



## Determination

<b>Case reference:</b>	<b>ADA3578</b>
<b>Objector:</b>	<b>A member of the public</b>
<b>Admission authority:</b>	<b>The academy trust for Highsted Grammar School, Sittingbourne, Kent</b>
<b>Date of decision:</b>	<b>9 December 2019</b>

### Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2020 determined by the academy trust for Highsted Grammar School, Sittingbourne, Kent.**

**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 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 unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2020.**

### 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 member of the public (the objector), about the admission arrangements (the arrangements) for Highsted Grammar School (the school), a selective academy school for girls aged 11-18, for September 2020. The objection is to two aspects of the process for selecting pupils as eligible for a place at the school, namely, the "Headteacher Assessment panel" part of the test operated by the local authority and the use of a second test by the school.

2. The local authority (LA) for the area in which the school is located is Kent County Council. The LA is a party to this objection. Other parties to the objection are the academy trust for 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 academy trust (known as the governing body), which is the admission authority for the school, on that basis. The objector submitted her objection to these determined arrangements on 14 May 2019. 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, the School Admissions Code (the Code) and the School Admission Appeals Code (the Appeals Code).

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

- a. a copy of the minutes of the meeting of the governing body at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objector's form of objection dated 14 May 2019;
- d. the school's response to the objection;
- e. the LA's response to the objection;
- f. details of the Kent Test and the Headteacher Assessment process provided by the LA;
- g. information about the selection process on the school's website;
- h. papers submitted by the objector from the National Institute Economic Review and the 'Kent Independent Education Advice' website;
- i. the LA's response to a Freedom of Information (FOI) request submitted by the objector;
- j. data relating to the results of Kent's Procedure for Entrance to Secondary Education and the school's own selection test;

- k. a determination of the Schools Adjudicator concerning Dover Grammar School for Boys (ADA3303) that was issued in August 2017; and
- l. a determination of the Schools Adjudicator concerning The Harvey Grammar School (ADA3583) that was issued in November 2019.

## The Objection

6. The objection covers two matters. First, the objector argues that the Headteacher Assessment panel part of the LA's Procedure for Entrance to Secondary Education (PESE) does not meet the requirements relating to admissions. She says that a "*quota system*" is used in different parts of the county. As a result, the process is not "*fair, clear and objective*" and parents cannot "*understand easily how places...will be allocated*", as required by paragraph 14 of the Code.

7. Second, the objector says that the school does not make clear that the reason it uses two tests for entry to the school (the PESE and the school's own procedure, the "Highsted Procedure") is because the Highsted Procedure "*is selecting lower down the attainment scale.*" She believes it is unfair that the school is using "*a more complicated admission system than is necessary*" and that holding the Highsted Procedure test on a Saturday discriminates against some families, contrary to paragraph 1.8 of the Code.

## Other Matters

8. The determined arrangements make reference to "*residence orders*" in connection with previously looked after children, which does not reflect the introduction by the Children and Families Act 2014 of child arrangement orders, which replaced residence orders.

9. The arrangements state, in relation to the Highsted Procedure,

*"Only in exceptional circumstances will late testing be considered for applicants."*

I considered that this statement might be in breach of the Code's requirement for clarity as there is not an explanation of what is meant by the term "*exceptional circumstances.*"

## Background

10. The school has a Published Admission Number (PAN) of 120. As a designated grammar school, it selects its entire intake on the basis of high academic ability, as it is permitted to do. In order to be eligible to be considered for a place at the school, applicants must either have been assessed as suitable for grammar school by the LA's PESE or have been successful "*in the Highsted procedure where a girl has been unsuccessful in the Kent testing process.*" In the event of oversubscription, priority is given first to looked after children and previously looked after children, followed by children eligible for pupil premium who live in certain postcode areas and those with a sibling currently at the school. The remaining places are allocated on the basis of distance from the school.

11. In respect of the Highsted Procedure, the arrangements state that,

*“The assessment tests will comprise of:*

- *A computer based test which will assess verbal ability, numerical reasoning and non-verbal reasoning and which will be locally standardised.*
- *An English paper to assess Reading and Writing skills and which will be marked. (Not computer based or multiple choice)*

*The pass marks will depend on the range of the results the local children achieve on the tests and it is anticipated that this level will correspond approximately with that which would be attained or exceeded by 25% of the age group nationally.”*

12. In common with all of the grammar schools in Kent, the school takes account of the result of the LA’s PESE. Although the LA is not the admission authority for many grammar schools in the county, including Highsted Grammar School, it co-ordinates the PESE on behalf of the schools. The PESE comprises two distinct parts:

- (i) a series of three multiple-choice tests, in reasoning, English and Maths, and a writing exercise; and
- (ii) a Headteacher Assessment panel (HTA) to which children who did not reach the required standard in the multiple-choice tests can be referred by their primary school’s headteacher.

From the tests taken in 2018 for entry into secondary school in 2019, in order to be given a “*grammar school assessment*”, children needed a total score of 323 or more from the three multiple-choice tests, with no single score lower than 107. The writing exercise is not marked or taken into account in the first part of the PESE but is considered by the HTA panel. Although it appears that the term is sometimes used for the whole of the PESE, I shall refer to the three multiple-choice tests as the “Kent Test”. Children can be assessed as suitable for a grammar school either through their scores in the Kent Test or by an HTA panel. This qualifies them for consideration for a place at grammar schools in Kent but does not guarantee a place at a particular school. When there are more applications from eligible children than places available, grammar schools apply oversubscription criteria, including giving priority to children who live in a catchment area and, in some cases, giving priority to children whose score in the Kent Test exceeds a higher threshold than 323.

## **Consideration of Case**

### *Headteacher Assessment panels*

13. The objector submitted identical objections to the arrangements of six grammar schools in Kent. Each objection included the objector’s argument that the HTA part of the PESE does not meet the requirements relating to admissions.

14. I considered the objector's argument in detail in my determination concerning The Harvey Grammar School. I did not uphold this part of the objection. The determination was published on 12 November 2019, with the case reference ADA3583.

15. A letter was sent from the Office of the Schools Adjudicator on 14 November 2019 to the parties to this case, drawing attention to the determination ADA3583. The letter stated,

*"It appears to the adjudicator that the conclusions and the reasons given in ADA3583 apply equally to this issue as raised in the current objection.*

*The adjudicator invites any representations as to why this issue in the current objection ought to be considered or determined differently."*

I have not received any representations from the objector, the LA or the school as to why the objection relating to the HTA ought to be considered or determined differently in this case.

16. Determinations of adjudicators do not constitute precedents and I am required to consider this objection on its own merits. I have considered whether the part of the objection relating to the HTA should be looked at differently from the way I addressed it in ADA3583. I do not consider that it should. The objection in this case is made in identical terms to a part of the PESE that applies to all grammar schools in Kent; there is no specific reference to Highsted Grammar School.

17. Therefore, I consider that the conclusions and the reasons given in ADA3583 apply equally to this issue as raised in relation to Highsted Grammar School. I do not uphold this aspect of the objection.

#### *The use of the Highsted Procedure*

18. The objector expresses a number of concerns about the school's use of the Highsted Procedure that she believes indicate that its use by the school does not comply with the Code. These can be summarised under three headings:

- the school offers the test without a "*clear explanation*" that its purpose is "*to fill all available places*" as "*not enough local children pass the county-wide Kent Test*";
- it is not fair to use a more complicated admission system than is necessary to achieve the school's aims; and
- it is problematic that the Highsted Procedure is held on a Saturday, in contrast to the Kent Test that takes place during school hours.

19. I shall consider these three aspects of this part of the objection in turn. In respect of the first of the headings, the objector says,

*"If parents are told the second test is likely to be easier then they can make a straightforward judgement about entry routes to the school."*

That parents are not told that the Highsted Procedure is “easier” is, she maintains, a breach of paragraph 14 of the Code, which states that,

*“Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”*

She says that it “seems unreasonable” that it is not explained to parents that the reason for the two tests is that “one test is selecting a different attainment standard than the other.”

20. Central to the objector’s argument, therefore, is her assertion that the Highsted Procedure is “easier” than the Kent Test and that its aim is “to select pupils with a slightly lower attainment level.” In its response to the objection, the school does not address this claim directly. Rather, it says that, “the Highsted Procedure and the Kent Procedure are different tests.” The school explains that,

*“the Highsted Procedure is an additional optional test – it is not the same as the Kent Procedure. The Highsted Test has been devised by working closely with the University of Durham a different test provider and includes an element that is not taken in the Kent Test. As part of the Highsted Procedure the English test involves a significant reading text which pupils are required to respond to and includes a written response based on that text both of which are marked by an external provider. This formulates part of the criteria that pupils have to meet in order to be considered as eligible for a place at the school. In the Kent Test the written work is not marked.”*

21. The LA has provided me with data showing the outcomes of both the PESE (Kent Test and HTA) and the Highsted Procedure for those pupils who were allocated a place at the school for September 2019, which I have summarised in Table One.

**Table One: Pupils allocated places at Highsted Grammar School for September 2019**

<b>TEST OUTCOMES</b>	<b>NUMBER OF PUPILS</b>
Pupils assessed as eligible for grammar school by PESE and the Highsted Procedure	74
Pupils assessed as eligible for grammar school by PESE but assessed as not suitable for grammar school by the Highsted Procedure	7
Pupils assessed as eligible for grammar school by PESE who did not take the Highsted Procedure	28
Pupils assessed as not suitable for grammar school by PESE but assessed as eligible for grammar school by Highsted Procedure	29
Pupils assessed as eligible for grammar school who did not take the Kent Test	0
<b>TOTAL</b>	<b>138</b>

The figures show that 29 pupils were assessed as eligible for grammar school as a result of the Highsted Procedure having not been assessed as suitable for grammar school by PESE. There were seven pupils for whom the opposite was the case.

22. The school reports that overall 188 girls took the Highsted Procedure and 120 were assessed as eligible for consideration for a place at the school, that is, 64 per cent. By way of comparison, figures in the *Kent Advice* article indicate that around 41 per cent of pupils living in Kent who were entered for the PESE for admission in 2019 were deemed eligible for grammar school.

23. Taken together, these figures appear to me to be inconclusive with respect to the objector's contention that the Highsted Procedure selects some pupils "*with a slightly lower attainment level*" than the PESE does. Although 29 of the 138 pupils allocated places at the school for September 2019 were not assessed as eligible for grammar school by the PESE, overall a higher number of pupils allocated a place at the school were assessed as eligible for consideration by the PESE (109) than by the Highsted Procedure (103).

24. In responding to the objection, the school says,

*"the school is a centre of excellence in our community and therefore seeks to support local able girls (including able disadvantaged girls) to have access to their local grammar school."*

This suggests strongly to me that a key purpose of the Highsted Procedure is to identify pupils who are suitable for grammar school education but whom the Kent Test for whatever reason has not so identified. The LA believes its HTA panels serve this purpose, but comments,

*"As children who have qualified through other tests are less likely to be referred to Kent's HTA panel, it is hard to take a definitive view on the efficacy of either method of scrutiny."*

These may be the circumstances of a proportion of the 29 pupils assessed as eligible by the Highsted Procedure and not by PESE, that is, that they were not referred to the HTA panel.

25. It is, in fact, impossible for me to confirm conclusively whether the objector's belief that the Highsted Procedure selects a lower level of attainment than the LA's procedure is well-founded. As it happens, I do not consider that it is necessary for me to reach a definitive judgment on this matter. In order to comply with the part of paragraph 14 of the Code cited by the objector, the school needs to provide sufficient information about the testing process so that parents can make informed decisions and understand easily how they relate to the allocation of places.

26. The school's website provides information about the admissions process. The admissions arrangements, which are easily found, make very clear that girls are eligible for

consideration for admission to the school either through the PESE or the Highsted Procedure. The school says,

*“since the Highsted Procedure has been in place the school has made abundantly clear Highsted Academy Trust’s (as a separate admission authority) reasons for introducing the Highsted Procedure. This is discussed at the school’s Open Evening in June and during a separate parental evening (also in June) for explaining the Highsted Procedure to parents in our community. These events are exceptionally well attended by the families of local children.”*

27. I consider that the information published by the school makes clear how the selection process operates. The objector does not cite any specific evidence that parents have misunderstood how the testing or admissions system works or have been misled in any way. It seems unlikely to me that this would be the case. However, whilst, of course, I do not know what questions may be raised at the open evening and how they might be answered, there appears to be nothing published by the school that explains that significant numbers of pupils who are not assessed as eligible for grammar school through the PESE are eligible for a place at Highsted Grammar School through their results in the Highsted Procedure. The objector believes this information should be published for parents, in order for the arrangements to comply with paragraph 14 of the Code. I can certainly see that such information might be helpful to parents but, on balance, I do not consider that it is absolutely necessary for the school to publish it. A plain reading of paragraph 14 requires admission arrangements to make clear how the testing processes relate to the allocation of places in a way that parents can readily understand. In my view, the admission arrangements meet this requirement. There is no requirement to provide what might be termed contextual information about relative success rates in tests. Therefore, whilst I am inclined to agree with the objector that the school could do more to explain to parents how it believes that the Highsted Procedure is more tailored to local needs than the PESE, I do not find that the arrangements are in breach of the Code in this respect.

28. I turn now to the second aspect of the objection to the use of two tests, that is, that the process is unfair. I considered the objector’s argument in this respect in determination ADA3583. The letter from the OSA, which I referred to in paragraph 14 above, drew the attention of the parties to this case to the relevant paragraphs of ADA3583, which contain the reasons for not upholding this part of the objection. The parties were again invited to make representations as to why this issue in the current objection ought to be considered or determined differently. I have not received any such representations from the objector, the LA or the school.

29. The objection in this case is made in identical terms to the same issue, that is, the use of two tests, which was considered in ADA3583 in relation to The Harvey Grammar School. Therefore, I consider that the conclusions and the reasons given in ADA3583 apply equally to this issue as raised in relation to Highsted Grammar School. I do not uphold this aspect of the objection.



30. The third aspect of the objection to the use of two tests by the school relates to the fact that the Highsted Procedure testing takes place on a Saturday. The objector says that this is problematic:

*"The operation of two tests not one will lead to some children not accessing the school when they take only the Kent Test... inevitably some unsure, less motivated, parents will agree for their child to take a test on a school day organised by the primary school, but will not take them to a Saturday test... A lone parent with other children to look after, or working on a Saturday, would prefer a test in school hours if it is at all possible."*

She cites paragraph 1.8 of the Code, which says that,

*"Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group."*

31. I understand the potential difficulties that testing on a Saturday may cause but am aware that many schools across the country schedule tests for selection on Saturdays. I agree with the objector that this may cause difficulties for some families, but I do not consider that this, of itself, constitutes a breach of paragraph 1.8 of the Code. Lone parents or parents who work on Saturdays do not, in my view, represent a "*particular social...group*" within the meaning of paragraph 1.8. Therefore, I do not uphold this aspect of the objection on the grounds put forward by the objector, but I have more to say on this matter below.

### *Other matters*

32. The school accepted that its arrangements should make reference to child arrangement orders rather than residence orders.

33. The school explained that the "*exceptional circumstances*" in which an alternative testing date for the Highsted Procedure might be provided cover sickness or other medical reasons, religious reasons or bereavement of a family member. Confirmatory evidence is required. This information is conveyed to parents at the information meetings referred to in paragraph 26 above. I consider the school is right to use information meetings to pass this information to parents. However, that is not in itself enough to meet the Code's requirements for clarity, not least as not all parents may be able to attend the meetings and because this information needs to be in the arrangements themselves. I find that in order to comply with the Code, the circumstances in which an alternative testing date may be provided must be set out in the determined arrangements.

## **Summary of Findings**

34. For the reasons given in determination ADA3583, I consider that the HTA part of the PESE meets the requirements of fairness and objectivity required by the Code. The school could helpfully provide more explanation about the two tests it uses to determine eligibility for places, but the information given to parents is sufficiently clear for them to understand

easily how places will be allocated. The use of two tests is not unfair to parents or pupils. I do not uphold the objection.

35. There are other ways in which the arrangements do not conform with the requirements relating to admissions.

## Determination

36. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2020 determined by the academy trust for Highsted Grammar School, Sittingbourne, Kent.

37. 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 way set out in this determination.

38. 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 unless an alternative timescale is specified by the adjudicator. In this case, I determine that the arrangements must be revised by 28 February 2020.

Dated: 9 December 2019

Signed:

Schools Adjudicator: Peter Goringe