Office of the Schools Adjudicator

Determination

Case reference: ADA3531

Objector: An individual

Admission authority: The Crypt School Academy Trust

Date of decision: 17 January 2020

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, Dr Slater and I partially uphold the objection to the admission arrangements for September 2020 determined by the governing board for The Crypt School, Gloucestershire.

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 by 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 an individual (the objector), about the admission arrangements for The Crypt School (the school), a grammar school for girls and boys aged 11-18, for September 2020.

2. The local authority (LA) for the area in which the school is located is Gloucestershire County Council. The LA is a party to this objection.

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 on 10 December 2018 by the governing board on behalf of The Crypt School, an Academy Trust (the trust), which is the admission authority for the school. The objector submitted an objection to these determined arrangements on 9 April 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 to the extent explained below.

4. Joint adjudicators have been appointed to deal with this and other objections by the same objector, Dr Bryan Slater and Tom Brooke. I am the lead adjudicator for this matter and have drafted this determination which is agreed by Dr Slater. 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 my decision include:

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

   b. a copy of the determined arrangements;

   c. the objector's form of objection dated 23 March 2019 and supporting documents;

   d. the comments of the trust on the issues raised in the objection.

Background

7. The school is grammar school for boys and girls in Gloucestershire. It has a Published Admission Number (PAN) of 150 places in Year 7 for 2020. Admissions are by selection based upon children's academic ability.

Admission Arrangements

8. The school's oversubscription criteria for 2020 are as follows (I have removed a number of definitions in the interests of brevity):

"Oversubscription

*During the normal admissions round, where applications from pupils **who have met the qualifying standard** exceed the number of places available, the following criteria will be applied, in the order set out below, to decide which children to admit:*

1. Looked After Children / Previously Looked After Children

*2. Pupils in receipt of Pupil Premium **who have met the qualifying standard**.*

> *Children attracting Pupil Premium are those who have been registered for free school meals at any point in the six years prior to the closing date for registration for the Test. The School will require independent and verifiable evidence of Pupil Premium entitlement in the requisite period from a reliable source such as a local authority. The School will make such enquiries as are necessary of GCC (or the relevant Local Authority) as to the entitlement of any children who have qualified when notifying GCC of the test results.*

3. Children whose parents are members of staff provided that they have been employed for a minimum of two years and / or are recruited to fill a vacant post for which there is a demonstrable skills shortage.

4. *All other children."*

Consideration of Case

Matters not within our jurisdiction

9. The jurisdiction of adjudicators under section 88H of the Act relates only to valid objections about the school's admission arrangements. In this case, we have concluded that there is no jurisdiction to consider issues raised by the objector relating to allegations of wrongdoing

Matters that are within our jurisdiction

10. The matters which are within our jurisdiction are set out below. 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. Each of the objections relates 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.

11. The objector has referred 14 objections to the Schools Adjudicator in 2019, which follow the pattern described above and raise issues that have been the subject of the previous determinations. In order to ensure the efficient the use of public money and resources which this gives rise to, while also ensuring that we discharge our statutory duties properly in dealing with these multiple objections, the joint adjudicators have decided to adopt a broadly common format for considering the issues that the objector has raised.

12. I have in the main set out our conclusions and the reasons for those conclusions in a table attached to this determination as Appendix 1. When setting out the conclusions and reasons on each point dealt with below I will refer, where appropriate, to the relevant paragraphs of text in Appendix 1.

13. The objector has raised procedural points relating to documents filed in High Court actions to which he refers and previous test papers. These points are dealt with in Appendix 1 part 1, paragraphs 1 and 2.

14. In addition to the matters set out in the document headed “Invited Submissions” which I refer to in the attached submission, the objector has submitted a further document headed “Crypt School” which is broadly a response to the comments of the School set out in a letter dated 20 August 2019. I have read and considered the points raised by the objector in this document and find that it does not raise any new points or that the points it does raise alter my conclusions and the reasons for those conclusions.

15. The matters considered which are within our jurisdiction are set out below.

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.

16. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 2 of Appendix 1 to this determination. We do not uphold the objection on this point.

The use of the same test for late applications.

17. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 2, paragraph 15 of Appendix 1 to this determination. We do not uphold the objection on this point.

Whether it is compliant with the provisions of the Code to use the same test as is used for initial applications for testing in-year applications to Year 7 where a child has already reached the age of 12.

18. The admission arrangements state that for such applicants the same test which has been used for those who sat at the correct time will be used again. The general issue of using the same test for later sitters is dealt with above. The objector refers to the use of the same test for sitters who have attained the age of 12. The methodology for applying age related weighting to test results does not apply to sitters who have attained the age of 12 years.

19. The school recognises that the test is designed for children under the age of 12 years. The school points out that the number of children sitting the test, having attained to age of 12, will be small. It considers that a meaningful comparison of scores can be carried out and that this is a practical approach and that using a different test would also give rise to difficulties in comparing results We find that this is a practical solution to a difficulty

affecting a small number of in-year applications and consequently We do not uphold the objection on this point.

20. We note further that the school say that it has moved towards the use of baseline tests for this purpose. This is not set out in the admission arrangements and my jurisdiction is limited to matters set out in the determined arrangements. I would only comment that if the school's practice differs from the approach set out in its admission arrangements then it is right to consider amending those arrangements, as it suggests.

The definition of "qualifying standard".

21. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 19 of Appendix 1 to this determination. We do not uphold the objection on the point of the definition of this term.

22. However, because it is not clear how test scores are applied when ranking candidates under the oversubscription criteria further explanation within the admission arrangements is required. This point is dealt with below.

The provisions relating to the application of test scores to the oversubscription criteria. Whether it is clear how the oversubscription criteria are applied. Whether applicants are ranked within the oversubscription categories according to their score in the test or whether there is a cut off score and some other form of ranking is applied to those who meet it.

23. The oversubscription criteria do not set out clearly how children are ranked within criteria 1 to 4. The school say that children within criteria 1 to 3 are ranked, if necessary, according to distance as set out under the heading "Ordering within the same criteria". it is not clear to which criteria this provision applies or clear that those nearest will be given a higher priority.

24. The school also say that children within criterion 4 are ranked according to their mark in the test. This is not made clear.

25. Our understanding, from what the school have said, is that all children must reach at least a minimum score in the test in order to be considered for entry to the school. Provided children who meet criteria 1 to 3 achieve this minimum score they will be ranked according to the distance from their home address to the school, those nearest being given the higher priority. Other children (criterion 4) who achieve the minimum score will be ranked according to score, the higher the score, the higher the priority.

26. The oversubscription criteria are not clear and so contravene the requirements of paragraphs 14 and 1.8 of the Code. The objection is upheld on this point.

The provisions relating to pupil premium. Whether it is clear when and how a parent is to give details of a child's entitlement to pupil premium.

27. It is clear from the admission arrangements that the cut off date for meeting eligibility

for pupil premium is the closing date for registration for the test. The provision in the admission arrangements is clear. It is not necessary for the school to set out the detail of the administrative process followed in order to ascertain eligibility. The objection is not upheld on this point.

Whether there is any requirement to give details of the position if a child ceases to be eligible for pupil premium prior to the date of application.

28. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 14 of Appendix 1 to this determination. The objection is not upheld on this point.

The provisions relating to an applicant's home address. Whether it is compliant with the provisions of the Code to define "school nights" as "Sunday to Wednesday inclusive".

29. The school tell me that the phrase "*i.e. Sunday to Wednesday inclusive*" is given as an example of "*the majority of school nights*". However, "*i.e."* means "*that is",* in other words it is a definition, not an example. If the provision read "*e.g."* or "*for example*" then the school's interpretation would make sense. As it stands the provision is not clear and so contravenes the requirements of paragraphs 14 and 1.8 of the Code. We uphold the objection on this point.

The provisions relating to children of staff. Whether any method for determining a "demonstrable skill shortage" is required to be set out. Whether "staff" requires any further definition.

30. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 20 of Appendix 1 to this determination. The objection is not upheld on this point.

The provisions relating to an individual taking the same test more than once.

and

The provisions relating to the potential withdrawal of a place where an applicant has sat the same test more than once.

31. Our conclusions in relation to this issue and the reasons for those conclusions are set out in part 7 of Appendix 1 to this determination. We do not find that it is necessary for the admission arrangements to state that some other schools use the same test. There is provision in place to cover the position, as set out in part 7 of Appendix 1, The objection is not upheld on this point.

Determination

32. In accordance with section 88H(4) of the School Standards and Framework Act 1998, Dr Slater and I partially uphold the objection to the admission arrangements for September 2020 determined by the governing board for The Crypt School, Gloucestershire.

33. 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 by 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:

Schools Adjudicator: Mr Tom Brooke

Appendix 1

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. Not all points are relevant to the determination of each objection. Each determination makes specific reference to the parts that are relevant to that determination.

Part	
1	**Procedural points** 1. 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 being considered here although some of the facts are relevant. I am satisfied that I have all necessary information. We do not consider that documentation such as statements of case would assist us in reaching a decision. 2. 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 our consideration of this matter. 3. The objector has suggested that we hold a meeting of the parties. Where an adjudicator seeks a meeting it is in order to clarify issues raised where these are unclear, or to gather further information where information is lacking. In this case neither arises. We do not consider that a meeting would assist us in reaching a decision.
2	**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. 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 (either the same adjudicator or another adjudicator) considering the same issue in other cases then able to adopt that that reasoning, subject of course to providing all parties with an opportunity to comment on that reasoning and with consideration of any reasons advanced by those parties for why it should not be followed. In those cases, adjudicators have found (in very short summary) that the re-use of the same test does not breach paragraphs 14 or 1.31 of the Code, because: a. Children will recall some of what they have encountered when taking tests, however this recall is likely to be limited (see ADA3349, paras 25-30), b. The likelihood of such knowledge being passed on in the normal course of events is limited (see ADA3349, paras 31-35); c. The likelihood of such content, if passed on, significantly affecting test results is limited (see ADA3349, paras 36-40); d. Some late testing is necessary, to allow for matters such as the

unavoidable indisposition of candidates (see ADA3349, paras 41-43);

e. It is, on balance, fair and reasonable to use the same test, rather than different tests, for later sittings and doing so can yield an accurate reflection of the child's ability (see ADA3349, paras 44 to 46).

2. 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 stated:

   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."*

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. 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.

5. 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.

6. 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 I explained at paragraphs 37-38 of ADA3349, that was not the finding of the Court.

7. 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 these cases.

8. The objector refers to a "*later High Court case*". We have read the judgment in this case and we find that it adds nothing new to the matters considered in the other judgments referred to above and considered in ADA3349 and ADA3351.

9. 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. I note in passing that CEM is no longer part of Durham University having become part of Cambridge University.

10. 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 would not arise until some months after a child has taken the test. While some tests are used for up to two years, the "second" tests for reasons of illness or religion take place within a few days or weeks of the main tests. 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. 11. The objector's further criticisms of the evidence given to the Court that I referred to in ADA3349 and ADA3351 do not persuade us that any of the factual conclusions we reached were wrong. 12. 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. 13. 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. 14. 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. We do not uphold the objection on this point. 15. The objector also states: "*Late testing is unfair, as people may know content and allows one to leap frog to the top of the waiting list*". We find that the use of late testing is not unfair for the reasons set out above. We do not uphold the objection on this point.
3	**Setting a score for applicants in receipt of pupil premium which is lower than the score required of other applicants.** 1. 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.

	2. The objector states that this provision discriminates against "British-Indian children". He contends that a lower proportion of this group are eligible for pupil premium, and that it is indirect race discrimination. He does not supply data to substantiate this claim so we make no finding on that point. If it is the case that significantly fewer pupils from this group are eligible for pupil premium then indirect discrimination may arise. If so, we find that the priority afforded to applicants who qualify for pupil premium is, as in the provisions of section 19(2)(a) of the Equality Act 2010, "*a proportionate means of achieving a legitimate aim*" namely of supporting the opportunity for disadvantaged children (of any racial background) to achieve a grammar school place and that consequently there is no unlawful discrimination. 3. We do not uphold the objection on this point.
4	**The provisions relating to an applicant's home address in relation to dates of residence.** 1. The admission arrangements set out clearly that an applicant's home address is the address where they are living on the date of the application. This is a sensible provision as that is the deadline for parents/carers to sign and submit the application form. In the normal admissions round application will be made on the common application form (CAF) to the local authority for the area in which the parents/carers live. The deadline for submitting the CAF in relation to secondary schools is 31 October 2019. 2. In addition, there is provision for a change of address after the date of application up to 31 December 2019. This reason for choosing this date is not explained but presumably is chosen in order to allow sufficient time for the schools and the local authority to process all applications by the National Offer Day 2 March 2020. For that reason changes of address after 31 December 2018 are processed as late applications. It is inevitable that there will be a cut-off date after which changes of address will have to be processed separately. 3. We find that these provisions are clear, fair and reasonable and are in compliance with the relevant provisions of the Code and consequently we do not uphold the objection on this point.
5	**The provisions relating to an applicant's home address in relation to the evidence of residence required.** 1. Provisions in the admission arrangements relate to proof of residence at the stated address at the relevant time. Proof of the address at which the child is living at the time of application is required by 31 December 2019. Separately, where there is a change of address prior to 31 December 2019, proof of address is also required by 31 December 2019. 2. The address is to be verified by evidence produced by the parents/carers. Paragraph 2.5 of the Code states "*Admission authorities may need to ask for proof of address where it is unclear whether a child meets the published oversubscription criteria*". In the arrangements this takes the form of copies of official documents. I note that copies are

	required, not originals, and therefore that the objector's concern that these are not returned is misplaced. We find that the documents required (in each case from a list of possible documents) are typical of those required as proof of address by admission authorities across the country and by various institutions for many purposes. The vast majority of families would be able to provide this evidence. We find that the requirements documentary evidence of address are clear, reasonable and fair. 3. The arrangements also make it clear that in some circumstances further investigation may be carried out. This is stated a number of times, including the right to carry out random checks at any time which may include a home visit. It is also clear that if the address at which the child is living at or after the start of Year 7 changes, further checks may be carried out. This is clearly designed to prevent the use of fraudulent or intentionally misleading addresses. Unfortunately, admission authorities across the country have problems with false addresses being given by parents/carers in order to increase a child's chances of gaining a place at a particular school. This is probably the most common instance of "*a fraudulent or intentionally misleading application*" as addressed in paragraphs 2.12 and 2.13 of the Code. 4. The admission arrangements (relating to both address at the time of application and change of address by 31 December 2019) also flag up that subsequent changes of address may lead to further investigation and to a requirement for further proof of address. The issue is that some parents/carers will move temporarily to a different address, without an intention permanently to reside there, in order to apply to a school from that temporary address. We find that it is fair and reasonable for the admission authority, or, as here, a local authority on behalf of the admission authority, to take these steps in order to investigate what may be *"a fraudulent or intentionally misleading application*". There is no difficulty with a move undertaken for genuine reasons. 5. We find the provisions relating to proof of address to be clear, reasonable and fair as required by the Code.
6	**Whether the words "fraudulent or intentionally misleading" require any further definition.** 1. These words appear in paragraph 2.12 of the Code, as follows: *'An admission authority **must not** withdraw an offer unless it has been offered in error, a parent has not responded within a reasonable period of time, or it is established that the offer was obtained through a fraudulent or intentionally misleading application. Where the parent has not responded to the offer, the admission authority **must** give the parent a further opportunity to respond and explain that the offer may be withdrawn if they do not. Where an offer is withdrawn on the basis of misleading information, the application **must** be considered afresh, and a right of appeal offered if an offer is refused."* 2. They carry their ordinary meaning, which is clear in this context. The wording in the admission arrangements follows the wording in the Code. We do not consider that any further definition is required and

	consequently we do not uphold the objection on this point.
7	**The provisions relating to the potential withdrawal of a place where an applicant has sat the same test twice. The provisions relating to an individual taking the same test more than once.** 1. It is obvious that a child taking the same test a second time would be likely to have an unfair advantage over a child who is taking the test for the first time. This would be obvious to the great majority of people, including parents entering their children for the test. It is also obvious that this is completely different from matters concerned with the passing of content from one child to another. 2. There is provision for the first test result to be used where it becomes apparent that the later result comes from a second sitting of the same test. This is clear, fair and reasonable. 3. There is provision for withdrawal of a place where an application is "*fraudulent or intentionally misleading".* The words are clear and require no further definition. In the unlikely event that a parent in all innocence had their child sit the same test twice, in relation to different schools, perhaps because that parent was unaware that the same test is used in relation to different schools, then that would not be *"fraudulent or intentionally misleading*" and provision is made for the result of the first sitting to be used. We do not consider that it is necessary to set out a full list of examples of what may be considered "*fraudulent or intentionally misleading"* and an admission authority cannot be expected to anticipate and list every possible type of wrongdoing. 4. We do not uphold the objection on this point.
8	**The provisions for sharing test scores between the Warwickshire and Birmingham elements of the "consortium of grammar schools"; and** **The wording of the provisions relating to a late request for sharing test results and the effect of late registration where the test has not been taken**. 1. The testing process requires parents to register their child for the test by a deadline in June or July 2019. A child will sit the test administered by either Birmingham City Council or by Warwickshire County Council. The schools are part of the "*consortium of grammar schools*" comprising schools in each of those authorities. Parents may opt to have their raw test scores shared with the other local authority and can thereby apply to consortium schools within either or both authorities. 2. Parents must positively indicate that they wish the test scores to be shared. It is raw scores that are to be shared. Standardisation of those scores will be carried out separately in each authority. We find that it is reasonable and fair to require parents to state that they wish scores to be shared at a point early in the normal admissions round to allow efficient administration. It would not be practical for authorities to have to amend documentation and inputs to the software used to process applications on an ad hoc basis throughout the process. Where a request for sharing is received after the registration date the original

	registration stands and registration for the other authority (with whom sharing is now requested) will be considered as late. 3. The paragraph in the arrangements which reads "*If your registration is considered to be late your child will not be tested until after 2 March 2020*" does come after the provisions discussed above but is clearly intended to refer to late registrations in general. Where registration with one authority is considered to be late because sharing of results was not requested the test would be taken at the usual time and could not, of course, be taken again. When read in context we do not find this to be unclear. 4. The issues regarding later testing using the same test are dealt with elsewhere in the determination. 5. We find that these arrangements are clear, fair and reasonable and consequently we do not uphold the objection on this point.
9	**The timescale for testing applicants whose registration is considered to be late.** 1. As the admission arrangements state, those registering late for the test are treated the same as those submitting a late application for a school place. Such applicants can sit the test but only after the on-time applications have been processed. There are separate considerations and a separate process for sitting the test late where an applicant is unable to sit on the original test date. We do not find that this is inconsistent or unclear. It is a practical provision to allow efficient administration of the testing and applications process. Consequently, we do not uphold the objection on this point.
10	**The provisions for additional testing sessions for applicants who have moved house and candidates who cannot sit the test on a Saturday for religious reasons.** 1. We find that it is clear from the context that the provision of additional sessions for movers gives flexibility for those who have moved into the school's area from elsewhere. It allows them to register for a test to be held in January 2020. The objector points out that it is not specified that the move is to be into the school's area from elsewhere. We find that it is reasonable to assume that this situation would not arise unless the move was from elsewhere to an address close enough to the school for it to be practical for the child to attend. We find that the objector's point is unnecessarily literal. Consequently we do not uphold the objection on this point. 2. We find that provision of alternative later test days, not on Saturdays, for candidates who cannot sit on a Saturday is fair and reasonable. The issues relating to later testing using the same test are dealt with elsewhere in the determination. Consequently we do not uphold the objection on this point.
11	**The provisions for signing and dating photographs of an applicant by a third party.**

	1. Children sitting the test are required to arrive at the venue with a photograph signed and dated by their headteacher or, if home educated, by "*a responsible person drawn from the range of professionals acceptable for passport identification purposes*". The relevant provisions for identity confirmation for passport applications, including a list of acceptable professions, are clearly set out online within the **gov.uk** website. We find that the objector's point that *"it is not clear what is meant by the "range of professionals acceptable for passport identification purposes""* is misconceived. Consequently we do not uphold the objection on this point.
12	**For in year applications the provisions for taking into account previous test results or for testing applicants.** 1. Where a child applying in-year for a place in Year 7 has sat the test in one or other authority a valid test score will be available. These will be no need to have the child sit a further test. The test result can be shared between authorities where appropriate. This is outside the main admissions round and the provisions for sharing test results between the two authorities in the normal admissions round do not apply. Consequently we do not uphold the objection on this point.
13	**The provisions which apply in the event of multiple in year applications where some children have taken the CEM entrance test and some children have sat the school's tests.** 1. This is a situation which is unlikely to arise in practice. It would only arise if a place at the school became vacant and there were two or more pupils seeking that place and at least one had taken the test and at least one other had not. As an indication of the infrequency with which this may happen, Lawrence Sheriff school have informed me that it has never arisen at that school. The objector has provided no examples or evidence that it has happened at any other school, However, as it is possible if unlikely, it is sensible that provision is made for it. That provision is set out in the arrangements as follows: "*the admission panel will compare the results of the in-year tests against the ability range of the cohort to determine equivalent entrance test scores*". The objector states that this is not comparing like with like as the test is one of general ability and the school tests are in English and maths. That argument has some force but we find that the method proposed by the school is satisfactory and, given the unlikelihood of it arising at all, proportionate to the circumstances. The objection is not upheld on this point.
14	**The provisions for providing evidence of eligibility for pupil premium. Why it is necessary to identify a child as a pupil premium candidate before she sits the test. Whether there is any requirement to give details of the position if a child ceases to be eligible for pupil premium prior to the date of application.** 1. This information is relevant to the oversubscription criteria and consequently is necessary in order to administer the application process. The evidence will be required at some point. This information is not requested in the local authority's common application form which all

	applicants must complete by 31 October 2019. All applicants for the school must register for the test by a deadline set in June or July 2019. Requiring parents to complete a separate form dealing only with eligibility for pupil premium at a later stage of the process would unnecessarily complicate the process. The requirement for this information to be provided when registering for the test is proportionate and reasonable. 2. It is conceivable that a child may cease to be eligible for pupil premium at some point between registration for the test and the closing date for applications. The Code does not set a date on which a child must be eligible. As we have found in the above paragraph it is reasonable to set the cut off point at the time of registration for the test. The objection is not upheld on this point.
15	**Whether a request for information relating to pupil premium constitutes a request for personal details about financial status prohibited by paragraph 2.4 a) of the Code.** 1. Priority for pupils in receipt of pupil premium is expressly provided for in paragraphs 1.39-1.39B of the Code. 2. Paragraph 2.4 of the Code specifically refers to paragraph 1.9 f). Paragraph 1.9 f) provides an exception regarding financial status as follows: *"It is for admission authorities to formulate their admission arrangements, but they **must not**:…* *give priority to children according to the occupational, marital, financial or educational status of parents applying. The exceptions to this are children of staff at the school and those eligible for the early years pupil premium, the pupil premium and the service premium who may be prioritised in the arrangements in accordance with paragraphs 1.39 - 1.39B;"* 3. When paragraphs 2.4 and 1.9 are read together it is clear that the Code permits requests to be made for information confirming a child's eligibility for pupil premium. The objection is not upheld on this point.
16	**The provisions relating to late applications (after the 31 October deadline) who subsequently take the test and are placed in ranked order with those applications remaining after the initial allocation of places in March 2020.** 1. It is reasonable for those who apply after the 31 October deadline for submitting applications to be treated as late applicants and consequently for their applications to be considered after the initial round of allocations. We do not uphold the objection on this point.
17	**The provisions for testing in year applicants.** 1. The admission arrangements refer to the school's website where the

	following provision is set out: "*Required academic standard* *In year applicants take a MIDYIS/YELLIS test, alongside a test in Mathematics and one in English. The test candidate's score is compared to the results of the existing students in the given cohort. If results fall within the range in each of the three components then the candidate is considered to be of the required academic standard*." 2. We find that the school's approach is a pragmatic way of dealing with an issue affecting a relatively small number of applicants. It is reasonable in these circumstances to use tests including English and maths to assess a pupil's ability by comparison with their cohort peer group. The alternative would be either to have them sit the same test as the other pupils, which is not suitable for those who are 12 years old or above, or to sit an entirely new test which could not easily be compared to other sitters. 3. We do not uphold the objection on this point.
18	**The same test being sat a few days earlier in other schools.** 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 an earlier determination of an objection relating to ADA3374 Calday Grange Grammar School. In relation to this issue, in which the same or substantially the same issue has been considered and determined in ADA3374, the letter states: a. *"In relation to the point made by the objector relating to the same test being sat a few days earlier in other schools (in and around Torquay) the lead adjudicator notes that the same or substantially the same issue has been considered and determined in ADA3374 dated 12 December 2018, a copy of which can be accessed by this link. The whole determination should be considered but paragraphs 28 to 32 specifically address this issue. On initial consideration it appears to the lead adjudicator that the conclusions and the reasons given in ADA3374 apply equally to this issue as raised in the current objection;* b. *the lead adjudicator invites any representations as to why these issues in the current objection ought to be considered or determined differently".* 2. The objector raises this point in the same or substantially the same terms to those he raised in ADA3374. In deciding this issue we adopt the reasons and conclusions set out in paragraphs 28-32 of ADA3374. It is not necessary to set out the relevant paragraphs of ADA3374 here. We do not uphold the objection on this point.
19	**The meaning of the words "qualifying standard", "required standard" and "academic standard for entry" and how the "required standard" is**

	applied in the oversubscription criteria. 1. The admission arrangements for Stroud and Crypt Grammar schools, both in Gloucestershire, use the phrase "qualifying standard" and "required standard" and "academic standard for entry" interchangeably. In our view parents would be able to read the arrangements and understand that each of these phrases refers to the same requirement, being a minimum score to be achieved in the entrance test in order to be eligible for admission, subject to the other oversubscription criteria. 2. We do not find that the Code requires the process for setting this score to be set out in the admission arrangements. 3. We find that it is clear from the wording of the admission arrangements that the words "qualifying standard" refer to a minimum score which must be attained in order to be considered for entry to the school. 4. The objection is not upheld on this point.
20	**The provisions relating to children of staff. Whether any method for determining a "demonstrable skill shortage" is required to be set out. Whether "staff" requires any further definition.** 1. The Code explicitly allows for priority to be given to the children of staff in certain circumstances. The word "*staff*" and the term "*demonstrable skill shortage*" are taken directly from the Code. The Code does not contain any further definition of these terms. The word "*staff*" will be taken to mean people employed to work in the school. There is no need for any further definition. There will be a number of ways in which a "*skill shortage*" may be demonstrated, which will vary according to the circumstances in a particular school at a particular time. There is no need for a process to be set out in the admission arrangements. The objection is not upheld on this point.