



Determination

Case reference:	ADA3543
Objector:	An individual
Admission authority:	The Governing Board of Bishop Vesey's Grammar School, Sutton Coldfield, Birmingham
Date of decision:	4 July 2019

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2020 determined by the Governing Board of Bishop Vesey's Grammar School on behalf of the academy trust for Bishop Vesey's Grammar School, Birmingham.

I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform to the requirements relating to admission arrangements in the ways set out in this determination.

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

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by an individual (the objector) about the admission arrangements (the arrangements) for Bishop Vesey's Grammar School (the school), a selective academy school for boys aged 11 – 18 for September 2020. The objection is to the arrangements for admission of pupils to Year 7 (Y7). The objector considers that the arrangements are unclear and that they are also unreasonable because they allow, in the objector's opinion, for the admission of pupils who are not capable of benefiting from a grammar school education.

2. The local authority (LA) for the area in which the school is located is Birmingham City Council (the LA) which is a party to the objection. Other parties to the objection are the Governing Board of the School and the objector.

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 Governing Board of the school, which is the academy trust and hence the admission authority for the school, on 28 January 2019, on that basis. The objector submitted an objection to these determined arrangements on 29 April 2019. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act and is within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

Procedure

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

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

- a) the objector's form of objection dated 29 April 2019 and further correspondence;
- b) the admission authority's response to the objection;
- c) the comments of the LA on the objection;
- d) the LA's composite prospectus for parents seeking admission to schools in the area in September 2019;
- e) confirmation of when consultation on the arrangements last took place;
- f) copies of the minutes of the meeting at which the Governing Board of the school determined the arrangements;
- g) a copy of the determined arrangements; and
- h) a determination made in relation to Lawrence Sheriff School ADA3395 dated 27 September 2018, which the objector has referred to.

The Objection

6. The objection can be divided into two parts. The objector considers that:

- a) The combined effect of the minimum score and the oversubscription criteria has led to a situation in which applicants of relatively low academic ability who live close to

the school are admitted, whereas more able children who live further away are not. The objector considers this to be unreasonable because in his opinion some applicants who are admitted are not capable of benefiting from a grammar school education. The school, as a grammar school, is expected to have a highly able cohort, and the arrangements are therefore unreasonable because, in the objector's view, the minimum standardised score should be set at a higher level. The arrangements are therefore, he argues, unfair and not objective.

- b) The arrangements are unclear as to how the minimum standardised score is determined.

7. The relevant paragraph of the Code is paragraph 14 which states: "In drawing up their admission arrangements, admission authorities **must** ensure that the practices and criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school are allocated".

Other Matters

8. There were other matters which appeared not to conform to the requirements of the Code. In summary, these were:

- The arrangements appeared to make no provision for the admission of applicants outside their normal year group.
- The arrangements appeared not to set out the dates of the tests or the date upon which parents are notified of their child's score, and therefore were unclear in this regard.
- The section relating to the waiting list appeared to make no provision for applicants who apply after the test dates for admission in September 2020.
- In the arrangements for admission to the sixth form, oversubscription criterion 4 appeared to actually be a means of determining priority under criterion 3, and not a separate category.
- The arrangements allow for the headteacher to use his discretion to award a sixth form place.

Background

9. The school is a selective school for boys aged 11 – 18 years, with a co-educational sixth form. It became an academy in April 2012. The school has been rated as Outstanding in all categories by Ofsted. Founded in 1527, it is one of the oldest schools in Britain and the third oldest school in the West Midlands. Its founder the Bishop of Exeter, John Vesey, was a friend of Henry VIII and tutor of his elder daughter Queen Mary I. The school has a PAN for Y7 of 192, and a PAN of 80 for the sixth form. In 2017, 990 applications were made

for Y7 places ranking the school as one of parents' preferences; in 2018, the figure was 891; and in 2019, the figure was 1151.

10. The arrangements state that admission to the school in Y7 is on the basis of selection by reference to ability. Only boys who attain the required standard in the prescribed arrangements for selection are eligible to be considered for admission to the school. These arrangements require that prospective pupils are considered for admission on the basis of a combined score, standardised according to the age of the pupil, in tests of verbal, numerical and non-verbal reasoning ability. In order to be eligible for admission to the school, candidates must achieve a minimum standardised score (the 'qualifying score') in the selection test. Where the number of applications for admission exceeds the number of places available at the school, places are offered to children as follows:

- 1. Looked After Children/Previously Looked After Children who achieve the qualifying score by rank order of standardised score;*
- 2. Children attracting the Pupil Premium, who achieve the qualifying score by rank order of standardised score but limited to no more than 38 pupils in this category;*
- 3. Other children who achieve the qualifying score by rank order of standardised score.*

Where children are equal on standardised score, places will be offered to those who live nearest the school. Distances are calculated on the basis of a straight-line measurement between the applicant's home address and the foot of the steps leading to the main school entrance. Birmingham Local Authority uses a computerised system, called Cartology, which measures all distances in metres. Ordnance Survey supply the co-ordinates that are used to plot an applicant's home address within this system.

The section on the waiting list states:

A Local Authority waiting list, of those boys who sat the test for admission in September 2020, and who did not receive an offer from our school, or a more preferred school, will be held in strict oversubscription criteria order until the end of the first term of the academic year. Each child added to the waiting list will require the list to be ranked again in line with the oversubscription criteria.

11. The oversubscription criteria for admission to the sixth form is as follows:

- 1. Looked After Children/Previously Looked After Children.*
- 2. Students attracting the Pupil Premium.*
- 3. Conditional offers will then be made based on predicted grades, as stated on an official report or progress check from the student's current school. The judgement will be based on the Best 8 predicted GCSE grades, to include English Language and Mathematics. Applications will be scored based on the GCSE points system, as*

detailed above. Conditional offers will be then made (depending on capacity) to external students with the highest (Best 8) predicted GCSE score.

4. If an applicant has a Best 8 subject score which is equal to another candidate, we will then apply the average score of the 3 stated A Level subjects or an equivalent subject, if it is not taken at GCSE. In the cases of Economics and Computer Science, we will take the predicted GCSE Mathematics grade. In the case of Psychology we will take the predicted GCSE English Language or English Literature grade (whichever is higher). In the case of those students opting for A-Level History, who have not taken GCSE History, we will take the higher of the GCSE English Language or English Literature grade.

If data is still identical then a tie breaker will be applied based on a closest proximity to the school (See above for the calculation).

If a student meets the general admissions requirement but we are unable to offer a place based on the criteria detailed above; they will be automatically placed on a waiting list.

Conditional offers will become 'firm' offers when a copy of GCSE results are provided on, or within 24 hours of 11am on GCSE results days. If a student is away for 'GCSE Results Day' it is strongly advised they make arrangements for GCSE results to be delivered, faxed or sent by e-mail to BVGS. Please note that this is the responsibility of the applicant and if results are not received within the deadline, BVGS may withdraw the offer.

On receiving results if the 'actual GCSE score' is more than 4 points below the predicted 'Best 8 Subject score', then the Best 8 score will be recalculated using actual grades and an applicant position in the ranking order may change accordingly. Consequently, the offer of a place may no longer be valid.

The 6th form arrangements also contain a section on the Headteacher's discretion:

The Headteacher, on behalf of the Governors, reserves the right to make a discretionary award of a place in the Sixth Form where it can be shown that personal, domestic or other exceptional circumstances prior to, or during, the GCSE examinations, have affected a student's exam performance and the student has a school record which indicates academic potential of the type suitable for progression to A Level courses at the school.

Consideration of Case

The objection

12. Initially, the objector summarised the points of the objection reasonably succinctly. He has subsequently added more detailed points. The qualifying score (he says) is set too low, and there is no mention in the arrangements as to how the score is set. The objector considers that the cohort applying to the school is of a high level of ability, therefore the qualifying score should be set at a higher level. The objector refers to other objections

made by him in relation to grammar schools in Warwickshire in which various statements were made. It is not necessary for me to set out in detail here what has been said in these cases because the statements were made by parties to those cases in relation to the schools which were the subjects of those objections. In a nutshell, the crux of the objector's argument is that the qualifying score which entitles a boy to be considered for a place at the school is set around 204/204, and the objector does not consider that an applicant with a score of 204/205 is capable of benefiting from a grammar school education.

13. On that basis he therefore challenges the expertise of any person or body who would set such a low qualifying score. He argues that that a specialist body such as Durham CEM who design selection tests (including the tests for this school) would not agree that a minimum score of 204/205 would be reasonable. The objector refers to 'expert' opinions given in a previous case, and suggests that, in his view, a score of 210 is an appropriate minimum score.

14. The school has responded in detail via its legal advisers. The solicitors pointed out that there is additional information on other websites which are posted and accessible via links on the school's website. I have looked at these other websites, and they do indeed contain helpful information, some of which I refer to below. In terms of whether the arrangements are clear, the solicitors argue that the information on the school's website when taken together with the information on the Birmingham Grammar Schools website provides parents with information which is sufficiently clear to understand how the admission arrangements work, and so the arrangements comply with the requirements of paragraph 14 of the Code.

15. The solicitors explained how the qualifying score is set. I have set this out exactly:

"The qualifying score was determined for the first year of Pupil Premium preference at Year 7 (2017) at 204. In the Governing Body meetings of July and September 2015, governors decided how to pitch the score, deciding that 200 (as at King Edward Five Ways) was too low but 204 was more in line with grammar schools in close proximity to us, such as King Edwards Aston. The governors have kept the qualifying score at 204 for subsequent years of entry (2018 and 2019) and they are considering moving the score slightly upwards to 205 for 2020.

Going forward the governors accept that further improvements are required around publishing the qualifying score on the School's website (in addition to the Birmingham Grammar Schools website) in the July preceding the September entrance for admission the following year. So that would mean the school publishing the qualifying score in July 2019 ahead of the September 2019 tests for September 2020 entry". The school offered places to 30 Pupil Premium applicants in 2017; 20 in 2018; and 25 in 2019.

16. In relation to the specific points raised in the objection, the solicitors point out correctly that any previous determinations do not form binding precedents upon me. As mentioned above, the objector has referred to objections made by him to the arrangements of other schools. In one of those cases, statements were made by the admission authority

concerned to the effect that applicants with a minimum qualifying score of 207 would struggle in the academic environment of that school. Indeed, the LA in that case went so far as to say that an applicant on such a low school would need additional academic and pastoral support. As Bishop Vesey's Grammar School uses the same selection tests, the objector is suggesting that these statements (and in particular the concept that a given qualifying score might result in the admission of children not able to benefit from a grammar school education) apply in relation to the school. Accordingly, his view is that the school's arrangements are unreasonable and fail to conform to paragraph 14 of the Code.

17. However, as the solicitors say, Bishop Vesey operates its own admission arrangements, and is at liberty to set its own minimum qualifying score as it sees fit. I concur with the solicitors' statements that, in ADA3395, I as the case adjudicator there did not make any ruling on the appropriate level of qualifying scores within admission arrangements. As it happens, in the case of Rugby High School, a child who reaches the automatic qualifying score and who lives in the schools' catchment areas will secure a place, so the automatic qualifying score is effectively both the passmark and the cut-off score required for admission within the catchment area. However, in the case for Bishop Vesey's Grammar School achieving the qualifying score is only the start of the process of being considered for a place and achieving the qualifying score does not come close to a likelihood of securing a place for most boys. I expand on this below.

18. The solicitors state that the school has published details of its arrangements for selection in accordance with paragraph 1.17 of the Code; use of a qualifying score alongside oversubscription criteria is permitted under paragraph 1.20 of the Code; and admission authorities are able to prioritise applicants eligible for Pupil Premium under paragraph 1.39A of the Code. The school has established its own parameters for setting the qualifying score; these are set out on the Birmingham Grammar Schools website; and the parameters are reasonable in relation to the locality served by the school. I concur with all of these statements except the statement that the parameters for setting the score are set out on the Birmingham Grammar Schools website. I was unable to find anything on this website, or on the school's, website about who sets the qualifying score and how it is set as it is. I would add here, though, that I have considered the school's results at GCSE and A Level together with the most recent Ofsted report which all provide strong evidence that the school's arrangements for selection do indeed operate to select pupils who benefit very well indeed from the academic environment of this grammar school.

19. The solicitors have explained that the qualifying score is benchmarked against the levels considered by the other Birmingham grammar schools. *"Those levels are reviewed annually to ensure that they represent a reasonable level of ability to ensure appropriate access to the grammar school curriculum offered by the School. There is no clear evidence of perversity or irrationality in the approach taken by the School in relation to the setting of the qualifying score. It is evidence based and has input from educational professionals with knowledge of expectations within the grammar school context. It meets the requirements that the objector proposes as being reasonable"*.

20. The Birmingham Grammar Schools website sets out the qualifying scores for each of the Birmingham grammar schools for admission in 2019. These are all different, apart from the scores for Bishop Vesey’s and King Edward IV Aston, which are the same. There is a variation of 15 marks between the highest and lowest scores, from which it is apparent to me that the scores vary in order to reflect the cohort applying to each school.

PRIORITY and QUALIFYING SCORES

*From 2020 entry all of the grammar schools in Birmingham will set a qualifying score. Any child who does not achieve this score or above will **not** be considered for a place.*

The King Edward VI Grammar Schools also have a priority score – for full details please visit the schools individual websites.

	2020 Entry Qualifying Score*	Priority Score*	2019 Entry Qualifying Score	Published Admission Number 2019 & 2020
<i>Bishop Vesey's Grammar School</i>	<i>TBC</i>	<i>N/A</i>	<i>205</i>	<i>192</i>
<i>King Edward VI Aston School</i>	<i>TBC</i>	<i>TBC</i>	<i>205</i>	<i>120</i>
<i>King Edward VI Camp Hill School for Boys</i>	<i>TBC</i>	<i>TBC</i>	<i>215</i>	<i>120</i>
<i>King Edward VI Camp Hill School for Girls</i>	<i>TBC</i>	<i>TBC</i>	<i>209</i>	<i>150</i>
<i>King Edward VI Five Ways School</i>	<i>TBC</i>	<i>TBC</i>	<i>200</i>	<i>180</i>
<i>King Edward VI Handsworth Grammar School for Boys</i>	<i>TBC</i>	<i>TBC</i>	<i>N/A</i>	<i>150</i>
<i>King Edward VI Handsworth School for Girls</i>	<i>TBC</i>	<i>TBC</i>	<i>205</i>	<i>160</i>
<i>Sutton Coldfield Grammar School for Girls</i>	<i>205</i>	<i>N/A</i>	<i>N/A</i>	<i>180</i>

The qualifying scores and priority scores will be published prior to the entrance test.

21. There is also a table of the cut-off scores for the last 3 years. The cut-off score is the lowest score at which a child gained a place (other than in the case of looked after and previously looked after children and children eligible for the Pupil Premium). For all the schools, the cut-off scores are considerably higher than the qualifying scores. In a way, the cut-off scores provide more meaningful information to most parents than the qualifying scores, and parents are able to see the cut-off scores for previous years on the Birmingham Grammar Schools website when deciding which schools to apply for.

'CUT OFF' SCORES

	2017 (Pupil Premium)	2018 (Pupil Premium)	2019 (Pupil Premium)
<i>Bishop Vesey's Grammar School</i>	220(204)	222(204)	228(204)
<i>King Edward VI Aston School</i>	222(207)	220(205)	225(206)
<i>King Edward VI Camp Hill School for Boys</i>	240(226)	242(229)	249(222)
<i>King Edward VI Camp Hill School for Girls</i>	235(215)	236(219)	238(221)
<i>King Edward VI Five Ways School</i>	233(211)	232(207)	237(213)
<i>King Edward VI Handsworth Grammar School for Boys</i>	208 (N/A)	208 (N/A)	219 (N/A)
<i>King Edward VI Handsworth School for Girls</i>	222(209)	224(209)	226(213)
<i>Sutton Coldfield Grammar School for Girls</i>	217(N/A)	218(N/A)	221(N/A)

22. Parents will, of course, need to know whether or not their own child has achieved the qualifying score, but in determining whether their child is likely to get a place at the school, the cut-off scores for the past 3 years are more relevant than the qualifying scores. In 2017, the cut-off score was 16 points higher than the qualifying score; in 2018, the cut-off score was 17 points higher than the qualifying score, and in 2019 the cut-off score was 24 points higher than the qualifying score. A parent looking at the cut-off scores would know that their child would be likely to need a score of above 220 to have a realistic chance of receiving an offer at the school. The main relevance of the qualifying score is for Looked After/Previously Looked After and Pupil Premium applicants. Looking at the table of cut-off scores, based upon the test score alone, a boy with a lower score could be more likely to get a place at the King Edward VI Handsworth Grammar School for Boys, but the prospects would have to be assessed taking account the oversubscription criteria for that school.

Conclusions on the objection

23. This is a reasonable set of admission arrangements. There is nothing arbitrary about how these arrangements have been devised, or how they operate. The arrangements seek a balance of assuring that the school is able to offer places to academically able boys, (which is permitted as the school is a selective school), whilst also seeking to help disadvantaged boys. Although I have not been told this explicitly by the school, I can see from the information on the Birmingham Grammar Schools website that the qualifying score is most relevant for Looked After and Pupil Premium applicants. It appears to have been set at an effective level because the school has offered a reasonable number of places to Pupil Premium applicants during the last three years since this priority was introduced. Other applicants will need to achieve significantly higher scores in order to be offered a place.

24. So, even if it were the case that not all boys with standardised scores of 204 were capable of benefiting from a grammar school education, and I make no finding on this point nor is it for me to do so, this is not what the arrangements facilitate. They enable the admission of a limited number of disadvantaged boys on lower scores. This is a deliberate and legitimate choice for the school to make, and is something which the Code specifically provides for. As I have said above, non-Looked After and non-Pupil Premium applicants would almost certainly need a score above 220 in order to gain admission. The objector suggests that a cut off score of 210 would be appropriate. In fact successful applicants are required to attain a score which is significantly higher. Applicants eligible for the Pupil Premium attract a Government grant of £2300 per pupil which is paid to schools with a view to reducing the attainment gap for the most disadvantaged pupils. The grant provides an additional resource which schools are able to use in order to benefit these pupils.

25. It is for the school to determine how the qualifying score is set. The arrangements do not set out who sets the qualifying score or what is taken into account in setting the score. I am now aware that the governors use their discretion to determine the appropriate score, and that it is reviewed annually. There is nothing arbitrary or irrational in having such a process. Given that the objective of the arrangements appears to be the admission of up to 38 applicants attracting the Pupil Premium whilst achieving a high level of academic achievement, the evidence of the school's exam results and Ofsted report demonstrates that both objectives are being achieved successfully. The Ofsted report says:

“Disadvantaged students make significantly better progress and attain well above students nationally in both English and mathematics. In 2014, they were less than half a grade behind their peers in mathematics and just over half a grade behind in English. This reflects the staffing difficulties in this subject recently experienced by the school. The school's current progress data shows that students eligible for the additional funding are making consistently outstanding progress throughout the school. Assessment information provided by the school indicates that for 2015 this group are expected to perform better than their peers in mathematics and that the gap will have closed in English”.

26. The arrangements do not appear to enable applicants of low ability who live closer to the school to be admitted, as is suggested to be the case by the objector. Applicants other than those who are Looked After or who attract the Pupil Premium are admitted strictly in rank order. Distance is only used as a determining factor where applicants achieve an equal standardised score. The arrangements do not operate to admit applicants who are not capable of benefiting from a grammar school education, and so cannot be said to be unreasonable on the basis that they do. The school does indeed have a highly able cohort, as the objector asserts, and admits boys who progress and do very well at school. The school operates its own admission arrangements, and is at liberty to set its own minimum qualifying score using its own discretion, provided it exercises such discretion reasonably. In my view, the arrangements are neither unfair nor unobjective. I therefore do not uphold this part of the objection.

27. The second part of the objection questioned whether the arrangements are sufficiently clear in accordance with the requirements of Paragraph 14 of the Code. As I have said, the arrangements say nothing about who sets the qualifying score and how it is set, so the question is whether a set of arrangements which say nothing at all on this point can be said to be sufficiently clear for the purposes of paragraph 14. Admission arrangements are defined as “*The overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and refers to any device or means used to determine whether a school place is offered*”. (see p.5 of the Code). Paragraph 14 of the Code requires that parents should be able to look at a set of arrangements and understand easily **how** places for that school will be allocated”.

28. I have emphasised the word ‘how’ because I have seen paragraph 14 misinterpreted. It does not require admission arrangements to tell parents whether or not their child will get a place at the school, or even how likely this is as a prospect. It requires the arrangements to tell parents the factors which determine how places will be allocated in the event of oversubscription, and the procedure used to decide allocation. The procedure, practices, criteria and supplementary information must all be clear.

29. Considering each element in turn (though not in the same order), my view is that the oversubscription criteria are clear, and the school does not use a supplementary information form. I turn next to whether the arrangements set out the overall procedure clearly, and I will then consider whether the practice, and any device used to determine whether a place is offered, are clear.

30. In considering whether the arrangements set out clearly the overall procedure used to determine allocation, two questions arise. The first is whether all of the information needs to be in one place, and the second is how much information is actually required, as opposed to being helpful additional information. My view is that, as a minimum, the arrangements published on the school’s website must set out what parents must do to register for the tests; the deadline for registration; the nature of the tests; when the results will be notified; and the means by which parents can express a preference for the school. The school’s website contains all of this information. Parents will need more detailed information about the rules for the test, and how to submit the Common Application Form to

the local authority, but not all of this information needs to be published on the school's website. It can be communicated to parents in other ways and through other bodies.

31. The school's solicitors argue that it is appropriate to use links to other websites in order to make the procedure clearer, but they have also acknowledged to some degree that parents should be given more information on the school's website itself, as opposed to having to follow links to other websites. My conclusion on this point is that, in order to understand the **process** clearly, it is not necessary for parents to access the Birmingham Grammar Schools website. The Birmingham Grammar Schools website contains information which will be very helpful to parents, and the link to this website is posted clearly on the school's website. It is likely that most parents are capable of, and probably will, look at the information on the Birmingham Grammar Schools website.

32. The Birmingham Grammar Schools website contains detailed information about the testing procedure on the day, for example that children do not need to wear school uniform; mobile phones, calculators, smart watches, tablets and iPods will not be allowed; parents/carers are not allowed to remain on site etc. The rules of the test will all be reiterated to parents, and to the applicants on the day of the test. There is a link to a familiarisation guide which shows the layout of the test papers. Paragraph 1.47 of the Code requires that "*Once admission authorities have determined their admission arrangements....., they **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the school year in which offers for places are made)*". If the rules for the testing procedure are part of the admission arrangements, they must be published on the school's website. However, in my view, this requirement could be argued to be satisfied by creating a link to another website, provided (of course) that the link is working, and that the information can be accessed simply by one click.

33. The information on the Birmingham Grammar Schools website setting out the cut-off scores for previous years, in my view, is invaluable in advising parents as to what the prospects are of their child being allocated a place once the child's test scores have been communicated to them. It might be more helpful to parents if this information was all in one place, but I am not sure that providing additional helpful information as part of the arrangements themselves is strictly a requirement of paragraph 14. I use the analogy of distance as an oversubscription criterion. It would be helpful to parents whose application is being determined based upon proximity to the school to be aware of the address furthest from the school which has merited the offer of a place in previous years because this would enable them to assess how likely it is that their application would be successful, but it is not a requirement of the Code that this information must be published as part of the admission arrangements. It is sufficient for the published arrangements to set out that distance is a factor, and how this features in the level of priority it affords.

34. In the same way, paragraph 14 does not require that parents be given the cut-off scores in previous years. My view, therefore, is that there is no requirement for this information to feature as part of the school's arrangements. In any event, the additional information on the Birmingham Grammar Schools website is easily accessible following the link on the school's website. In my view, therefore the arrangements do set out the

admissions process sufficiently clearly and conform to the requirements of paragraph 14 of the Code in this regard. The school has agreed to provide more information on its own website, which would be helpful.

35. Finally, the question is whether the practice, and any device used to determine whether a place is offered, are clear. The objector is concerned about the fact that the arrangements do not set out how the minimum score is set. It is important, therefore, to note that the minimum score is not the score which will determine whether an applicant is offered a place in most cases. The minimum score has the most relevance, in practice, for Looked After and Pupil Premium applicants. Other applicants who achieve the minimum score are highly unlikely to be offered a place at the school. However, since the school does have a minimum score, the question is whether the arrangements need to describe how this is set and, if so, what level of detail is required. I could find nothing at all in the arrangements setting out how the score is set.

36. There would only be a requirement to describe the minimum score and the process for setting this clearly in the arrangements if it could be said that the minimum score is a device used to determine whether a place is offered, and the setting of the minimum score is a practice used to determine whether a place is offered. My conclusion is that the minimum score is a device used to determine whether a place is offered, but all that would be needed to describe such a device clearly would be for the arrangements to state that there is a minimum score. The school has agreed to publish the minimum score on its website in addition to publishing on the Birmingham Grammar Schools website. My view is that, where there is a minimum score, it must be published as part of the arrangements. I am grateful to the school for its cooperation on this matter.

37. The setting of the minimum score is, in my view, a practice used to determine whether a place is offered. The practice is not described in the arrangements, and paragraph 14 requires that it must be. Therefore, this aspect of the arrangements does not conform to paragraph 14 of the Code as it not clear and I accordingly uphold this aspect of the objection. The score is set by the governors using their discretion. It would be sufficient for the arrangements to simply state that this is the case, setting out the range of factors which the governors take into account. The arrangements say that attaining the minimum score does not guarantee admission which of course is correct. In my view it would be clearer if they stated explicitly that for non-Looked After and non-Pupil Premium applicants, parents are advised to look at the cut-off scores published on the Birmingham Grammar Schools website. Although strictly speaking the cut-off scores for previous years are additional information which is helpful to parents in assessing the prospects of success of any application to the school, there is a possibility that parents could be misled (as the objector was) into believing that the minimum score is also the cut-off score. It needs to be made clear that this is not the case, given that the gap between the minimum score and the cut-off scores for the last three years has been such a significant one.

Other matters

38. The arrangements did not make any provision for admissions outside the normal year group, and therefore did not appear to conform to paragraph 2.17 of the Code which states: *“Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health.... Admission authorities must make clear in their admission arrangements the process for requesting admission out of the normal age group”*. It is also usual for admission arrangements to explain how the local Fair Access Protocol operates. Although it is not an explicit requirement that the arrangements must do so, this makes the arrangements clearer and so is helpful to parents. The school, through its solicitors, has agreed to revise the arrangements to insert a section on applicants outside their chronological year group and a reference to the existence of the local authority’s Fair Access Protocol.

39. The documentation I was sent appeared not to set out the dates of the tests or the date upon which parents are notified of their child’s score. The arrangements therefore appeared to be unclear in this regard, and so failed to conform to paragraph 14 of the Code (set out above). It transpired that the document contained only the admissions policy. The section on the school’s website entitled Year 7 Admissions does set out the dates of the tests and the date upon which parents are notified of their child’s score. This information is clearly set out and accessible to parents.

40. The section relating to the waiting list provides that each child added to the waiting list will require the list to be ranked again in line with the oversubscription criteria. The arrangements are, of course, compliant with the wording of paragraph 2.14 of the Code, however the waiting list section makes no mention of applicants moving into the area. There appeared to be no provision for testing such applicants, so it is unclear as to how they could be ranked. If the intention is to place these applicants at the end of the list, the arrangements should say that this is the case.

41. The solicitors suggest that the section on the waiting list is clear, and that obviously the waiting list only applies to boys who have taken the tests. My view is that the section needs to be made clear by adding a statement setting out the provision for applications in respect of boys who have not taken the tests. It may well be that such applicants are added to the end of the ranked order list and will only be tested in the (unlikely) event that a place arises and nobody who has been tested takes up the offer. But this should be explained. It must be the case that boys move into the area whose parents seek a place at the school. Since the arrangements appeared to be unclear in relation to this point, they appeared not to conform to the requirements of paragraph 14 of the Code.

42. In the arrangements for admission to the sixth form, oversubscription criterion 4 appeared to actually be a means of determining priority under criterion 3, and not a separate category. This appeared potentially unclear, and contrary to paragraphs 14 and 1.8 of the Code. Paragraph 1.8 of the Code requires that *“Oversubscription criteria must be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation*. The school, through its solicitors, has agreed to address this.

43. The arrangements allow for the headteacher to use his discretion to award a sixth form place. Albeit that this is underpinned by the best of motives, this aspect of the arrangements is contrary to paragraph 2.7 of the Code and also not objective, as required by paragraph 14 of the Code. Paragraph 2.7 of the Code provides that “*Admission authorities must allocate places on the basis of their determined admission arrangements only, and a decision to offer or refuse admission must not be made by one individual in an admission authority. Where the school is its own admission authority the whole governing body, or an admissions committee established by the governing body, must make such decisions*”. The school, through its solicitors, has agreed to address this.

44. Regulation 19 of the School Admissions Regulations 2012 provides that, once admission arrangements have been determined for a particular school year, they cannot be revised unless such a revision is necessary to give effect to a mandatory requirement of the Code, admissions law, or a determination of the Adjudicator. The school must now amend its arrangements for admission in September 2020 in order to give effect to the mandatory provisions of the Code which I have referred them to. I am grateful for the school’s cooperation in these matters.

Summary of Findings

45. I find that the arrangements are not unfair or unobjective for the reasons given above, and I do not uphold this part of the objection. However I do find that the arrangements are unclear insofar as they do not describe how the minimum score is set, and I uphold this part of the objection. I also find that the arrangements risk being misleading because they do not make clear the fact that there is likely to be a significant gap between the minimum score and the cut-off score.

46. I find that there are other matters which do not conform to paragraphs 1.8, 2.7 and 14 of the code. The school, through its solicitors, has agreed to revise the arrangements in order to remedy this. The school must make these changes within two months of the date of this determination.

Determination

47. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2020 determined by the Governing Board of Bishop Vesey’s Grammar School on behalf of the academy trust (admission authority) for (Bishop Vesey’s Grammar School, Birmingham).

48. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

49. 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: 4 July 2019

Signed:

Schools Adjudicator: Dr Marisa Vallely