Office of the Schools Adjudicator

Determination

Case reference:	**ADA3527**
Objector:	**A member of the public**
Admission authority:	**The London Borough of Redbridge for Ilford County High School**
Date of decision:	**17 January 2020**

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, Mr Brooke and I partially uphold the objection to the admission arrangements for September 2020 determined by the London Borough of Redbridge for Ilford County High School.

We have also considered the arrangements in accordance with section 88I(5) and find one other matter which does not conform with the requirements relating to admission arrangements in the ways set out in this determination.

By virtue of section 88K(2) the adjudicators' 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 or 28 February following the decision, whichever is sooner, unless an alternative timescale is specified by the adjudicator. In this case we 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 Ilford County High School (the school), a selective

community school for boys aged 11 to 18 for September 2020. The objection is to the use of the same test for selection by ability for later additional sittings, and to a number of other matters as set out below.

2. The local authority (LA) for the area in which the school is located, and the school's admission authority, is the London Borough of Redbridge. The LA is a party to this objection. Other parties to the objection are the school's governing board and the objector.

Jurisdiction

3. These arrangements were determined under section 88C of the Act by the local authority (LA) on 12 February 2019. The objector submitted his objections to these determined arrangements on 28 March 2019. 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. We have also used our power under section 88I of the Act to consider the arrangements as a whole.

4. Although we are appointed as joint adjudicators in this case, I have acted as the lead adjudicator and have drafted this determination, which is agreed by Tom Brooke. In this determination references to myself should therefore be read to include both joint adjudicators. Specific provision is made in the Education (References to Adjudicator) Regulations 1999 for the chief adjudicator to allocate a case to more than one adjudicator and to appoint one of them to be the lead adjudicator.

Procedure

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

6. The documents I have considered in reaching our decision include:

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

b. a copy of the determined arrangements,;

c. the objector's form of objection dated 28 March 2019 and supporting documents;

d. subsequent correspondence from the objector;

e. the local authority booklet "Transfer to Secondary Schools 2020";

f. the school's and the LA's responses to the objection and supporting documents.

The Objection

7. The objection contained the complaints that the following issues are not compliant with the provisions of the Code and the law relating to admissions:

a. that the use of the same test for late applications is not compliant with these requirements and that the test results do not provide an accurate reflection of candidates' ability;

b. that the priority given to a group of children who are entitled to the pupil premium unfairly discriminates against other children;

c. that the arrangements are unclear because no list is given of acceptable reasons for a child to miss the test which takes place on the published date;

d. that the arrangements are unfair and unclear because they do not state what is meant by *"correct identification";*

e. that the arrangements are unclear because they do not state how the pass mark is determined;

f. that the arrangements breach elements of paragraph 2.9 of the Code by not permitting late testing for candidates who do not register within the published deadline, and

g. that the arrangements were not published on the admission authority's website in accordance with paragraph 1.47 of the Code.

Other Matter

8. Having considered the arrangements as a whole it appeared to us that the following matter also did not, or may not, conform with requirements:

That the arrangements fail to comply with paragraph 1.6 of the Code because they do not state that children whose statement of special educational needs or Education, Health and Care plan names the school will be admitted.

Background

9. The objector has referred a large number of objections to the Schools Adjudicator under Section 88H of the School Standards and Framework Act 1998 (the Act) over the past several years.

10. Each of the objector's objections has related to a school which is a designated grammar school or a bilateral school with selective places. Each school objected to requires applicants to have sat a test of ability. In every case that test is set by the Centre for Evaluation and Monitoring (CEM). Many, although not all, of the objections relate to grammar schools situated in Warwickshire. The same issues have been raised in numerous of the

objections. In essence the objector says that some content of tests will be recalled by children sitting the test, which will be passed on to those sitting later so giving them an advantage thereby making later testing using the same test unfair. He asserts that this is in breach of paragraph 14 of the Code, and also paragraph 1.31, which requires that selection tests must give an accurate reflection of the child's ability or aptitude, because he says that content can be compromised once initial sittings have taken place.

11. In 2018, for the first time, the Schools Adjudicator adopted a "first case" procedure, whereby an issue or issues raised in multiple objections could be considered in a first case, with adjudicators considering the same issue then able to adopt that that reasoning, subject of course to consideration of any reasons advanced for why it should not be followed. In those (and previous) cases, adjudicators have found (in very short summary – reference should be made to the determinations in question for the full reasoning on each issue) that the re-use of the same test does not breach paragraphs 14 or 1.31 of the Code, because:

(i) Some late testing is necessary, to allow for matters such as the unavoidable indisposition of candidates (see ADA3349, paras 41- 43);

(ii) Children will recall some of what they have encountered when taking tests (see ADA3349, paras 30,35);

(iii) This recall is likely to be limited (see ADA2877, para 25; ADA3349, paras30,40,46 and ADA3351, para25);

(iv) The likelihood of such knowledge being passed on in the normal course of course of events is limited (see ADA3349, paras 35,40,46; ADA3351, para 29);

(v) By contrast, if mechanisms for passing on content are provided, tests could be compromised (see ADA3349, paras 30,35);

(vi) Using different tests for later sittings is not necessarily non-compliant with the Code (see ADA3127, para 19). However, re-use of the same test has the advantage that all children are tested against the same standard and in normal circumstances the chances that test content will be compromised is minimal (ADA3349, paras 44,46).

12. The objector has referred 14 objections to the Schools Adjudicator in 2019, which follow the pattern described above and raise issues that were the subject of the "first case" procedure in 2018. In order to minimise the use of public money and resources which this gives rise to, and to deal as efficiently as possible with these multiple objections, the joint adjudicators have decided to adopt a broadly common format for considering the issues that the objector has raised.

13. Table 1 sets out each of the objections referred in 2019 to the admission arrangements for 2020. In most cases the current objections raise the same or similar arguments and submit the same evidence as has been

raised in objections in preceding years. In some cases the objector has submitted new evidence and in some cases new issues have been raised in objections. Table 2 sets out the determinations of adjudicators in previous years which are referred to in this determination.

14. We emphasise that we are not treating past determinations as precedents. Adjudicator determinations do not create precedents and we have considered the arguments made in each case this year on their merits and against the relevant provisions of the legislation and Code. In particular, we have considered whether any point raised by the objector would lead us to conclude that the issues under consideration in relation to objections made this year should result in a different conclusion from those reached in relation to the same or substantially the same issues in other schools in previous years.

Table 1 List of objections made by the objector in 2019

Name of school	**Reference Number**	**Name of school**	**Reference number**
King Edward VI Camp Hill School for Boys	ADA3511	Lawrence Sheriff School	ADA3524
King Edward VI Camp Hill School for Girls	ADA3512	The Henrietta Barnett School	ADA3525
King Edward VI Aston School	ADA3513	Ilford County High School	ADA3527
King Edward VI Five Ways School	ADA3514	St Bernard's Catholic Grammar School, Slough	ADA3528
King Edward VI Grammar School for Boys	ADA3515	The Crypt School	ADA3531
King Edward VI Grammar School for Girls	ADA3516	Wolverhampton Girls' High School	AD3532
Stroud High School	ADA3523	Townley Grammar School, Bexley	ADA3533

Table 2 Relevant past determinations

Name of School	Reference Number	Date of Decision
Lawrence Sheriff School	ADA2608	15 September 2014
Rugby High School	ADA2877	15 September 2015
Lawrence Sheriff School	ADA3127	25 August 2016
Alcester Grammar School	ADA3349	27 July 2018
Chelmsford County High School for Girls	ADA3350	12 December 2018
Rugby High School	ADA3351	27 July 2018
Lawrence Sheriff School	ADA3395	27 September 2018

The admission arrangements

15. Under the arrangements determined for the school by the LA for admissions to Year 7 in September 2020, late testing for those unable to take the selection test on the published date will be arranged for candidates who provide suitable evidence of the reason for this. Examples of reasons which would support a late test together with examples of suitable evidence are given. For candidates who do not provide *"the correct identification [of the candidate]"* at the testing venue, the arrangements say that *"no further arrangements will be made"*.

16. A *"pass mark"* of 104 in the selection test is quoted, and a published admission number (PAN) of 180 is set.

17. If the school is oversubscribed with boys who have achieved the pass mark, priority is given in the following order:

(i) Looked after and previously looked after children (as defined);
(ii) Children who appear to have been in state care in a place outside England and Wales (as defined);
(iii) Up to 18 children, who live in the school's catchment area and who are entitled to receive the pupil premium, ranked in order of their standardised score in the selection test;

(iv) Other children who live in the school's catchment area, ranked in order of their standardised score in the selection test, and

(v) Children living outside the catchment area, ranked according to their score.

18. Distance of children's homes from the school, and finally random allocation are used as tie-breakers where necessary.

Consideration of Case

19. I have set out our conclusions and the reasons for those conclusions either below, or in a table attached to this determination as Appendix 1. I will refer where appropriate to the relevant paragraphs of text in Appendix 1.

Whether the use of the same test for late testing is compliant with the Code and law on admissions and whether the use of the same test provides an accurate reflection of candidates' ability

20. Our conclusions on this issue and the reasons for those conclusions are set out in part 1 of Appendix 1 to this determination. We do not uphold this aspect of the objection.

Whether the priority given to a group of children who are entitled to the pupil premium unfairly discriminates against other children

21. Our conclusions on this issue and the reasons for those conclusions are set out in part 2 of appendix 1 to this determination. We do not uphold this aspect of the objection.

Whether the arrangements are unclear because no list is given of acceptable reasons for a child to miss the test which takes place on the published date

22. Our conclusions on this issue and the reasons for those conclusions are set out in part 3 of appendix 1 to this determination. We do not uphold this aspect of the objection.

Whether the arrangements are unfair and unclear because they do not state what is meant by *"the correct identification"*

23. Our conclusions and the reasons for those conclusions are set out in part 4 of appendix 1 to this determination. We uphold this aspect of the objection.

Whether the arrangements are unclear because they do not state how the pass mark is determined

24. The arrangements state:

"There will be a pass mark of 104 for all applicants and no one scoring lower than 104 will be added to the ranked list or waiting list."

25. The local authority has provided clarification concerning the origin of the score of 104 which is used as the qualifying score in the arrangements. This has been used since 2017/2018 and was chosen by local headteachers as an indication that a child would be likely to *"flourish in the grammar school environment".* The Local authority has added that *"we do not believe that we have to state each year why this pass mark was chosen".*

26. The objector has responded by referring to the use of the same score year-on-year, saying that different tests in different years will not yield identical results. This is of course true, but has no bearing on the clarity of the admission arrangements for a particular year. For that matter, it has no bearing either on their fairness since there is no requirement that testing should identify children of an identical academic standard from one year to another, as the objector implies. The objector's asserts that *"this score has been manipulated to admit PP (pupil premium) children".* He provides no evidence that the score has been "manipulated" in any way. It is the case that the arrangements give priority to a number of children who are entitled to the pupil premium and who reach the minimum score above those who are not entitled to the pupil premium and who may have significantly higher scores. However, the giving of priority to children entitled to the pupil premium is specifically authorised in the Code. The relevant provisions relating to the use of qualifying scores and of the giving of priority to children in receipt of the pupil premium, are laid out in part 2 of appendix 1 which is referred to above.

27. The requirement of the Code in paragraph 14 is that:

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

There is nothing unclear about the identification of a pass mark of 104 in the school's selection test. It is hard to imagine how anything could in itself be clearer. The arrangements are also clear as to how that pass mark is used in the allocation of places, and so we cannot see that parents would fail to understand how places are allocated in relation to it. While it is of course always helpful to have the kind of background explanation which the local authority has provided, it is not necessary for an understanding of the operation of the admission arrangements in the allocation of places at the school.

28. We do not uphold this aspect of the objection.

Whether the arrangements breach elements of paragraph 2.9 of the Code by not permitting late testing for candidates who do not register within the published deadline

29. The arrangements state:

"In respect of applicants who do not register for testing within the publicised registration deadline but then submit on-time preferences naming a selective school, no testing arrangements shall be made."

30. The local authority has refuted the objector's claim that the arrangements are in breach of paragraph 2.9 of the Code, which contains the following:

"Admission authorities must not refuse to admit a child solely because:

a) they have applied later than other applicants;

……

e) they have missed entrance tests for selective places."

The local authority believes that its arrangements are fair because they allow for late registration if parents move into the area, and that those already living there have a two-month period in which to register for testing.

31. The objector has responded by stating his view that even those moving into an area could register for a selection test and that it is therefore inequitable to allow them to register after the deadline while local residents are not able to *"sit late for any other reason".* As we have seen, the objector is aware that the arrangements make explicit provision for local parents who have registered on time to be allowed a late sitting because of their child's illness on the date set for testing or for reasons of religious observance.

32. The detail of the arrangements which the local authority makes in respect of testing are set out in the published document "Transfer to Secondary Schools 2020". In summary, these are:

Registration for testing: 1 May 2019 to 26 June 2019

Testing date: Saturday14 September 2019

Late test for those submitting request and supporting evidence by 19 September 2019: Monday 23 September 2019

Deadline for applications: 31 October 2019

This document also states that late registration is allowed for those moving into the area who provide the described documentary proof of their move.

33. As we have set out above, adjudicators have previously found that late testing should be allowed for those who, for good reason, are unable to take a selection test on the day specified. Where arrangements have made no provision for those moving into an area to be allowed to register late for testing, this has also been found to be unreasonable if the length of time between the end of registration and the date of testing was long (ADA 3350 Chelmsford County High School for Girls). I emphasise here that each case is considered on its merits and what is an acceptable time between the registration deadline and the test date may vary according to the different circumstances of the schools concerned.

34. Paragraph 2.9 of the Code is relevant to the making of admissions to a

selective school in that it prohibits refusal to admit a child *"solely"* because they have applied later than other children or because they have missed selection testing. The arrangements for the school do neither of these things in our view. The date on which children have applied for a place, provided they do so before the closing date set nationally, has no bearing on whether they secure a place, and the arrangements contain specific provision to enable those unable to take the selection test on the specified date for good reason to be able to do so on an alternative occasion. What the arrangements do not do is to enable those already living in the area to register for testing after the deadline of 26 June 2019. However, they do not need to do so in order to be compliant with the paragraph 2.9 of the Code in our view.

35. We do not uphold this aspect of the objection.

Whether a failure to publish the arrangements on the admission authority's website constitutes a breach of paragraph 1.47 of the Code

36. Paragraph 1.46 of the Code requires admission authorities to determine admission arrangements by 28 February in the determination year. So for admission arrangements for September 2020, the relevant date was 28 February 2019. Paragraph 1.47 states;

*"Once admission authorities have determined their arrangements, they **must**….publish a copy of them on their website…."*

37. The objector complains that the arrangements for this school were not published on the school's website on 27 March 2019, the day before he submitted his objection to the admission arrangements. However, the school is not an admission authority. The local authority is the admission authority for the school, so there is no requirement that the arrangements be published on the school's website by 15 March following determination. The local authority has provided me with evidence that it determined the admission arrangements for the school on 12 February 2019, and that these were published in its website on 15 March 2019.

38. We do not uphold this aspect of the objection.

Other Matter

39. **The admission of children whose statement of special educational needs or Education, Health and Care Plan names the school.**

40. The local authority has accepted that, while it complies with the requirement of paragraph 1.6 of the Code that these children are admitted to the school, it makes no statement to this effect in its admission arrangements for the schools for which it is the admission authority. It has told me that it does not consider this to be necessary as such admissions are *"out-with the published arrangements."*

41. We disagree. Paragraph 1.6 of the Code is the first paragraph in the section which sets out what the Code requires concerning oversubscription

criteria, and its first sentence is:

*"The admission authority for the school **must** set out in their arrangements the criteria against which places will be allocated at the school."*

42. While the requirement to admit these children is not an oversubscription criterion, it is nevertheless a criterion, and it has the consequence that the number of places available to other children is reduced by the number of such admissions. Parents reading admission arrangements need to know that in practice the number of available places may therefore be lower than the published admission number (PAN) stated in the arrangements for the school, because the Code requires the first call on places at all schools to be given to this group of children.

43. The local authority has stated its willingness to include a statement covering the admission of children with special educational needs in its arrangements, but as determined, the arrangements fail to do so and so do not comply with what paragraph 1.6 of the Code requires.

Summary of Findings

44. We have set out in the appendix our reasons for upholding that part of the objection concerning the identification required by children attending sittings of the school's selection test.

45. We have also set out above and in the appendix the reasons why we have not upheld other aspects of the objection.

46. We have also explained above why we consider the arrangements to fail to comply with paragraph 1.6 of the Code.

Determination

47. In accordance with section 88H(4) of the School Standards and Framework Act 1998, Mr Brooke and I partially uphold the objection to the admission arrangements for September 2020 determined by the London Borough of Redbridge for Ilford County High School.

48. We have also considered the arrangements in accordance with section 88I(5) and find one other matter which does 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 adjudicators' decision is binding on the admission authority.

50. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination or 28 February following the decision, whichever is sooner, unless an

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

Dated: 17 January 2020

Signed:

Adjudicator: Dr Bryan Slater

Appendix

The parts of this Appendix set out below cover points raised by the same objector in a number of objections to the admission arrangements of a number of schools.

Part	
1.	**Whether use of the same test for selection by ability for later additional sittings is compliant with the provisions of the Code and the law relating to admissions** 1. A letter was sent to the objector by the Office of the Schools Adjudicator (OSA) explaining the process to be followed in this case. That letter sets out the matters to be considered. The letter refers to earlier determinations of objections relating to Alcester Grammar School (ADA3349) and Rugby Grammar School (ADA3351). In relation to this issue, in which the same or substantially the same issue has been considered and determined in ADA3349 and ADA3351, the letter states: *a. "The lead adjudicator notes that the same or substantially the same issue has been considered and determined in ADA3349, dated 27 July 2018, a copy of which can be accessed by this link. The whole determination should be considered but paragraphs 18 to 48 specifically address this point. Further matters in relation to this issue have considered in ADA3351 dated 12 December 2018, a copy of which can be accessed by this link. The whole determination should be considered but paragraphs 21 to 30 specifically address those further matters. On initial consideration it appears to the lead adjudicator that the conclusions and the reasons given in ADA3349 and ADA3351 apply equally to this issue as raised in the current objection;* *b. the lead adjudicator invites any representations as to why this issue in the current objection ought to be considered or determined differently."* **Whether the use of the same test provides an accurate assessment of candidates' abilities.** *2.* The letter referred to above stated: *"The lead adjudicator considers this to be an extension of the point which is considered in point 1 above. Consequently the lead adjudicator proposes to take the same approach as set out in paragraph 1."* 3. The objector responded to the letter, following any responses from the local authority and the school which were copied to him, with a document headed "*Invited Submission*" together with attachments. This document sets out the reasons why he disagrees with the consideration

and conclusions in the determination of his objection regarding ADA3349 and ADA3351. It is clear that the objector considers that ADA3349 and ADA3351 were wrongly decided on this issue.

4. In his submissions the objector raised some procedural points. He invited me to request documentation from the courts which dealt with injunction proceedings. We have seen and considered the published judgments. The issues before the High Court are not the same as those we are considering here although some of the facts are relevant. I am satisfied that we have all necessary information. We do not consider that documentation such as statements of case would assist us in reaching a decision.

5. The objector has also asked me to seek copies of earlier tests from the test provider. We do not consider that a comparison of earlier tests or a cross reference of the content of earlier tests to information published on websites would assist us in my consideration of this matter.

6. ADA3349 was published on the OSA website on 27 July 2018 and ADA3351 on 12 December 2018. Decisions of the adjudicator are binding on the admission authority in question and any other person or body. There is no provision in the statutory framework for an appeal from an adjudicator's determination. A person who considers that the decision is defective may apply to the High Court for leave to bring proceedings for judicial review and if leave is granted may bring such proceedings. No application to bring proceedings for judicial review had been made at the time of completing this determination. Consequently ADA3349 and ADA3351 stand as published.

7. ADA3349 and ADA3351 do not constitute precedents and we are required to consider this objection on its own merits. We have considered all of the points raised by the objector in relation to ADA3349 and ADA3351. In particular, we have considered whether any point raised would cause us to consider that this issue, identified as being the same or substantially the same issue in the present case, should be looked at differently from the way they were looked at in ADA3349 and ADA3351.

8. We find that the points raised by the objector regarding ADA3349 and ADA3351 do not lead us to consider that any point in ADA3349 and ADA3351 was wrongly decided. A number of the points made in the "*Invited Submission*" are based on the assertion that the injunction proceedings brought against the objector by Warwickshire County Council showed that there was a real risk of the test process being compromised if children could remember information from the tests. In fact, as was explained at paragraphs 37-38 of ADA3349, that was not the finding of the Court.

9. The objector refers in the "*Invited Submission*" to what he calls an "*independent research study*" which is published on his website. There are no details of how, where or when this study took place or of any

	methodology used or any review carried out by any reputable academic body. The study purports to show that children can remember some of the content of a test devised and administered by the objector. The question for us in this case is not in fact whether children can remember some of the content of tests. They may well do so. The question is whether having remembered content, they will do so accurately and pass it on to other children who will then remember it accurately, and whether such sharing of information will compromise the integrity of the testing regime. All this has been addressed in the earlier determinations ADA3349 and ADA3351. In this context and for the reasons relating to the nature of the study, we find that the study has very little relevance or evidential value in our consideration of this case. 10. The objector refers to a "*later High Court case*". We have read the judgement in this case and we find that it adds nothing new to the matters considered in the other judgements referred to above and considered in ADA3349 and ADA3351. 11. The objector refers to a response by Durham University regarding the reuse of tests "*Durham University does not make recommendations for the reuse of tests. The University makes the tests available for reuse by customers in response to customer requirements*". This is a neutral stance and certainly does not endorse the objector's view that the reuse of tests is unfair or improper or that it leads to results that may not be an accurate reflection of candidates' ability. 12. The objector states in the objection that "*there is no reason for children not to pass on content once they have been offered places*". This is likely to be early in the autumn term of say 2019 and thus well before children who took the test on the first day have been offered places which will not be until early March 2020. This does not change our view on whether and to what extent test content may be recalled and/or passed on. 13. The objector's further criticisms of the evidence given to the Court that are referred to in ADA3349 and ADA3351 do not persuade us that any of the factual conclusions we reached were wrong. 14. The objector also disagrees with a number of the conclusions reached in ADA3349 about the likelihood of information being passed on, the likely impact of a child knowing in advance what one or more of the questions would be, the difficulties of ranking where different tests are used and the level of accuracy that is achievable in tests of ability. We have considered the points made by the objector, but disagree with him for the reasons already set out in ADA3349. 15. The objector has not given any reason or reasons why the facts in the present case mean that it should be considered differently to ADA3349 and ADA3351. 16. The objector raises this point in the same or substantially the same

	terms to those he raised in ADA3349 and ADA3351. In deciding this issue we adopt the reasons and conclusions set out in paragraphs 18 to 48 of ADA3349 and summarised above. It is not necessary to set out the relevant paragraphs of ADA3349 here. 17. We do not uphold the objection on this point.
2	**Unfair discrimination against non-pupil premium children by giving 18 lower scoring pupil premium children priority** 18. We note that the same or substantially the same issue was raised by the objector in an objection to the then admission arrangements for Lawrence Sheriff School in 2014. Although in each case the admission arrangements differ in the wording and the provisions of the Code (which was revised in 2014) are not identical, in essence the facts and law are the same. That determination is not a precedent and is not in any way binding on us. However, we agree with the reasons and conclusions of the adjudicator in that determination (ADA2608) which did not uphold the objection. Paragraph 1.39A of the Code now in force expressly permits priority for pupils in receipt of pupil premium. There is no provision in the Code or in the law relating to admissions which prevents the use of lower scores in the qualifying test for this group of pupils. It is correct that this will disadvantage applicants who are not in receipt of pupil premium. All oversubscription criteria advantage some and thus disadvantage others. The question for us is whether any advantage or disadvantage is fair. The purpose in this case is to provide an advantage to a group of pupils who are otherwise disadvantaged. This is a legitimate aim explicitly contemplated in the Code. Consequently, we find that such disadvantage as results for applicants not entitled to the pupil premium is not unfair. 19. We do not uphold the objection on this point.
3	**Whether the arrangements are unclear because no list is given of acceptable reasons for a child to miss the test which takes place on the published date** 20. The arrangements state: *"In respect of those who register on-time (sic) but are unable to take the test on the published date, late testing will be arranged on the provision of a doctor's certificate or proof of why the child could not sit on the original dates provided ie religious observance. This includes documentary evidence. Such as a death certificate for a close relative where appropriate."* 21. The objector believes that the arrangements are unclear and in breach of paragraph 14 of the Code because no deadline is given for the provision of documentary evidence, there is no list of the range of acceptable documents and no list of acceptable reasons for a child not being tested on the published date.

	22. The local authority has said that it considers the statement in the arrangements to be clear, saying that it specifies the three reasons for missing testing which would be considered acceptable: being ill on the day of testing, being a member of a faith that does not permit a child to sit an examination in a Saturday, or because of a recent death in the family. It has offered to add wording to this effect to the arrangements. 23. The objector has responded by making a further complaint which appears to be based largely on the belief that to satisfy the requirement of the provision of a doctor's certificate, the child would have to be seen by a doctor on the day of testing, which is a Saturday. He says that the requirement is unreasonable as a result. However, we do not consider his assumption to be an accurate one. He further objects that illness is used as a strategy to enable children to sit the test on a later date armed with knowledge of the test, and that religious groups exploit the same situation. These assertions relate to other aspects of the objection and so are considered elsewhere in this determination. 24. Returning to this part of the objection, we do not consider that it is necessary for arrangements to set out the details demanded by the objector in order that they be clear. Parents will in our view be able to read them and understand that if their child misses the testing, it is in their interest to provide the evidence required as soon as possible in order for late testing to be arranged for their child. 25. We do not uphold this part of the objection.
4	**Whether the arrangements are unfair and unclear because they do not state what is meant by *"the correct identification"*** 26. The arrangements state: *"In respect of those who register on-time (sic) but are refused entry to the tests because they do not produce the correct identification, no further arrangements will be made for this group of registrants."* 27. The objector believes that, since the arrangements give no further information concerning the meaning of the term "correct identification", that this renders the arrangements unclear and in breach of paragraph 14 of the Code. 28. The local authority has explained that parents who have registered for testing receive a letter which provides a "photo ID" form for them to complete and bring with them to the testing session. This form requires there to be a passport-sized photograph which the child's current headteacher is asked to certify as being a true likeness of the child. 29. The objector has responded by making a further complaint which appears to be based on the misunderstanding that the arrangements

	require the child to possess a passport, which they clearly do not. He suggests that alternative means of identification are allowed. However, we consider the requirement to provide a photograph, certified as described, to be reasonable. 30. The local authority has offered to include wording in the arrangements themselves which refers to the identification procedure, and this would in our view make them clear and in compliance with what the Code requires. However, as they were determined by the local authority, that was not the case, and a parent reading the arrangements would not be able to understand what was meant by the reference to “correct identification”. 31. We uphold this aspect of the objection.