Office of the Schools Adjudicator

Determination

Case reference: ADA3673

Objector: An individual

Admission authority: The Governing Board of Queen Elizabeth Grammar School

Date of decision: 13 October 2020

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, Dr Vallely and I do not uphold the objection to the admission arrangements for September 2021 determined by the governing board of Queen Elizabeth Grammar School for Queen Elizabeth Grammar School, Penrith, Cumbria.

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

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

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), an objection has been referred to the adjudicator by a person, (the objector), about the admission arrangements (the arrangements) for Queen Elizabeth Grammar School (the school), a mixed, selective academy school for pupils aged 11 – 18 for September 2021. The objection is to the following aspects of the arrangements for admission to Year 7:

a. finding the admission arrangements on the website and their publication;

b. children who miss the test;

c. testing for natural ability;

d. the methodology for setting the qualifying standard for admission and lack of clarity as to how the standard is set;

e. re-use of the same selection tests for late sitters and late applicants; and

f. the use of age standardisation in the selection tests.

2. The local authority for the area in which the school is located is Cumbria County Council. The local authority is a party to this objection but has made no representations other than to provide information we have requested. The governing board of the school is a party to the objection, as is the objector.

3. This is one of twelve objections to the admission arrangements for September 2021 for twelve different schools referred to the Office of the Schools Adjudicator by the same objector. Dr Marisa Vallely and I have been appointed as joint adjudicators for these twelve objections as permitted by the Education (References to Adjudicator) Regulations 1999. I have acted as the lead adjudicator for this case and have drafted this determination.

4. There are a number of aspects which are common to all twelve objections. We are aware that the objector has made objections to other schools in previous years about these same aspects. Those objections have been determined by different adjudicators. We have read the relevant previous determinations and taken them into account. Those determinations do not form binding precedents upon us, and we have considered each of these aspects afresh. The approach we have taken is to discuss each of the common aspects in the objections which have been made this year and agree the wording of our determinations in relation to those aspects. Identical wording will appear in each of the twelve determinations in relation to these common aspects.

5. Where an objection also contains aspects which are unique to that objection, the lead adjudicator has made a determination on each of those aspects which has then been read and agreed by the other adjudicator prior to completion of the determination.

Jurisdiction

6. The terms of the Academy Agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing board, which is the admission authority for the school, on that basis. The objector submitted his objection to these determined arrangements on 25 April 2020. 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.

Procedure

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

8. The documents we have considered in reaching our 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 25 April 2020, supporting documents and subsequent correspondence;

d. the school's response to the objection and subsequent correspondence;

e. information provided by the local authority;

f. confirmation of when consultation on the arrangements last took place;

g. a map of the catchment area of the school; and

h. relevant previous determinations, research papers and court judgments referred to in the text.

Objection

9. There is one point of information and five aspects to this objection. We have identified the relevant paragraphs of the Code here, but not set them out. The relevant paragraphs are set out in full when we come to our detailed consideration.

10. First, the objector makes a note in his objection that the website makes it hard to find the policy and that when the link is found and reached the policy which is displayed is for admissions in 2019. Since this did not appear to be formally part of the objection, we have not treated it as such, but we did raise it with the school using our powers under section 88I of the Act.

11. Second, the objector considers that the admission arrangements do not conform with paragraph 2.9 of the Code because they do not make provision for children who have not taken the test on the date specified to take it.

12. Third, the objector suggests that the test does not identify natural ability. Relevant paragraphs of the Code are paragraphs 1.17 and 14.

13. Fourth, the objector considers that the arrangements are unclear as to who sets the qualifying standard; how it is set; and when it is set. He argues that, where the qualifying standard is set after the results of the tests are known, this is merely a method of filling available places, whereas the qualifying standard should be an objective measure of a

grammar school standard of ability. This he suggests is unreasonable. Relevant paragraphs of the Code are paragraphs 1.17. and 14.

14. Fifth, the objector considers that re-using the same selection tests for late sitters and late applicants renders the testing process subject to abuse, as those who sit the tests in the main round may pass on the questions to those sitting the tests at a later date. The objector argues that this abuse of process, which he suggests is widespread, renders the tests unfit for purpose. Relevant paragraphs of the Code are 1.31. and 14.

15. Sixth, the objector considers that the use of age standardisation in the selection tests is unnecessary, rendered obsolete by the widespread practice of tutoring and gives an unfair advantage to younger children, particularly those who have been tutored. Relevant paragraphs of the Code are 1.31. and 14.

Other Matters

16. Having considered the arrangements as a whole it would appear to the adjudicators that the following matters do not, or may not, conform with requirements**.**

- The non-naming of feeder schools in the oversubscription criteria - paragraph 1.15 of the Code
- The priority listing within the waiting list – paragraph 2.14 of the Code
- The dates of the waiting list – paragraph 2.14 of the Code
- The absence of a final tie breaker - paragraph 1.8 of the Code
- Reference in the admission arrangements notes to the use of catchment area – paragraph 14 of the Code

We have accordingly decided to exercise our powers under section 88I of the Act to consider the arrangements as a whole and whether they conform with the requirements relating to admissions.

Background

16. Queen Elizabeth Grammar School is a mixed grammar school with academy status located in Penrith, Cumbria. The school was rated by Ofsted as Outstanding in April 2009. The school has a Published Admission Number (PAN) of 120 for admissions to Year 7 although the governing board have agreed to admit 160 for the 2021 intake, and a PAN of 20 sixth form places available to external applicants. It is oversubscribed. Data provided by the local authority shows that in 2020, 207 first preference applications were received; in 2019 the figure was 199; and in 2018 the figure was 193.

17. As we have said, the objection relates to the admission arrangements for Year 7. The arrangements provide that all candidates are required to sit an Entrance Test. Parents are told their child's combined, standardised and age weighted score and whether he or she has met the qualifying standard for entry to the school. The arrangements say that the

parent of a child who has met the qualifying standard may express a preference for the school through the common applications process. Only candidates who meet the qualifying standard in the Entrance Test will be eligible to be considered for admission to the school.

18. Where applications from candidates who have met the qualifying standard exceed the number of places available, the following oversubscription criteria will be applied in rank order of score:

a. Any looked after or previously looked after children who has met the qualifying standard.

b. Any candidate attracting Pupil Premium funding (those who have been registered for free school meals at any point in the six years prior to the test day) or Service premium who have met the qualifying standard.

c. Children who have met the qualifying score who live within the catchment area.

d. Children in rank order of the Verbal Reasoning element of the test.

e. Children in rank order of the Non-verbal Reasoning element of the test.

19. Of relevance to this objection is the section in the arrangements on late testing. This says: “Only children registered for the main test and who were unable to sit this test will be permitted to sit a late test on medical grounds or extenuating personal circumstances. Please note this will be held within a couple of weeks of the main test”.

Consideration of Case

20. We have divided our consideration of the case into six headings, each of which comprises one aspect of the objection. As we have said, the objector has made objections on the same points for twelve schools. He has helpfully provided us with generic representations on the subjects of the setting of the qualifying score; re-use of the same tests for late sitters and late applicants; and age standardisation. Because the representations are generic, our consideration of the points is also generic, and so the text will be largely the same in all twelve determinations. It may not be identical as all of the schools have different arrangements.

Children who miss the test;

24. The objector considers the arrangements do not conform to paragraph 2.9e. This states that “Admission authorities must not refuse to admit a child solely because e) they have missed entrance tests for selective places”. He suggests that, rather than reject that child because they have missed the test, the school could say that the child is ranked as a zero score.

25. The arrangements state “If parent/carer chooses to name Queen Elizabeth Grammar School on the SA3 (local authority form) form for a child who has not taken the entrance test, there will be no score to rank and therefore a place will not be offered. The child will be deemed not to have met the entry criteria”.

26. In response the school says that they make it very clear that parents must both register for the entrance test on time and also make a timely application to the local authority for a secondary school place. The arrangements set out what parents must do in the case of late registration and when their child can be considered for a place. The school says that it is unable to provide a score for a child who has not taken the test and that those who name the school on their application to the local authority for a secondary school place and have not taken the entrance test cannot be ranked in any order as there is no score to rank.

27. We are of the view that in any case where a parent names the school on the application form but has not registered their child to sit the test or arranged for the child to take the test, that parent has deliberately not engaged properly in the application process set out in the arrangements. These are not cases where the child has 'missed' the test due to extenuating circumstances. They are cases where there was never any intention that the child would take the test. The parent would know, when expressing a preference for the school, that their child would not be eligible for a place. We think the school's approach to this situation is reasonable and clearly set out in the arrangements. Those children who miss the test (having previously registered) because of extenuating circumstances or illness are allowed to take the test at a later date and this too is clear in the arrangements.

28. In the situation explained, the child has not 'missed' the test. In these cases, the parent has chosen for their child not to sit the test and has deliberately not engaged in the registration and pre-test processes as required to enable a place to be offered. Therefore, we consider that paragraph 2.9e of the Code does not therefore apply. We do not therefore uphold this aspect of the objection.

Testing for Natural Ability

29. The objector quotes the school's admission booklet which says, "The entrance test should identify natural ability". He suggests that this is a false claim and contravenes paragraph 1.31 of the Code which states that "Tests for all forms of selection must be clear, objective and give an accurate reflection of the child's ability or aptitude". The objector has sent us an article in which the test provider (The Centre for Evaluation and Monitoring (CEM)) is said to have withdrawn its claim that the 11+ tests it provides are able to determine natural ability.

30. The school responded that this quotation from the booklet is in the Headteacher's introduction to the arrangements and is not based on any publication from CEM. The school says it is an objective of the school to discourage parents from taking up additional tutoring in preparation for the test, and the meaning of the Headteacher's statement should be read in this context. The school does not hold any details of private tutors and actively discourages additional preparation, in excess of the familiarisation material issued to all who register for the test.

31. The objector suggests that the school's assumption in the arrangements that the tests cover work the children have undertaken in school is wrong because the key stage two (KS2) curriculum does not cover non-verbal reasoning. The school challenges this and explains that the arrangements state that the test covers what children have covered in

KS2, not what is contained within the KS2 curriculum. The school says that primary schools regularly deliver learning not on the KS2 curriculum and they have evidence that local primary schools use non-verbal reasoning tests.

32. The objector does not believe that the tests measure natural ability because he says that many children are tutored, and the test therefore only measures the degree of preparation for the test. We are aware that parents do arrange tutoring for their children and we are aware that research shows that tutoring does impact on test scores. The school actively discourages the use of tutoring but is not in a position to know how many candidates have been tutored. This is something over which we have no control. It is also something over which the school has no control.

33. The requirement in the Code is that the tests must give an accurate reflection of the child's ability. The school uses a test which is common to all applicants and which is designed to achieve a rank order of performance. This is clear in the arrangements and we are satisfied that this provides the school with an accurate reflection of the applicants' ability at the time of taking the test. We consider that the test used in the context of the school's approach is an acceptable and appropriate way, so far as this is possible, to measure children's ability while recognising that such ability is impacted by their learning in and out of school and their home experiences.

34. We are of the view that the test is clear, objective and provides an accurate reflection of the candidates' abilities. We do not believe that the references in the arrangements to natural ability or to learning which takes place in KS2 are misleading. We therefore do not uphold this aspect of the objection.

The methodology for setting the required standard is unclear and does not operate to establish a reasonable qualifying standard

22. The objector considers that the methodology for setting the required standard (pass mark) for the tests is unclear. He also considers that, where the pass mark is set after the selection tests have been taken, this is simply a method of ensuring that available places are filled and does not establish a grammar school standard of ability. Accordingly, his view is that this is not a reasonable method of selection. The relevant requirements in the Code are in paragraphs 14 and 1.17. We have set these paragraphs out below. For the avoidance of doubt, we have not considered paragraph 1.31 in this section because our view, as we will explain in more detail later, is that paragraph 1.31 relates to whether the type of testing in operation, (in this case Verbal and Non Verbal Reasoning, Maths and Comprehension tests designed by the CEM) provides an accurate reflection of a child's ability.

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

Paragraph 1.17 states that: “All selective schools **must** publish the entry requirements for a selective place and the process for such selection.”

22. The first question for us to consider is how much information the school’s admission arrangements must contain in order to be sufficiently clear. Parents need to know which steps they must take and by when, and what their child needs to do in order to be eligible for a place at the school. This information needs to be set out so that parents can look at the arrangements and understand easily how places will be allocated. Our view is that the information can either be in the arrangements themselves or signposted clearly in the arrangements with further detail accessible via a one-click link.

23. Our view is that in order for the arrangements to be sufficiently clear, where there is a pre-established pass mark, the arrangements must state what that pass mark is. Where the pass mark is not a pre-established one, the arrangements must say this. They must also say when the pass mark will be set, and when parents will be told whether their child has reached the pass mark. There is no requirement that the pass mark must be set using a particular methodology or that it be set by a specified body. However, the arrangements must be reasonable and operate fairly; therefore, we consider that the pass mark must be set by a competent person or body. There is no requirement that admission arrangements must set out how the pass mark is set, but if they do this the methodology must be described clearly.

24. As mentioned above, the school’s arrangements say parents are told their child’s combined, standardised, age weighted score and rank and whether he or she has met the required standard for entry to the school.

25. Our conclusion on the question of clarity is that, since the entry requirements are set out clearly in the arrangements, this is sufficient to conform to the requirements in paragraphs 1.17 and 14 of the Code.

26. In terms of whether the school’s required standard is a reasonable one, the school has helpfully explained to us the process used to determine the standard as follows:

“The admission arrangements make it clear the school does not release all scores to candidates and exactly what parents can expect when receiving notification of their child’s outcome in the test. The school believes that releasing scores brings unfavourable comparisons between children and is detrimental to the cohort. This is also heightened as the only selective grammar school in the county. Parents are able to request their child’s individual test scores from the test provider through a subject access request. The school provides details of how to do this when asked.

The school’s cut off score and therefore determined standard is decided each year from the cohort of those sitting the test and is not a pre-determined score. The school selects its cohort from the ranked list of applicants and the tiered system of notification to parents is clearly explained in the admission arrangements.

After ranking has taken place using the over-subscription criteria, 160 places are available and these are provisionally offered, with 50 further applicants given a place on the waiting list. Those on the waiting list are told what numbered position their child is. Due to the number of applicants testing, the waiting list does not need to have more than 50 applicants and candidates ranked below this are deemed not to have reached the standard.

The purpose of the test is to determine admission for each particular year group, and the school sets the required score with reference to the ranked standardised scores for that year group relying upon the expertise of school staff It would be unfair to impose a uniform pass mark each year as the cohort size and ability differs year-on-year. It is appropriate that the pass mark is re-set each year with reference to the individual cohort."

27. The objector's view is that setting the pass mark after the tests have been taken does not establish grammar school ability. It is merely a method of ensuring that the school fills to PAN. If the academic standard of a particular cohort of applicants is low, those admitted will simply be highest of the low, so to speak. It is entirely possible, he argues, that the applicants in the previous year were all of particularly high ability, and so those admitted were the highest of the high. There would be an inconsistency of academic standard as between the two year groups. We acknowledge that this is a possibility, albeit unlikely given that the same areas are tested each year.

28. The objector considers that an appropriate grammar school standard should be set, and those applicants who do not meet the standard should not be admitted. No special arrangements should be made for particular applicants, such as those who are younger or eligible for the Pupil Premium. All should be judged exclusively on the score they achieve on the day. He considers that the purpose of grammar schools is to serve the most academically able applicants. If they do not fulfil this purpose, there is no point in having them. If a grammar school cannot attract applicants of high calibre it should move to an area where such applicants exist (he suggests Coventry). He points out that paragraph 1.18 of the Code allows designated grammar schools to select their entire intake on the basis of high academic ability. They do not have to fill all of their places if applicants have not reached the required standard.

29. However, many grammar schools choose not to have admission arrangements which are based solely on achieving the highest scores in a selection test, and this is provided for in the primary legislation governing admissions and explicitly permissible under the Code. Indeed, grammar schools which are academies are required to provide education for pupils who are drawn wholly or mainly from the area in which the school is situated, and for this and other reasons these schools frequently employ oversubscription criteria based upon catchment areas and proximity to the school. Where a grammar school does not admit wholly on the basis of ability, it must, again by virtue of the Code, give priority to applicants who are looked after or previously looked after who reach the required academic standard. Grammar schools are being also actively encouraged by the Government to offer priority in their arrangements to disadvantaged pupils. The effect of this is that applicants who are not looked after or disadvantaged, or who do not live reasonably close to the school, may not be offered places even though their scores are higher than those who are

offered places. It is not for us to tell grammar school admission authorities that they should admit wholly on the basis of rank order performance in selection tests; whether or not they should have other oversubscription criteria; whether they must set the pass mark before or after the tests; who must set it; or what must be taken into account in setting it. It is for us to reach a conclusion about whether the arrangements which are in place operate fairly and reasonably.

30. A pre-set pass mark may not have the effect of establishing year-on-year consistency of ability where it operates alongside oversubscription criteria because the offer of a place will not be wholly dependent upon the test score. A pass mark which is set annually after the results of the tests are known will inevitably be set only with reference to the candidates who have taken the tests. In our view both are reasonable, and neither result in an unfair outcome. The objective of the arrangements for this school is NOT, as the objector suggests it should be, to admit applicants of the highest level of ability, it is to admit looked after children, previously looked after children, applicants eligible for the Pupil Premium, children living in the catchment area and other children who meet, or exceed, a minimum required standard of academic ability. This is a permissible and lawful objective.

31. From our experience in previous cases, we know that various factors are taken into account in setting the qualifying score where it is set after the test scores are known. Each year the number of applicants sitting the tests and the ability of those applicants will be slightly different, not least as the number of children of the relevant age group in any part of the country will be different from year to year. It is also possible that, notwithstanding the extensive work undertaken to benchmark the tests against those used in previous years, the ability of the cohort of children taking the tests and the level of difficulty of the tests will be different, and these factors will affect the level at which the qualifying score is set. The aim, as the objector says, is to fill the school to PAN, which is a legitimate aim. Grammar schools are able to have vacant places where there are insufficient applicants who meet the required standard, but most choose not to do so. Each pupil brings an allocated amount of funding, which schools need. We also know from our experience that schools regularly fall into budget deficit where they are unable to fill to PAN.

32. The factors taken into account in setting the qualifying score are the number of applicants, the range of test scores, the oversubscription criteria and the standard of education at the school. The objective is to ensure that enough offers will be accepted; that those who accept an offer for a place at the school will be able to thrive in the particular academic environment at that school; and that the school will maintain, or improve, its level of achievement in public examinations. The process is complicated by the fact that parental preference is unpredictable, and so the qualifying score will need to be set at a level where more applicants achieve the qualifying score than there are places available. However, where it is set too low, there will be a large number of dissatisfied parents whose child has achieved the qualifying score but not been offered a place. In our view, setting the qualifying score is a challenging task, and is one that must be undertaken by persons who have detailed knowledge of the school, the patterns of offers and acceptance in previous years and most importantly the day-to-day operation of the school itself.

33. For some schools, the pass mark is set by the governing board on recommendation of the head teacher. For other schools, the pass mark is set by a committee comprised of persons with knowledge of the operation of the schools in question and their academic standards. Our view is that both practices are reasonable. Many of the schools which are the subjects of these twelve objections have proven track records of academic excellence and have been rated as Outstanding by Ofsted. The schools themselves and persons with knowledge of the schools are best qualified to determine who should set their pass marks and how they should be set.

34. The required standard for this school is set by senior school staff. This appears to us to be a fair and objective method. For these reasons, we do not uphold this aspect of the objection.

Re-use of the same tests for late sitters and late applicants

35. The school uses the same tests for late sitters and late applicants. The school made no comment on this element of the objection. In all twelve of the objections he has made this year, the objector has claimed that late sitters are advantaged unfairly and has suggested that the adjudicator determining these objections is obliged to answer a set of questions. The joint adjudicators have considered these questions carefully; we have considered the additional submissions made and information provided by the objector in relation to the objections he has made this year; we have read previous determinations on this issue; and we have looked at relevant court papers provided.

36. All twelve of the schools objected to this year use verbal and non-verbal reasoning 11+ tests (VR and NVR tests) designed by CEM. Some use exactly the same set of tests for the first round of testing as they do for all subsequent testing rounds for entry to Year 7, and some use a different set of tests of the same type for the purposes of late testing. By this we mean a different set of 11+ VR and NVR tests designed by CEM. Schools using the former practice, as this school does, argue that it is unfair to use a different test, albeit a test of the same type because it is necessary to compare like with like in order to ensure parity of results and therefore fairness. CEM does not publish its test papers, and those administering the tests are required to hold them confidentially and only to disclose the papers to candidates at the time the tests are taken.

37. The objector's view is that re-use of the same tests for applicants seeking admission to selective schools is not compliant with the Code because children recall the content of the tests and may pass it on to late sitters. He has tested this proposition using his nephew whom he says was able to describe questions to him after sitting CEM 11+ tests. The nephew took tests for entry to selective schools in Shropshire, Walsall and Wolverhampton, which he sat as 'mock exams' before being offered a place at a selective school in Berkhamsted. The objector then published the information provided by his nephew on a public website and was forced by a court injunction to take it down. The objector suggests that other children sit tests for a number of grammar schools as practice.

38. The judge considering the injunction proceedings made the following findings, which were upheld by the Court of Appeal, and which we accept:

- "It is doubtless the case that some children who have sat a selection test will tell their parents, and possibly some others, something about it, but there is no good reason to think that any, let alone, much information has become generally known or available…;
- Any reasonable person knows that unauthorised disclosure of the content of an examination or test yet to be taken in a way that may come to the attention of candidates about to sit that examination risks undermining the purpose and integrity of the examination or test, and that such information is therefore confidential…;
- There is a difference between a child telling a parent and a parent telling another parent about test content, and the posting of such material on a public website;
- If all, or part of test content is disclosed, there is at least a risk that the integrity of the tests and public confidence in them would be compromised…;
- Candidates sitting the tests and their parents are under a duty of confidentiality, so that if the parent of a child who had recently taken the selection tests was to publish the questions on a website knowing that other children are about to take the same test, the parent could be injuncted to take down the content of the website…"

39. CEM, said, in the course of these court proceedings, that if a comprehension title, words from the synonyms questions, the subject matter of Maths questions, or the type of NVR questions were disclosed to a candidate about to take the same selection tests, this would be unlikely to make a difference to the marks achieved, however CEM also said that a difference of one raw score mark can equate to up to six standardised marks, which could alter a candidate's ranking significantly.

40. The courts accepted that it was reasonable for schools to use the same tests for late applicants in order to ensure consistency of standards and to avoid the additional cost of commissioning separate tests for each occasion. Candidates are tested late because there is a genuine reason why they are unable to sit the tests on the original test date or because they move into the area after the deadline for registering to take the tests has passed. Admission authorities generally require substantiating evidence before they will agree to a particular candidate being late tested. Where there is a gap of many months between the original test and the late test (as may be the case where a child has moved into the area), the use of age standardisation ensures that age provides no advantage. CEM has said: "The choice of how candidates are tested is the schools, which is guided by their admissions policy. CEM would only be able to compare candidate's performance to provide an ordered age standardised score if the same test is taken". We return later to the wider question of age standardisation for those tested at the same time.

41. The objector also alleges that there is a practice of candidates being paid £1000 to take the 11+ tests and feed-back the content. He says: "E.g. some parents have decided on a private school and would like £1000 to help with fees. They engage in a deal with tutors - c£1000 for providing feedback. Any intelligent child can recall a lot. They select the brightest. Some children wear badges with a pin-camera recording every page of questions

on a micro-SD card automatically. More advanced ones have a sim card and mobile data is used to transmit pages in real time outside the hall. But, these 4G badges cost a substantial amount. The child is simply told to wear the badge and sometimes does not know what it does! It is not so difficult to gain the content for late sitters…".

42. The allegation that children (or their parents) are paid to pass on test questions or to take the tests wearing hidden cameras is a serious one. Whilst no system of testing can be made cheat-proof, we are sure that admission authorities and those administering the tests will be vigilant to the practice and that there are steps available to them to combat it, whether that involves more rigorous searching of candidates to detect any hidden cameras, disqualification of individuals found to have cheated (as provided for in the school's admission policy in cases of fraud). We do not consider however that the entire system must be designed on the basis that the kind of cheating envisaged by the objector will be a widespread issue.

43. We have agreed to adopt a rather simpler approach to this particular alleged breach of the Code than has been adopted in previous cases. Relevant paragraphs of the Code are 1.31 and 14. Turning first to paragraph 1.31, this says that: "Tests for all forms of selection **must** be clear, objective, and give an accurate reflection of the child's ability or aptitude, irrespective of sex, race, or disability. It is for the admission authority to decide the content of the test, providing that the test is a true test of aptitude or ability."

44. Our view is that what paragraph 1.31 requires is that **the test itself** must be clear, objective and give an accurate reflection of the child's ability (in the case of selective schools). So, in order to comply with paragraph 1.31, the particular test used by the school must fulfil these requirements. There is no reference here to **the procedures for taking the tests,** (requirements in relation to procedures fall under paragraph 14, as we will explain later). Paragraph 1.31 is a requirement that the selection test must be fit for purpose. The objector suggests several reasons why CEM 11+ tests are not fit for purpose. This is because in his view the test scores should not be standardised for age, and because he considers that the tests do not establish whether candidates are of grammar school ability. We have dealt with these points elsewhere.

45. Looking at the second sentence of paragraph 1.31, references to 'the test' strongly suggest that what is envisaged is one set of tests to be used for all applicants in a particular year group. Although this wording is not conclusive, it is more difficult to argue that the form of selection used produces an objective reflection of ability where different tests are taken by different applicants. CEM's response supports this.

46. As set out above, what the objector is referring to is what we would call cheating. In any examination or test where a child passes on a test question, and another child uses that knowledge to his/her advantage, that would be cheating. This is very different to preparation or coaching. Coaching, in the context of VR and NVR tests, is providing help with the skills and techniques needed to do well in those particular types of tests. Giving people the questions before they take the test in the context of these particular tests is neither preparation nor coaching.

47. The objector argues that the results of the tests taken by late sitters are not an accurate reflection of their ability because late sitters can cheat, and therefore the test is not fit for purpose. There is the possibility of cheating in any examination – GCSEs, A Levels etc (pupils smuggling in notes etc). The possibility of cheating does not apply exclusively to late testing of 11+ candidates. Forms of cheating other than candidates passing on questions to other candidates who take the test at a later date are possible. For example, a rogue employee at CEM or an A Level examining board could give away the questions before the test or examination is taken. The person at the school/local authority who is responsible for keeping the CEM 11+ tests confidential could give the questions to candidates in the first round of testing before they sit the tests. The fact that candidates may cheat does not render the test itself unclear, not objective, or not a true reflection of ability. Cheating is always a possibility.

48. We emphasise that what we are considering here is whether the selection test being used for **this school** in 2021 gives an accurate reflection of a candidate's ability. In order that we can ensure that we have explained our role with absolute clarity, we considered the hypothetical possibility that we had evidence which we considered to be proof that there is a systemic practice of cheating in place which is subverting the test scores for late applications to this school. Our view is that, even if we had such proof, which we do not, this would not mean that **the test itself** does not conform to paragraph 1.31.

49. What the objector is referring to is that the **practice** of using exactly the same set of tests more than once may lend itself to an abuse. Put simply, if the school used a different test of the same type for late sitters, people could not abuse the process in the way he suggests is a possibility. Certainly, if a different 11+ test was used for late sitters, what we have described as cheating would not be possible in the way the objector describes. However, we need to make clear here that it is not our function to suggest that one method or process might be 'better' than another, and we cannot require an admission authority to adopt a particular form of test or procedure for conducting a test. Our role is confined to determining whether the admission arrangements comply with the Code.

50. As the objector has rightly said, paragraph 14 of the Code is relevant. What this says is that admission authorities must ensure that the practices used to decide the allocation of school places are fair and objective. Our view is that there is a strong argument that in order for the testing **practice** to be considered objective, all applicants must take the same set of tests where this is possible. It is not for us to say whether a practice that is different to the one used by the school would be more or less objective. We are not able to comment upon whether or not it can be guaranteed that an applicant who scores 121 in one set of CEM VR and NVR 11+ tests is of exactly the same ability as an applicant who scores 121 in a different set of CEM VR and NVR 11+ tests. Our view is that a practice of having all applicants take the same test, albeit a few months apart, is an objective practice for deciding the allocation of places.

51. Finally, we come to the crux of the objection, which is the assertion that the practice of using the same set of tests more than once creates an unfairness. The unfairness is said to arise because this practice allows for the possibility of cheating. As we have said,

cheating is always a possibility in any set of tests or examinations. The objector has produced no evidence that there is a practice of cheating in place in relation to the selection tests for this school. Our view is that the risk of cheating in the way the objector has described producing an advantage to the late sitter is lower in VR and NVR tests than in other examinations. An applicant taking A Level History will be asked four questions and is likely to remember all of them. A late sitter with advance notice of the questions could be helped considerably by knowing the questions before taking the examination.

52. Applicants taking CEM VR and NVR tests answer some 250 questions in total. The ability of a 10-year-old child to remember test questions in a set of tests comprising some 250 questions might be improved if the child took several selection tests for different schools or areas as in the case of the objector's nephew. There is also reference in the correspondence to 'dodgy tutors who get tutees together who have sat the tests and pump then for information to aid 'late sitters'. We have not been provided with any evidence that such a practice is operating in relation to this school.

53. If a person passed on one correct question and answer, this could mean that a late sitter might achieve the pass mark when he/she would not otherwise have achieved it, or that the late sitter might achieve a standardised mark which is up to six marks higher than the mark which he/she would have achieved. But even if this were the case, (and the chances are remote), this would still not guarantee the offer of a place because the oversubscription criteria would then need to be applied. In order to pass on any advantage to the late sitter, a child of 10 would need to remember questions exactly and know which one of four multiple choice options is the correct answer. The child would also need to be willing to do something which he/she would surely know is wrong; and to pass on an advantage to another child possibly to his/her own detriment since the tests are a competition and all the tests are taken before any child knows whether he or she has obtained a place at the school. The person receiving the answer would need to use that information knowing this to be cheating.

54. The objector has provided evidence in the form of a Twitter feed about the CEM 11+ tests for the King Edward Consortium Schools. This appears to be an exchange of information between members of the 11+ Exams Forum. The Forum is an organisation which provides advice to parents whose children are intending to take the CEM 11+ tests. The information in the Twitter feed relates to tests taken from 2011 – 2016. There is no evidence that this exchange of information is continuing. The information in question appears to have been passed on by candidates who had taken the tests. However, it also appears that the King Edward Consortium of Schools were in discussion with the Forum about these postings, and were not concerned that they would prejudice the integrity of the selection tests because comments about a particular set of tests were not being posted whilst those tests were still being used for late applicants. The postings took place after the relevant tests had ceased to be used; and the latest post was in 2016. We have not seen any evidence that the Forum is continuing to pass on information obtained from candidates who have sat the Birmingham Consortium Schools tests, or evidence that any similar exchanges of information are in operation for this school. We have not been provided with

any evidence that candidate sit the tests for this school wearing hidden camera or are likely to do so for the 2021 admissions tests.

55. We do not consider that general allegations of cheating and evidence of exchanges of information about the content of tests after they have ceased to be used provide any basis upon which we can conclude that the practice of re-using the same tests for late sitters for admission to this school in September 2021 is compromised. In the absence of any such evidence, our conclusion is that re-use of the same tests for late sitters does not operate to confer an unfair advantage upon them.

56. In the light of that conclusion we have not sought to establish the precise cost to the school or other schools of commissioning a separate test for late sitters. We accept that there would be some cost attached, and that it would be extremely difficult to ensure fairness as between candidate sitting different tests. Given that we have concluded that the practice of reusing the same test is reasonable, objective and fair there is no reason for the school to expend money or time exploring whether a second test could be provided for late sitters.

57. We therefore do not uphold this aspect of the objection.

Age standardisation

58. The objector says in the form of objection: “It appears age standardisation is used, yet this is not clear in the admissions policy. Age standardisation is flawed. No age standardisation occurs for A levels, GCSEs or year **6 SATs** (tests where an expected standard of **100** is expected), the later which is sat just 8 months after the main 11+ date. It was not even used in the old year 2 SATs tests. It is not used for phonics tests or multiplication tests. Age standardisation is never used in any public examination”. He asks whether all of these other forms of testing are wrong not to use age standardisation, and why age standardisation is required for the school’s selective tests but not required for SATs.

59. The objector’s view is that age standardisation is used in 11+ tests based upon the claim that different age groups score different marks as they are younger. However, he considers that the research which has led to this claim is flawed and rarely challenged. What does make a difference to an applicant’s score (he says) is preparation. Preparation and tutoring for the tests effectively mean that the applicant’s age becomes irrelevant, and most applicants prepare or are tutored. Therefore, age standardisation provides an unfair advantage to younger applicants. The objector suggests that there is no evidence that age standardisation will lead to fair outcomes in a situation where the majority of applicants have prepared or are tutored.

60. In the objector’s words: “It is obvious that age standardisation is not required when tests are prepared for. A 16-year-old is no better at recalling multiplication tables than a 10-year old who has been practising. A 10-year old who has been practising NVR questions can beat a number of MBA graduates taking the same test (this I have demonstrated further, with my own sons). Age is irrelevant to the score if one prepares. Preparation is

king". The objector later produced more detailed information in support of his arguments. He suggests that, although some children taking the school's selection tests are inevitably younger than others, they will have had the same number of years of schooling. By Year 6, after nearly seven years of being taught the same things, any disadvantage caused by being younger will (he says) have narrowed considerably. The objector claims that the only content of the 11+ tests which is not taught in schools is Non-verbal Reasoning.

61. The objector's argument is that all children begin at the same level and have to prepare themselves and are capable of reaching their "theoretical maximum". Some children will take longer to reach their theoretical maximum than others after which extra practice has negligible benefit. "This is not simply age dependent, it is skill dependent. Age has no great advantage.10-year olds fare no worse in NVR than MBA graduates if they prepare; in the same way 10-year olds fare no worse than an MBA graduate in a multiplication tables test. I would anticipate that the 10-year-old would be faster than the MBA graduate."

62. The objector's statements appear to be opinion possibly based upon his own experience. The question we are considering here is whether standardising 11+ test scores by age creates an unfairness. A 10-year-old may do better in a multiplication test than an MBA graduate because he/she has learned the multiplication tables more recently or has a better memory. Repeating tables is a test of memory, not a test of reasoning. The difference between Verbal and Non-verbal reasoning tests and many other types of tests is that success cannot be achieved simply by repeating specific learned information. For example, to do well in the comprehension questions, it will be necessary to have a wide vocabulary and the ability correctly to deduce answers from what is said in a piece of text. Candidates are required to have absorbed information from many sources and to apply it correctly. Whilst the ability to memorise may not be improved by maturity, the ability to reason is something entirely different.

63. If maturity is developed over time, it would seem to us that children may not all be able approach these tests from the same level, as the objector suggests. Nobody would suggest that a three-year-old would be capable of approaching these tests in the same way as a ten-year-old, for example. There is an age gap of nearly a year between the oldest child taking the 11+ test and the youngest. The questions for us are whether age makes a difference; if so, what that difference is; whether standardising the tests by age compensates for the difference; and whether it compensates effectively. The tests are a competition, and in order for any competition to operate fairly, the objective must be that all competitors come to the starting gate at the same time and that there is a level playing field insofar as the tests themselves are capable of achieving this. Familiarisation with the types of questions asked and practice may improve scores, but admission authorities and test providers have no control over whether children prepare or are coached.

64. The school has said in response to the objection:

"The admission arrangements make reference to the test scores being age-weighted, which is also commonly known as age-standardisation. It is therefore clear to parents this forms part of the testing process.

The school does not perform age-standardisation to candidate scores; this is done by the test provider CEM. The school enters into a commercial contract with CEM to provide the test and subsequent data standardisation and fully accepts the aims, research and work that CEM delivers within the contract for 11+ testing. The school is satisfied age-standardisation is carried out in a fair and consistent way to the cohort. It is simply the objector's belief that age standardisation is flawed".

65. In dealing with the twelve objections which have been referred to us, we were conscious that admission authorities were in a difficult position in being asked to respond to questions about the selection tests they use, and that CEM was the appropriate body to answer detailed questions about the 11 plus tests which they sell to grammar schools. We asked CEM a series of questions. The ones specifically relevant to this aspect of the objection were:

- Could CEM provide us with the methodology it uses for age standardisation of test results? What is the evidence base which underpins the need for this age standardisation?

- Could CEM advise us on the process it uses to ensure that the selection assessments are a true test of ability?

66. CEM's response was as follows:

"The reason that CEM uses age standardisation, is that in assessments of ability it is expected that the older learners achieve higher scores than the younger learners. In a typical classroom, some learners will be up to 12 months older than their youngest peers. When CEM interpret assessment results our interest is in comparing learner's ability against the ability of a wider group and it is important that any differences seen are down to ability and not purely down to the age of the learners. Age standardised scores correct for the effect age has on assessment scores. Age standardised scores allow meaningful comparisons to be made between learners in a class, school or larger group.

The age standardised scores are calculated from the raw scores to allow candidates to be compared when their age profiles are quite different. The age standardisation is based on the age of learners on the day they take the assessment.

CEM cannot provide full details of how the calculations are done. Under Section 43(2) of the Freedom of Information Act, information that would prejudice a commercial interest can be withheld. CEM believe that disclosing this information would be likely to prejudice our commercial interest as it would enable competitors to understand our standardisation process. This could enable our competitors to understand our general approach to the test.

In terms of assessment development – all questions are selected from a bank of items that have been specifically written and designed to be appropriate for assessing pupils at the beginning of the Autumn term in Year 6 of the English school system.

Our tests correlate highly with KS2 SATs results: separate studies have shown correlations of around 0.75 on samples of 4000-5000 pupils".

67. The objector makes two substantive claims, first that the arrangements do not indicate whether age standardisation is used in the selection tests, therefore they are unclear. Second that the tests do not give an accurate reflection of an applicant's ability because they give an unfair advantage to younger applicants. Additionally, if the school's tests operate unfairly, this may mean that the practices used to decide the allocation of places are not objective or reasonable.

68. Paragraph 14 of the Code requires that the practices and the criteria used to decide the allocation of school places are clear, and that parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated. We take the view that the arrangements are sufficiently clear to comply with paragraph 14 where any additional information about the tests which parents need to read is published alongside the main admission arrangements, clearly signalled to parents and accessible via a one-click. As this is the case, we do not find the arrangements to be unclear in the manner suggested by the objector. Therefore, we do not uphold this aspect of the objection.

69. As we have said above, the objector also suggests that the process of age standardisation provides an unfair advantage for younger children. He believes that the extensive preparation for the tests which children undertake renders the need for age weighted standardisation of test results "null and void". The objector cites paragraphs 14 and 1.31 of the Code. We have set these paragraphs out in full above. Paragraph 14 requires that the criteria used to decide the allocation of places are fair and objective, and paragraph 1.31 requires that selection tests must be objective and give an accurate reflection of the child's ability.

70. The objector asks why other major assessment events such as SATs or GCSEs are not age standardised and suggests that, because these other assessments are not age standardised, the selection tests for grammar schools should not be age standardised. This issue could of course be argued both ways; if age standardisation is deemed appropriate for grammar schools' tests then why is it not introduced into the SATs and GCSE processes? A look at the online conversations about this topic shows clearly that there are strong views on both sides of this argument, both from parents and assessment providers. This determination, however, concerns the fairness of the admission arrangements for a specific school and deals only with the selective school tests for that school. We will therefore limit our conclusions in this matter to the school in question, its admission arrangements and the selective assessment tests which are part of them.

71. There is significant and compelling research evidence that children who are 'summer born' perform less well in tests of ability than children born at other times of the year. This

gap is clear in primary aged children and remains an issue even into the later stages of secondary school. A study by the Institute of Fiscal Studies entitled 'When You Are Born Matters; The Impact of Date of Birth on Child Cognitive Outcomes in England" collates many previous pieces of research and looks at the reasons why summer born children perform less well. The paper also puts forward some suggestions about mitigating this effect.

72. It is important to be clear about the purposes and rationale of age standardisation and why it might be (or not be) necessary. Age standardisation assumes that the period of birth does not affect the innate intellectual ability of the pupil at the time of taking the test but that the test performance may be affected by age. A younger child might well not perform as well in the test simply because of age and experience rather than because of lower ability. At the time pupils take the 11+, one child taking the test might be born on the first day of the school year (September 1) while another might be born on the last day (August 31). With what amounts to a whole year's difference in their ages, the older child is clearly at an advantage; for example, they will have been exposed to more language and, on average, a greater range of vocabulary. As children are exposed to a new vocabulary at the rate of more than 1000 words per year, the difference can be very significant for the 11+ tests. Age standardisation removes this potential unfairness and the marks are adjusted to make them 'standard' for all children regardless of their age.

73. We are of the view that age standardisation removes some of the potential unfairness for summer born children in the 11+ tests and therefore its inclusion in the admission arrangements for these schools is fair.

74. The objector makes the point that age standardisation is made 'null and void' by the extensive preparation which children receive before the 11+ tests. He maintains that "Most children who sit tests prepare. Many are tutored. Some are prepared in outreach programmes free of charge." The objector has not produced any evidence to substantiate this statement, so therefore we do not know how many pupils are tutored and we have no evidence of preparation through outreach programmes. We are aware that test familiarisation materials are made available to pupils who will be sitting the tests and these documents appear on the admission sections of the websites of some of the schools. These materials are familiarisation information to show how the tests are carried out, completed and marked and they provide examples of the type of question which will be asked in the tests. They are designed to prevent undue anxiety for those pupils who are sitting the tests.

75. We are also aware that many pupils receive additional preparation through tutoring for the 11+ tests. A literature review commissioned by the Office of the School Adjudicator (OSA) which looked at disadvantaged pupil performance in the 11+ test studied this element of the process and confirmed that "Pupils that have been tutored are more likely to access a grammar school, and children in households with larger incomes are more likely to have access to tutoring. Tutoring is found to be effective at supporting pupils to pass the 11-plus." However, there is nothing in the law or the Code which forbids the use of paid tutoring or additional coaching. Indeed, the law relating to admissions and the Code apply

to admission authorities, local authorities, governing boards and adjudicators. But they do not and could not interfere with what parents choose to do in supporting their children's learning whether through commercial tutoring or other means. We are unaware of the scale of additional tutoring/mentoring/support for pupils in the primary schools in this case. If, as the objector suggests it is widespread for this school then we do not believe that it makes the use of age standardisation 'null and void'. If all pupils are tutored and improve their scores because of it then the attainment gap between summer born children and others would remain the same- albeit at slightly higher score levels.

76. The objector refers to the fact that the KS2 SATs are taken within a few months of the 11+ tests and are not age standardised. This is correct, but it is also true that summer born children as a group do less well in these tests than autumn and spring born children. Of course, KS2 SATs tests serve a different purpose and the fact that there is no need for them to be age-standardised has little bearing on what is appropriate for 11 + tests.

77. In summary we are of the view that there is substantial and compelling research which shows that 'summer born' children are at a disadvantage when being tested for ability towards the end of their primary education and that the application of an age standardised weighting to the test scores reduces this disadvantage and makes the tests 'fairer'. Whilst tutoring/coaching/mentoring appears to improve the test results of many pupils, there is no evidence in the research materials we have looked at and the objector has not produced any evidence to suggest that it diminishes the achievement gap due to age. We therefore do not accept that additional preparation for the 11+ tests negates the need for the age standardisation weighting, and we do not uphold this aspect of the objection.

Other Matters

78. Having considered the arrangements as a whole it would appear to the adjudicators that the following matters also do not, or may not, conform with requirements.

Finding the admission arrangements on the website and their publication

79. In the objection there is a note which reads; "Note; The website makes it very hard to find the policy, the link of proposed policy provides the actual policy. A click through in admissions path gives 2019-2020 policy which is 2 years old" We are assuming that, as there is no Code reference, this is simply a note from the objector and we have not therefore considered it an element of the objection. In its response to this the schools said "The admission arrangements for 2021-2022 were published on the school website on 29 January 2020 following the consultation period (9 December 2019 to 20 January 2020). The school changed its website provider and a new website went live in the same week as the school closures in March. The new website did not display the admission arrangements and, as staff were working from home and adjusting to operating the school in lockdown, it is unfortunate this went unnoticed. The school can confirm a copy of the admission arrangements was emailed to the local authority of 29 January 2020. Each parent who came on a tour during the week of 24 February to 2 March 2020, a total of 282 families, were given an information pack which included a full copy of the admission arrangements

booklet. It is regrettable that there was an interruption and we can assure the adjudicator this would not have happened under normal circumstances." The admission arrangements for September 2021 are now properly displayed on the website and we thank the school for their explanation, In his comments on the school's response to the objection, the objector made no comment on this issue and we are therefore assuming that he too is satisfied with the school's explanation.

The non-naming of feeder schools in the oversubscription criteria - paragraph 1.15 of the Code

80. Paragraph 1.15 of the Code states that "Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion must be transparent and made on reasonable grounds.". Oversubscription criterion three in the arrangements gives priority to "children resident within or attending state schools in the catchment area". A detailed map of the catchment area is issued along with the arrangements to all interested parents. The school says that the schools identified as being in the catchment area are clear but also says that they are happy to name the schools if necessary. The Code explicitly says 'named' 'schools and therefore a list of those schools within the catchment area must be added to the arrangements in order to conform with the Code.

The priority listing within the waiting list and dates of the waiting list – paragraph 2.14 of the Code

81. Paragraph 2.14 of the Code states that "Each admission authority **must** maintain a clear, fair and objective waiting list until at least **31 December** of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority **must not** be given to children based on the date their application was received or their name was added to the list. Looked after children, previously looked after children and those allocated a place at the school in accordance with the Fair Access Protocol, **must** take precedence over those on a waiting list." The waiting list section of the arrangements states that the list will be maintained until the end of the Autumn term; this is not the 31 December and the arrangements require this amendment in order to conform with the Code. In addition, the arrangements do not state that the waiting list will be re-ranked according to the oversubscription criteria each time a place is allocated, and this too requires amendment in order to conform with the Code.

The absence of a final tie breaker - paragraph 1.8 of the Code

82. Paragraph 1.8 of the Code states "Admission arrangements must include an effective, clear and fair tie-beaker to decide between two applications that cannot otherwise be separated." The school says that they have never had to use a fine tie-breaker due to the number and nature of applicants. Oversubscription criteria five and six give priority first to the highest scoring candidates in the verbal reasoning element of the test and then to highest scoring candidates in the non-verbal reasoning element of the test. The school explains that these test scores are given to two decimal places and therefore the likelihood

of a tied score is very slim. We understand this but nevertheless in order to comply with the Code the school must add a final tie breaker in line with paragraph 1.8.

Reference in the admission arrangements notes to the use of catchment area – paragraph 14 of the Code

83. The arrangements state as the third oversubscription criterion (although somewhat confusingly it is numbered four) “Children resident within or attending state schools within the catchment area”. This is after criterion one and two which are looked after and previously looked after children and children eligible for the pupil or service premium. The number of pupils being admitted from the first two criteria is likely to be small therefore those being admitted under criterion three are likely to be a significant number. In the notes on catchment area in the arrangements on page 12 the school says, “the catchment area is only considered as part of the ranking process when 2 or more applicants achieve the same score”. This is clearly at odds with the oversubscription criteria where the children living within catchment area are ranked as the third priority. The arrangements require amendment for clarity of this point in order to comply with paragraph 14 of the Code.

Summary of Findings

84. We consider those children who have missed a test to be those who have been registered and intended to take the test but were unable to do so. These children are allowed to take the test again. We do not consider children whose parents do not register or arrange for them to attend the test to fall within the remit of paragraph 2.9. These are children who have never been intended to sit the test. They have not ‘solely’ missed the test, their parents have failed to register or engage in the selection process.

85. We are of the view that the test is clear, objective and provides an accurate reflection of the candidates’ abilities.

86. We find that the arrangements are sufficiently clear about the setting of the qualifying standard. We consider it reasonable to set the qualifying standard after the results of the tests are known and with reference to the cohort of each individual year’s intake.

87. We find that it is reasonable to re-use the same tests for late sitters and late applicants because it achieves parity of results and saves costs. It is arguable that this practice could operate unfairly if late applicants were to cheat, but as the objector has not produced any evidence that there is an established process of cheating in operation at this school, we have no basis upon which to reach a conclusion that the re-use of the same tests creates an unfairness here.

88. We find that the arrangements are sufficiently clear that the tests results are standardised by age. We are of the view that age standardisation does not create an unfairness to older applicants and that its use remains necessary, albeit that some applicants are coached. The objector has not produced any research to counter the substantial and compelling research which shows that ‘summer born’ children are at a disadvantage when being tested for ability towards the end of their primary education and

that the application of an age standardised weighting to the test scores reduces this disadvantage and makes the tests fairer. Whilst tutoring/coaching/mentoring appears to improve the test results of many pupils, there is no evidence in the research materials we have looked at and the objector has not produced any evidence to support his claim that it diminishes the achievement gap due to age.

89. Finally, we have identified a number of other aspects of the arrangements which require amendment as explained above.

Determination

90. In accordance with section 88H(4) of the School Standards and Framework Act 1998, Dr Vallely and I do not uphold the objection to the admission arrangements for September 2021 determined by the governing board of Queen Elizabeth Grammar School for Queen Elizabeth Grammar School, Penrith, Cumbria.

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

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

Dated: 13 October 2020

Signed:

Schools Adjudicator: Ann Talboys

Schools Adjudicator: Marisa Vallely