchment areas as one of the most common criteria used. The only requirement in the Code is that catchment areas are reasonable and clearly defined. The catchment area for this school is defined by a 'priority circle' with central point of the circle being halfway between the boys' school and the girls' school and the radius being 16.885 miles which takes the circle to the county boundary. This ensures that priority is given to children living near to the schools. It is a matter for the admission authority to decide on how catchment area is defined, and we are of the view that the arrangements in this respect are reasonable and clearly defined. We do not therefore uphold this area of the objection.

Late testing

80. The objector says that the school is refusing late testing if a child has taken the test in Birmingham and failed to tick a box to share the test with Warwickshire. He says that this violates the admission code. He says that it is a refusal of the admission authority to late test on the basis that the test has already been taken. He suggests this is ridiculous especially if the family moves into Warwickshire after the test was taken and before the CAF deadline. He compares a girl who has taken the test in Birmingham and has not ticked the box to share results with Warwickshire then moves to Warwickshire and a girl who moves to Warwickshire from outside the area. The girl in the first example would be treated as 'late' and the girl in the second example would be tested and not treated as 'late'. He says this is not equitable.

81. The objector also says it is ridiculous to allow a parent to use an excuse that their child cannot be tested on a Saturday or Sunday on 'dubious religious grounds' to game the system and sits late armed with test content. He suggests that a sensible school would set a date for the test on a weekday and in the worst case make the child sit the test early on the Friday then isolate the child until Saturday.

82. The relevant paragraph in the Code is 2.9 which states that "Admission authorities **must not** refuse to admit a child solely because they have missed tests for selective places."

83. The local authority responded to the objection on behalf of the school which made no comment on this aspect. The local authority said that the school does not refuse to late test children who register for the tests late. It explains that the same test is taken by children at six grammar schools in Warwickshire and eight grammar schools in Birmingham. The parent registers the child with one of the consortia and the child sits the test once. If the parents wish to apply for schools in both areas, then they must indicate on the registration form that their child's test scores can be shared with the other authority.

84. The admission arrangements make it clear that parents of children who sit the test in Warwickshire can request (at registration) that the scores are shared with Birmingham (and vice versa). This enables preferences for grammar schools in both areas to be included in the CAF and the child only sits the test once. It is up to parents to complete the section of the registration form which provides consent for their child's test results to be shared. If they do not do so and, at a later date, wish to apply for a school in the other authority and request that the scores are shared, then the application is considered as late by the school. This means, as the arrangements explain, that the application will not be processed until after 1 March.

85. Taking the two scenarios explained by the objector; the first child takes the test, but the parent does not request sharing scores but then decides to apply for a school in the other authority. This is then treated as a late application. We consider this to be reasonable. The consequences of not providing consent in the registration from for the results of tests taken in Birmingham to be shared with the Warwickshire grammar schools are clearly explained in the admission arrangements. If a child moves into the authority before the deadline date of 31 December, then the school can arrange for the child to take the test and not be considered late. Again, we consider this to be reasonable and it is clearly explained in the admission arrangements.

86. We are of the view that it is reasonable to consider a late request for the sharing of information as a late application for the school. It would not be appropriate for the child to sit the same test for a second time. This would give the child an unfair advantage over other applicants. Refusal to allow the child to sit a late test is not contrary to the Code where the child has already sat the test. A child arriving from out of the area can and should be treated differently as they have not already taken the tests. We do not see an unfairness in this.

87. The objector's opinions about reasons not to sit the test on a Saturday and his suggestion that the tests should be on a weekday or early on a Friday and then the child isolated until the Saturday are not matters which are within the jurisdiction of adjudicators. Arrangements for testing and late testing are matters for the admission authority. Our role is confined to determining whether the arrangements conform to the Code and the law. We consider that the school's arrangements in this regard make proper and appropriate provision for testing children who cannot take tests on a Saturday for religious reasons. The arrangements are set out clearly and can be understood by parents. We are of the view that the arrangements conform to the Code and the law and we do not therefore uphold the issue of the objection.

Purchased logins for pupil premium pupils

88. During the course of the correspondence in this case the objector raised an issue recorded in the minutes of the school's governing board meeting held on 13 November 2019. The minutes state "The Headteacher reported that the launch of the familiarisation materials had been successful. CEM had set up the system and 125 logins had been purchased by the local grammar schools of which 76 were used. The logins had been sent

automatically to pupil premium families in Warwickshire." The objector drew this to the attention of the adjudicators and suggested that it was unfair for a sub set of candidates (that is pupils in receipt of pupil premium) to be provided with CEM test materials when others were not provided with the log ins in this way.

89. CEM were adamant in its response that it does not sell access to familiarisation tests or past papers and that this must be inaccurate reporting of minutes of the governing board. The school responded that the CEM materials reference in the minutes is inaccurate. The familiarisation material to which this item refers are those available from the grammar school consortium website. The school is part of the consortium and purchases logins to these materials which are then distributed to disadvantaged/pupil premium students in the priority area as part of the school's outreach work with this group.

We are satisfied that CEM are correct in their response that past papers and familiarisation papers are not sold. Familiarisation papers are provided on the school's website for all potential candidates so that they can be familiar with how the tests work and the nature of some of the questions in the three areas of testing. We are satisfied that the reference to CEM in the minutes of the governing board meeting was an error and that the familiarisation papers were produced by the local consortium of grammar schools. We accept that logins to these familiarisation papers are used to support outreach work from the school to support disadvantaged families. We do not consider the process unfair as no CEM papers were used in the process.

Summary of Findings

90. We find that it is reasonable to re-use the same tests for late sitters and late applicants because it achieves parity of results and saves costs. It is arguable that this practice could operate unfairly if late applicants were to cheat, but as the objector has not produced any evidence that there is an established process of cheating in operation at this school, we have no basis upon which to reach a conclusion that the re-use of the same tests creates an unfairness here.

91. We find that the arrangements are sufficiently clear that the tests results are standardised by age. We are of the view that age standardisation does not create an unfairness to older applicants and that its use remains necessary albeit that some applicants are coached. The objector has not produced any research to counter the substantial and compelling research which shows that 'summer born' children are at a disadvantage when being tested for ability towards the end of their primary education and that the application of an age standardised weighting to the test scores reduces this disadvantage and makes the tests fairer. Whilst tutoring/coaching/mentoring appears to improve the test results of many pupils, there is no evidence in the research materials we have looked at and the objector has not produced any evidence to support his claim that it diminishes the achievement gap due to age.

92. We find that the school is allowed to admit only girls in all years from Year 7 to Year 13 because it is designated as a single sex school by law. We find that the arrangements

are sufficiently clear about how an application by a boy who self-identifies as a girl would be dealt with. Quite simply, such a boy would not be eligible for a place. This is in line with the relevant provisions of the Equality Act and the Gender Recognition Act.

93. We find that the arrangements for residency are reasonable and complaint with the Code and that the catchment area is reasonable and clearly defined.

94. We find that the arrangements for sharing test scores across the local authorities and the arrangements for late testing of girls moving in to the area are compliant with the Code.

95. Finally, we are assured that CEM do not sell past papers or questions as familiarisation tools and that the logins purchased for use in outreach work with disadvantaged families were produced by the consortium of grammar schools.

Determination

96. In accordance with section 88H(4) of the School Standards and Framework Act 1998, Dr Vallely and I do not uphold the objection to the admission arrangements determined by the governing board of Stratford Girls Grammar School for Stratford Girls Grammar School, Warwickshire.

Dated: 13 October 2020

Signed:

Schools Adjudicator: Ann Talboys

Schools Adjudicator: Marisa Vallely