



## Determination

<b>Case reference:</b>	<b>ADA3768</b>
<b>Objector:</b>	<b>Tameside Metropolitan Borough Council</b>
<b>Admission authority:</b>	<b>The academy trust for Fairfield High School for Girls</b>
<b>Date of decision:</b>	<b>July 2021</b>

### Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2022 determined by the academy trust for Fairfield High School for Girls, Tameside.**

**I have also considered the arrangements in accordance with section 88I(5) and find there is another matter which does not conform with the requirements relating to admission arrangements in the way set out in this determination.**

**By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.**

### The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by Tameside Metropolitan Borough Council (the objector), about the admission arrangements (the arrangements) for Fairfield High School for Girls (the school), an academy school for girls aged 11 to 16, for September 2022. The objection is to the addition of 16 feeder schools, attendance at which gives priority for admission.
2. The local authority (the LA) for the area in which the school is located is Tameside Metropolitan Borough Council. The LA, as the objector, and the academy trust for the school are parties to the case.

## 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 academy trust, which is the admission authority for the school, on that basis. The objector submitted its objection to these determined arrangements on 6 April 2021. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## Procedure

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

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

- a. a copy of the minutes of the meeting of the academy trust at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 6 April 2021;
- d. the school's response to the objection and subsequent correspondence;
- e. details of the consultation undertaken prior to the determination of the arrangements and the responses made;
- f. a map of the area identifying relevant schools;
- g. the online composite prospectus published by the LA for admission to secondary schools in September 2021;
- h. information provided by the LA indicating how places were allocated at the school for admission in 2018 to 2021;
- i. the judgment of Cobb J in the case of London Oratory School (Governing Body of the London Oratory v The Schools Adjudicator [2015] EWHC 1012 (Admin)); and
- j. determinations of the adjudicator relating to secondary schools maintained by the LA, dated 30 June 2015 and 18 July 2018 (case references: ADA2843 and ADA3359, respectively).

## The Objection

6. The objector, which is the LA, argues that the addition of 16 feeder schools to the oversubscription criterion that prioritises children by their attendance at a feeder school is in breach of paragraph 1.15 of the Code, which stipulates:

“The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.”

7. The LA says that the selection has not been made “on reasonable grounds” as there should be evidence of “active and specific links” between feeder schools and the school. The LA cites the judgment of Cobb J cited above in support of the objection.

## Background

8. The school is located in Droylsden near to the western boundary of Tameside Metropolitan Borough, Greater Manchester. It is the only single-sex secondary school for girls in Tameside. It does not have a religious character and it is a non-selective school. The school’s Published Admission Number (PAN) for admission in September 2022 is 199. The school has been oversubscribed for several years. The number of parents making the school their first preference exceeded 210 for admission each year from 2018 to 2021. The oversubscription criteria can be summarised as follows:

- (i) Looked after children and previously looked after children.
- (ii) Children with exceptional medical or social needs.
- (iii) Children who have a sibling attending the school.
- (iv) Children who attend partner primary schools.
- (v) Other children.

Within each criterion, priority is given according to the distance the child lives from the school.

9. The objection relates to the fourth oversubscription criterion. Prior to 2016, the arrangements gave priority to children attending “Tameside Primary Schools.” Following the adjudicator’s determination in ADA2843, which confirmed that feeder primary schools needed to be named in order to conform with the Code (the determination related specifically to community secondary schools in Tameside), from 2016 the arrangements named 46 primary schools in Tameside under the fourth criterion. A further change was made for admission in September 2020, when the number of feeder schools was reduced to 24. In the determined arrangements for admission in September 2022, the number of feeder schools has increased to 40, by the addition of 16 more Tameside primary schools, 11 of which were amongst the original 46 named schools and five that are named in the arrangements for the first time.

## Consideration of Case

10. The LA, in its response to the consultation that preceded the determination of the arrangements for admission in September 2022 and in the objection itself, refers to what it believes is the requirement for feeder primary schools to have “active and specific links” with the secondary schools in order to comply with paragraph 1.15 of the Code. In support of this view, it cites the judgment of Cobb J in the London Oratory School case, saying,

“Cobb J appeared to endorse the Adjudicator’s approach that in order for a feeder school to be named ‘on reasonable grounds’, there would have to be active and specific links between the feeder school and the high school concerned.”

In its consultation response, the LA describes such links as “ranging from shared induction to more specific curriculum links.”

11. In the case of the London Oratory School, a Roman Catholic School that admitted pupils from a wide geographical area, Cobb J held that the adjudicator’s opinion that feeder schools needed to have “active and specific links” in order to satisfy the requirements of paragraph 1.15 was not “challengeable on Wednesbury grounds” (paragraph 105 of the judgment). In other words, Cobb J found that the adjudicator’s view was not so unreasonable that no reasonable person acting reasonably could have formed it. Cobb J did not say that in every circumstance active and specific links are required with feeder schools in order for their selection to comply with paragraph 1.15. Determinations of adjudicators do not create legal precedents. While having active and specific links is clearly one ground for having feeder schools it is, in my view, conceivable that there could be other reasonable grounds for selecting a feeder school. In order for grounds to be considered reasonable, the admission authority must be able to articulate a legitimate reason (or reasons) for the selection; that reason must not be irrational or illogical. Therefore, grounds other than specific links between schools may sometimes be considered to be reasonable for selecting schools as feeders. These could include close geographical proximity or a well-established historic pattern of significant numbers of pupils transferring from the feeder school to the secondary school. In every case, an adjudicator must consider the particular circumstances in order to decide if the grounds on which the admission authority selected feeder schools were reasonable. Accordingly, I must take into account the grounds put forward by the school in order to decide whether the selection of the additional 16 feeder schools complies with paragraph 1.15.

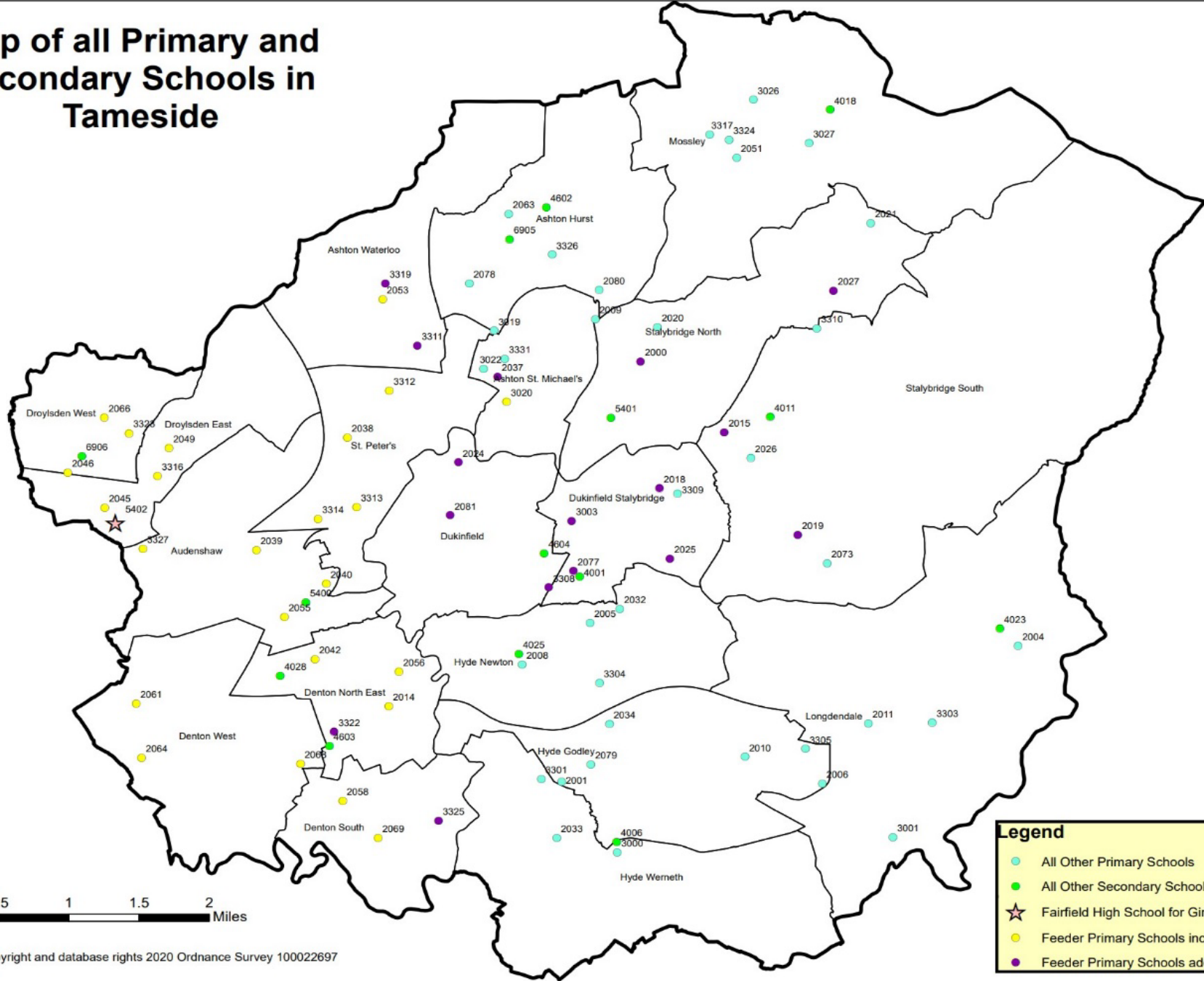
12. The school explains that it received a request from St Mary’s Roman Catholic School in Denton, one of the original 46 feeder schools but not among the 24 named for admission in 2020 and 2021, that it be re-included as a feeder school, following a request from parents of children there. In response, the admission authority undertook a review of applications for places at the school “over the last few years” and identified schools “that we have received applications from over the last few years and who (despite being in reasonable / close proximity to the school) had been unsuccessful with their application.” On this ground, eleven schools were re-included as feeder schools for admission in September 2022, as well as five schools that had not previously been feeder schools, “because of historic

applications and also because they are in close proximity (same area) as other named primary schools.” The school points out that it is the only single-sex girls school in Tameside and says,

“Parents and carers have a right to choose a secondary school of their choice for their daughters and by including the additional named Tameside partner primary schools we are affording them the opportunity to do so.”

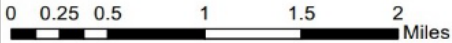
13. The map below shows the locations of all of the primary and secondary schools in Tameside. The schools are identified by their Department for Education (DfE) number, with the 24 feeder primary schools named in the arrangements for 2020 and 2021 shown as yellow spots and the 16 feeder schools that the school has added for admission in September 2022 shown as purple spots. Other primary schools are shown as blue spots. Tables one and two show the number of places allocated to girls attending each of the 40 feeder schools over the past four years, with the schools’ names alongside their DfE numbers.

# Map of all Primary and Secondary Schools in Tameside



**Legend**

- All Other Primary Schools
- All Other Secondary Schools
- ★ Fairfield High School for Girls
- Feeder Primary Schools included in 2021 Arrangements
- Feeder Primary Schools added to 2022 Arrangements



14. Table one includes the 24 feeder schools named in the arrangements for 2020 and 2021 (the yellow spots on the map) and also shows the average number of places each year allocated to girls transferring from these schools during this period.

**Table One: Places allocated at Fairfield High School to girls attending each of the feeder schools listed in the arrangements for admission in 2020 and 2021.**

DfE No.	Name of Primary School	2018	2019	2020	2021	Average 2018 to 2021
2055	Aldwyn	18	16	9	18	15
2038	Ashton West End	18	15	14	24	20
2039	Audenshaw	17	10	8	10	11
2058	Corrie	3	1	4	3	3
2064	Dane Bank	3	0	3	4	3
2061	Denton West End	14	17	5	10	12
2045	Fairfield Road	14	11	16	11	13
2066	Greenside	10	7	5	6	7
2068	Greswell	4	9	8	2	7
3312	Holy Trinity CE	7	9	6	15	9
2014	Linden Road	4	0	3	5	3
2046	Manchester Road	13	2	5	10	8
2069	Manor Green	0	4	5	5	4
2049	Moorside	11	12	11	8	11
3020	Parochial CE	3	1	1	5	3
2040	Poplar Street	5	14	15	9	11
2042	Russell Scott	8	8	11	7	9
2056	St Anne's, Denton	0	4	4	5	3
3327	St Anne's RC	3	7	5	10	6
3316	St Mary's CE, Droylsden	11	13	9	2	9
3313	St Peter's CE	12	3	10	10	9
3314	St Stephen's CE	2	4	6	1	3
3323	St Stephen's RC	7	2	3	3	4
2053	Waterloo	1	3	7	2	3

15. Table two includes the 16 additional feeder schools named in the 2022 arrangements (the purple spots on the map), separated into those restored to this status and those who were not named as feeder schools in the period 2016 to 2019. The final column in table two shows the number of first preferences for places at Fairfield School for

Girls made by parents of children attending these schools, for admission in September 2021.

**Table Two: Places allocated at Fairfield High School to girls attending each of the feeder schools additionally listed in the arrangements for admission in 2022.**

<b>DfE No.</b>	<b>Name of Primary School</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2021 first preferences</b>
	<b>Restored</b>					
2025	Broadbent Fold	0	0	0	1	2
3319	Canon Burrows CE	0	1	0	0	0
3311	Canon Johnson CE	0	3	0	0	2
2018	Gorse Hall	1	0	1	0	0
2024	Lyndhurst	0	2	0	0	0
2081	Ravensfield	0	4	1	1	2
2000	Silver Springs	0	0	1	0	0
2019	Stalyhill Junior	0	0	1	0	0
3322	St Mary's RC, Denton	0	0	0	0	0
2037	The Heys	1	1	0	0	0
2077	Yew Tree	0	2	0	1	3
	<b>New</b>					
2027	Millbrook	0	0	1	1	1
3003	St John's CE	0	0	0	0	1
3325	St John Fisher RC	0	0	0	0	0
3308	St Mary's RC, Dukinfield	0	0	0	0	1
2015	St Paul's CE	0	0	0	0	0

16. It can be seen from the map that all of the primary schools selected as feeder schools for admission in September 2020 and 2021 (the yellow dots) are in the western half of the borough, where Fairfield High School is located. There is a small number of schools not selected as feeder schools for 2020 and 2021 (the purple dots) that are equally close to Fairfield High School as some of the feeder schools, notably schools 3322 (St Mary's RC, Denton) and 3319 (Canon Burrows CE). On the other hand, school 3020 (Parochial CE) was selected as a feeder, despite being a little further away than some of the schools that were not.

17. A study of tables one and two helps to explain these apparent anomalies in the selection of feeder schools for 2020 and 2021. Table one shows that there is a pattern of transfer from each of these primary schools to Fairfield High School over time. This is not the case for the schools in table two. No child has transferred to Fairfield from St Mary's,



Denton over the past four years and only one has transferred from Canon Burrows School. I consider that the combination of geographical proximity and historic patterns of transfer provide reasonable grounds for the selection of the 24 feeder schools that appeared in the arrangements for 2020 and 2021. The LA supported the selection of these feeder schools, which, of course, are also all named in the arrangements for admission in 2022.

18. The school justifies the selection of the additional 16 feeder schools on the basis that it had received applications from children at these schools that had been unsuccessful and that the schools are in close proximity to the school and/or other feeder schools. I do not consider that the information shown in table two entirely supports the selection. The numbers of children transferring from the eleven schools restored to feeder school status for admission in 2022 were not high when they were feeder schools in 2018 and 2019. Few parents of children at these schools made the school their first preference for admission in 2021. At the majority of these schools there were no first preferences made by parents; the highest figure was three. With regard to the five new feeder schools, the picture is the same. There does not appear to be a significant demand for places at Fairfield High School from these schools, with no more than one first preference for admission in September 2021 from parents at any of the schools.

19. In fact, it is far from certain that all children who may apply from the additional 16 feeder schools will obtain places at Fairfield High School. Table three shows how places have been allocated, with reference to the oversubscription criteria, over the past four years.

**Table Three: Allocation of places at Fairfield High School by oversubscription criteria**

<b>Oversubscription criterion</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Children with an EHC plan naming the school	1	2	0	0
1. Looked after & previously looked after children	4	1	1	4
2. Exceptional reasons	0	0	0	0
3. Siblings	28	40	28	53
4. Attend feeder school	162	152	150	137
5. Other children	0	0	18	5
<b>TOTAL</b>	<b>195</b>	<b>197</b>	<b>199</b>	<b>199</b>
1 <sup>st</sup> preference applications	247	216	229	212

For admission in 2018 and 2019, when the school had 46 feeder schools, no places were allocated other than to children attending feeder schools. In 2020, 18 places remained once places had been allocated to girls attending the 24 feeder schools; the equivalent number in 2021 was only five.

20. These figures suggest that it is quite likely that the school will not be able to offer places for admission in September 2022 to all girls attending one of the 40 feeder schools who have a 'live' preference for the school (that is, a first preference or a lower preference when higher preference(s) cannot be met). As distance determines who is allocated places in these circumstances, those attending feeder schools who live furthest from the school will be the least likely to obtain a place. The map shows that a large majority of the 16 additional feeder schools for 2022 are located further from the school than the other 24 feeder schools. It is a reasonable assumption that most of the girls attending the 16 additional feeder schools will live in their vicinities. This means that there is no guarantee whatsoever that attendance at one of the additional feeder schools will ensure that a place will be allocated at the school.

21. The school argues that "parents and carers have a right to choose a secondary school of their choice." In fact, the law and regulations relating to admissions and the Code itself do not give parents an unfettered right to choose a school for their child. They are able to express a preference, which must be satisfied unless to do so would "cause prejudice to the provision of efficient education, or the efficient use of resources." Such prejudice is generally asserted to arise for admissions over the school's PAN in the normal year of entry. When a school is oversubscribed, not all children will be allocated a place at the school that is the first preference of their parents. There were 32 children whose parents made the school a first preference in this position for admission in September 2021. The addition of 16 more feeder schools may well mean that some children from these schools would be allocated places. This, of course, would mean that some children either attending other feeder schools who live a little further away from the school, or who do not attend a feeder school at all, might not obtain places. Quite obviously, the adding of additional feeder schools will not add to the number of parents whose preference is satisfied. I do not consider that the school's argument relating to parental choice represents a reasonable ground for selecting the 16 additional feeder schools.

22. The school provided me with its "partnership curriculum plan." This document explains that "historically, we have forged key curriculum links with feeder primaries which has enhanced transition and the curriculum provision in Year 7." A number of activities were planned for 2019 to 2021, including cross-phase writing activities, a modern language fair and "our key Faculty Leaders reviewing long and medium-term curriculum plans with subject leads in primaries to strengthen the curriculum for all."

23. Unfortunately, recent events have made it impossible to undertake the planned activities:

"Our partnership curriculum plan has been thwarted over the last two years because of the Pandemic; this has prevented us from being able to conduct visits to our partner primary schools and also from inviting them into our school."

I understand this to mean that the schools added as feeder schools for admission in September 2022 have yet to become part of the links that the existing feeder schools have historically benefitted from. I recognise, of course, that events entirely outside the school's

control have been the cause. It may be that in the future some or all of the additional 16 feeder schools may be able to become part of the planned activities both for children and between staff.

24. Having reviewed several possible grounds for the inclusion of the additional 16 feeder schools, I do not consider that they are “reasonable” as required by paragraph 1.15 of the Code. There is little evidence of significant demand for places at the school from these schools; their inclusion would not increase the satisfaction of parental preference as a whole; there do not appear to be any specific current links between these primary schools and Fairfield High School. I therefore uphold the objection. These schools may not be named as feeder schools in the arrangements.

## Other Matter

25. The arrangements make reference to “residence orders” in respect of the oversubscription criterion giving priority for previously looked after children. Residence orders were replaced by child arrangements orders in 2014. In the interests of accuracy and clarity, this aspect of the arrangements should be amended.

## Summary of Findings

26. For the reasons given in paragraph 24 above, I do not consider that the admission authority has demonstrated that the selection of 16 additional feeder schools has been made on “reasonable grounds”, as required by paragraph 1.15 of the Code. I uphold the objection.

## Determination

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objection to the admission arrangements for September 2022 determined by academy trust for Fairfield High School for Girls, Tameside.

28. I have also considered the arrangements in accordance with section 88I(5) and find there is another matter which does not conform with the requirements relating to admission arrangements in the way set out in this determination.

29. By virtue of section 88K(2) the adjudicator’s decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 6 July 2021

Signed:

Schools Adjudicator: Peter Goringe