Office of the Schools Adjudicator

Determination

Case reference: ADA3873

Objector: Two parents

Admission authority: Stratford Girls' Grammar School for Stratford Girls' Grammar School, Warwickshire

Date of decision: 24 November 2021

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2022 determined by Stratford Girls' Grammar School for Stratford Girls' Grammar School, Warwickshire.

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

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2022.

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 two members of the public (the objectors) about the admission arrangements (the arrangements) for Stratford Girls' Grammar School (the school), a selective academy school for girls aged 11 to 18. The objection was wide ranging but centred on information provided to parents about the academic standard required for admission to the school.

2. The local authority for the area in which the school is located is Warwickshire County Council and it is a party to this objection. Other parties to the objection are the objectors and the academy trust for the school also called Stratford Girls' Grammar School (the trust).

3. The objectors made similar objections to four other selective schools in Warwickshire which are considered in determinations ADA3812, ADA3871, ADA3872 and ADA3874.

Jurisdiction

4. 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 February 2021 by the governing board on behalf of the trust, which is the admission authority for the school, on that basis.

5. The objectors submitted their objection to these determined arrangements on 14 May 2021. The objectors initially asked to have their identities kept from the other parties and met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the regulations) by providing details of their names and address to me. However, they allowed their identities to become known to the other parties by accepting an invitation to a meeting which I convened on 20 September 2021.

6. On their objection form, the objectors referred to 20 provisions of the School Admissions Code (the Code) together with provisions in the School Admission Appeals Code and in the General Data Protection Regulation and referred back to the arrangements for 2020 and 2021. My jurisdiction under section 88H of the Act is solely to decide whether, and if so to what extent, objections made before 15 May 2021 to the admission arrangements of a school for 2022 should be upheld. Admission arrangements for previous years and the implementation of those arrangements are, therefore, outside of my jurisdiction. Some matters raised in the objection were not matters for admission authorities.

7. I am, however, satisfied that the other aspects of the objection have been properly referred to me in accordance with section 88H of the Act and are within my jurisdiction. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

8. Since the arrangements were determined and the objection made, the Code has been revised. The revised Code does not change the content of the Code pertinent to this case beyond renumbering some of the paragraphs. To be consistent with communication during the consideration of the case references in this determination are to the version of the Code published in 2014.

9. The Code which was then in force at the time the arrangements were determined provided that children previously looked after in England and then adopted or made subject to a child arrangements or special guardianship order should have equal highest priority with looked after children in school admission arrangements (subject to certain exemptions

in schools with a religious character). The new Code which came into force on 1 September 2021 extended the same level of priority for looked after and previously looked after children to children who appear (to the admission authority) to have been in state care outside of England and ceased to be in state care as a result of being adopted. All admission authorities were required to vary their admission arrangements accordingly by 1 September 2021. There was no requirement for this variation to be approved by the Secretary of State and no reason for the school to send me its varied arrangements.

10. I have made my determination in this case on the basis that the admission authority will have varied its arrangements in order to comply with the new requirements set out above.

Procedure

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

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

a. the objector's form of objection dated 14 May 2021;

b. correspondence with the objectors concerning my jurisdiction and clarifying the scope of the objection;

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

d. a copy of the determined arrangements;

e. comments from the school on the objection and the matters raised under section 88I of the Act; and

f. comments from the local authority on the objection and the matters raised under section 88I of the Act.

13. I have also taken account of information received during and after a meeting I convened on 20 September 2021 at the local authority's offices in Warwick. The meeting was attended by one of the objectors, local authority officers and representatives of the school and of the other four schools subject to similar objections from the same objectors.

The Objection and Other Matters

14. The core of the objection was that information included in the arrangements and provided to parents about the academic standard required for admission to the school was insufficient and that this was caused by, or led to, other infringements of the Code.

15. On the objection form the objectors listed 20 paragraphs of the Code as being those which they believed the arrangements contravened. As noted above, not all of these were within my jurisdiction. I considered that consideration of compliance with the following nine were within my jurisdiction: 14, 1.8, 1.9, 1.20, 1.31, 1.32, 1.39 and 1.47 and 2.14.

Elsewhere in the papers sent to me the objectors referred to other paragraphs of the Code not listed on the objection form which they believed were contravened by the arrangements. Of these I considered that concerns relating to paragraphs 1.17, 1.42 and 1.44 were within my jurisdiction. I will set out the provisions of these paragraphs at the appropriate points in this determination.

16. In addition, I considered that the arrangements did not, or may not, conform with the Code in other ways, some of which concerned parts of the Code already referred to by the objectors although for different reasons. Many of my concerns were about the clarity of the arrangements. Where arrangements are not clear, the fairness and objectivity of the arrangements and their conformity with the Code will not be clear.

Background

17. The school uses the same selection test as four other grammar schools in Warwickshire and the grammar schools in Birmingham. This enables results to be shared, if parents so wish, between selective schools in the two local authorities.

18. The arrangements are 15 pages long and describe an admissions process which is common to the other grammar schools in Warwickshire although each school has its own admission authority with its own oversubscription criteria and other variations in their arrangements. The common process as it applies for 2022 entry can be summarised as follows:

Date	**Action**
May-June 2021	Year 5 pupils register for the selection test.
August 2021	The local authority sends information packs to parents.
Early September 2021	Pupils take the selection test.
Mid October	Parents notified of their child's test score, the ranking of that score, the Automatic Qualifying Scores (AQS) and waiting list scores for previous years.
31 October	Parents apply for places on the common application form (CAF).
November 2021 to February 2022	The committee of reference (headteachers and other representatives of the grammar schools) sets the AQS and waiting list scores for each school. The respective waiting list scores represent the minimum required academic standard for each school and the AQS is a higher threshold designed to ensure so far as possible a particular geographic distribution of places. Oversubscription criteria applied to applicants to each school and the co-ordination process is completed.

1 March 2022	Parents notified of offers.

19. The school has a published admission number (PAN) of 120 and oversubscription criteria which can be summarised as:

1. Looked after and previously looked after children
2. Up to 19 places for children who live in the priority circle who are eligible for the pupil premium because they are eligible for free school meals and reach the AQS or 20 marks below it
3. Children living in the priority area who reach the AQS
4. Children living outside the priority area who reach the AQS
5. Children who achieve the waiting list score.

20. Within each criterion, priority is based on the score in the selection test and if tied priority goes to children living closest to the school with random allocation being used as a final tie-breaker.

21. A geographical area, from which children may be afforded priority for admission to a particular school is referred to in the Code as a catchment area. The priority circle used in the arrangements meets this definition.

Consideration of Case

22. I will begin by considering whether the arrangements conform with those paragraphs of the Code referred to by the objectors which I consider to be within my jurisdiction. Where I am concerned that the arrangements do not conform with the same part of the Code, I will address those concerns at the same point.

Paragraph 14 – Overall fairness, clarity and objectivity

23. This paragraph provides an overarching requirement for admission arrangements: "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." Later paragraphs of the Code specify what arrangements must, or must not, include to be "fair, clear and objective". If those later requirements are not met, then the arrangements as a whole are unlikely to be "fair, clear and objective" and so they will not conform with paragraph 14. It is also possible that, while meeting all other specific requirements of the Code, taken as a whole the arrangements fail to be fair, clear and objective. I will therefore withhold my finding on conformity with paragraph 14 until the end of this determination.

Paragraph 1.8 – Oversubscription criteria

24. This paragraph says: “Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, and that other policies around school uniform or school trips do not discourage parents from applying for a place for their child. Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated.”

25. The objectors argued that because the oversubscription criteria for the school all refer to either the AQS or the waiting list score and that because these scores are not published in the arrangements, then the oversubscription criteria are unclear.

26. Either it is necessary for the AQS and the waiting list score to be published in the arrangements, and that is a matter I will consider later, or it is not. If the former, then I can find no requirement in the Code for the scores to be published specifically in the oversubscription criteria. It would be possible to meet any requirements there may be to publish these figures by publishing them elsewhere in the arrangements. I do not uphold this part of the objection.

27. The objectors also considered that the oversubscription criteria did not make provision for children subject to the fair access protocol (FAP). The FAP is agreed by the local authority with schools to ensure that, outside of the normal admissions round, unplaced children especially the most vulnerable are offered a place at a suitable school as quickly as possible. Oversubscription criteria are applied during the normal admission round and there is no reason for any link with the FAP which comes into play after places have been allocated in the normal round. I do not uphold this part of the objection.

28. My concern with the oversubscription criteria relates to the priority given to looked after and previously looked after children. I will address this alongside consideration of conformity with paragraph 1.20 of the Code below.

Paragraph 1.9 - Prohibitions

29. This paragraph of the Code sets out what admission authorities **must not** do in their arrangements. The first of these is “a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements”. The objectors considered that the pass mark is a condition not included in the oversubscription criteria.

30. Conditionality is, helpfully, defined in the Code and the definition is “Oversubscription criterion that stipulates conditions which affects the priority given to an application, for example taking account of other preferences or giving priorities to families who include in their other preferences a particular type of school (e.g. where other schools are of the same religious denomination). Conditionality is prohibited by this code.” The oversubscription criteria for this school all state that a certain score in the test must be reached to meet each criterion. The numerical value of the score is not stated in the oversubscription criteria

which the objectors consider it should be. In discussing conformity with paragraph 1.8 above I have set out above why I do not think it is necessary for the numerical value of the score to be published in the oversubscription criteria. Nor do I consider that the pass mark is a condition within the definition used in the Code. I do not uphold this part of the objection for the same reasons.

31. Paragraph 1.9 also says that admission authorities **must not** "d) introduce any new selection by ability". The objectors argued that setting the pass mark after the test has been taken was new selection by ability. They also argued that testing children before putting them on the waiting list was new selection by ability. The school is a grammar school designated under section 104 of the Act and as such may select its pupils on the basis of ability; when and how it does so is not covered by this part of the Code which is prohibiting the introduction of selection in schools which have not been selective in the past. I do not uphold this part of the objection.

32. The objectors also referred to 1.9j. This prohibits admission authorities "in designated grammar schools that rank all children according to a pre-determined pass mark and then allocate places to those who score highest, give priority to siblings of current or former pupils". There is no priority for siblings in the arrangements and so I do not uphold this part of the objection.

33. Paragraph 1.9o prohibits admission authorities from requesting photographs of applicants other than as proof of identity when sitting a selection test. The arrangements require a photograph for this purpose and that it is signed by the child's head teacher, or for home educated children by someone whose signature would be accepted on a passport application. The objectors considered this discriminatory with different levels of proof for different children. The level of proof is the same; to have an identifiable person of standing confirm that the photograph is of the named child. I can see no grounds to uphold this part of the objection.

<u>Paragraph 1.17 – Publication of entry requirements and the selection process</u>

34. Under the heading "Selection by ability or aptitude" paragraph 1.17 of the Code says: "All selective schools **must** publish the entry requirements for a selective place and the process for such selection." This is the core of the objection. The objectors are of the view that because the arrangements do not contain a number which is the AQS the entry requirements have not been published.

35. It is important to note that in the section of the Code about grammar schools in paragraphs 1.18 and 1.20 the term "standard" is used rather than "mark" or "score". Where the Code uses the term "score" in paragraph 1.19 and "mark" in 1.9j it is in relation to grammar schools where selection is based wholly on ability which is not the case here as other factors are taken into account such as where the child lives.

36. It is for admission authorities to decide what the academic standard for the school is. For example, it could be the upper quartile of the national ability range, the most able 200 applicants or some other standard. There are variations in the range of ability of different

cohorts of children and tests vary in their level of difficulty. The test score representing this standard will, therefore, vary from year to year depending on the content of the test and the cohort of children who sit it.

37. The admission authorities for some grammar schools do publish the score which children must achieve in the selection test to show that they meet the academic standard for admission to the school in their arrangements and this score remains the same every year. This is achieved by applying a mathematical formula to the scores so that the mark representing the standard is constant. Other grammar school admission authorities do not publish the required score in advance but do inform parents what it is when they send out the selection test results before 31 October. In this case, neither of these approaches is possible.

38. From the arrangements and discussion at the meeting I understand that the waiting list score represents the level of ability required to cope with the academic environment of the school. The AQS is a higher threshold which is set to ensure children from a particular geographic area have priority for places at the school. It is therefore not possible to know what the AQS will be until it is known where the children applying to the school live. This information will not be known until after applications have been made and so cannot be published in advance and cannot be conveyed to parents before applications are made.

39. I can find no requirement in the Code for the test score which represents the required academic standard to be published in the arrangements. I will now consider whether the Code requires that the academic standard for the school must be explicitly stated in the arrangements, or if it is sufficient to state that there is there is such a standard.

40. I think that either approach is acceptable each under its own conditions. Where an admission authority decides to publish the standard in its arrangements, it must do so clearly and an admission authority which decides not to describe the standard in its arrangements must provide in the arrangements information so that a parent or other interested party could find out easily what the standard was, for example in an appendix or through a direct link on a website. This is an example of where admission authorities must strike a balance in their arrangements between making them clear and giving details which some parents may be interested in but may obscure the key elements which all parents need to know.

41. Each of the oversubscription criteria say that an applicant must meet an academic standard by reference to the AQS or the waiting score. The arrangements are clear about there being a standard. On page 9 of the arrangements, it is stated that, “Performance in the Entrance Test and the number of applications for the schools will be used by the Committee of Reference to set the automatic qualifying score.”

42. The arrangements say, “The Committee will consider the descending score order and the number of children applying for each school (living within the priority area and who registered before the closing date) and set the automatic standard as close to the Planned Admission Numbers for each of the schools as possible.”

43. While I find it unclear to say that the AQS will be set as close to the planned admission number as possible (the AQS has ranged from 215 to 224 in recent years and the PAN is 120) I understood this to mean the AQS is set to identify the most able 120 girls living in the priority circle applying to the school in 2022. In response to my enquiries on this matter the school said "When determining the automatic qualifying score (AQS) for the school, the Committee of Reference will consider all categories of the over-subscription criteria, the ability of the overall cohort and the number of places available for the relevant year of entry. As many places as possible will be allocated, in line with the school's published admission number, and only where the Committee deem the ability of those to be allocated places to be commensurate to cohorts previously admitted to the school." I do not find this helpful in clarifying what academic standard the AQS represents as it describes a process rather than a standard.

44. The fifth oversubscription criterion is for girls above the waiting list score and so this must represent the minimum academic standard required for admission to the school, not the AQS. The same conclusion can be drawn from what is said in the arrangements about the waiting list itself. What the waiting list score represents is not clearly defined, simply being stated as set to ensure "those on the waiting list, have reached the required academic standard for the school."

45. In my view it is not necessary for the AQS or waiting list score to be stated in arrangements and so I do not uphold the objection. The admission authority has decided to explain what the AQS represents in the arrangements, but in my view has failed to do so clearly. The significance of the waiting list score and what it represents is also unclear.

Paragraph 1.20 – Priority for looked after and previously looked after children

46. This paragraph says: "Where admission arrangements are not based solely on highest scores in a selection test, the admission authority **must** give priority in its oversubscription criteria to all looked after children and previously looked after children who meet the pre-set standards of the ability test."

47. The objection was that without the AQS being published in the arrangements this requirement was not met. I have discussed this matter in the previous section of this determination and for the reasons set out there I do not uphold this part of the objection. However, I have other concerns about conformity with this part of the Code.

48. The first oversubscription criterion reads "Any Looked-After or Previously Looked-After Children who either achieve the automatic qualifying score or above for this School for this particular year of entry, or who score up to twenty marks below the automatic qualifying score." I commend the school for recognising that able girls who have had a difficult past may not show their full ability in the selection test and offering them a lower pass mark. However, if the academic standard for admission to the school is the waiting list standard, then all looked after and previously looked after girls who meet this standard must be given highest priority.

49. I asked the local authority to provide me with the AQS and waiting list score for the school for the last three years.

	2019	2020	2021
AQS	215	223	224
Waiting list score	210	217	218

In practice, the waiting list score has been less than 20 marks below the AQS and so any looked after, or previously looked after girl reaching the waiting list score would have been given the correct priority. However, it is not impossible (and lack of detail in the arrangements about the relationship between the waiting list score and the AQS makes it harder to judge the probability) that the waiting list score could be more than 20 marks below the AQS in which case the requirements of paragraph 1.20 would not be met. While it has not happened, no reason has been given as to why the waiting score could not be more than 20 marks below the AQS. The arrangements must be clear that if the difference between the AQS and the waiting list score was more than 20 marks, then a looked after or previously looked after girl who met the waiting list score would be admitted. In its response to me on this point, the school suggested a way in which this could be clarified.

50. Similarly, the arrangements say, “Children with an Education, Health and Care Plan (EHC) or Statement of Special Educational Needs (SEN) that names the school will be admitted first, subject to them achieving the automatic qualifying score or above for the School for this particular year of entry”. It is the waiting list score which a child with an EHC Plan naming the school must meet for admission. Also, statements of special educational need no longer exist having been replaced by EHC Plans and so referring to them makes the arrangements unclear.

Paragraph 1.31 – Selection tests

51. This paragraph of the Code says “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.”

52. The objection concerned the various weightings applied to the test results. The objectors said that as these were not published it was not clear what the required standard was.

53. The arrangements say that weightings will be applied to the three aspects of the test, verbal reasoning, non-verbal reasoning and numeracy. They do not say what these weightings are. The tests are provided by an organisation which has a long history of educational assessment; it has links with a major university. I have no reason to doubt that the results from the tests, including the weightings, give as accurate a reflection of the child’s ability as possible.

54. I think that publishing the detail of the mathematical process of weighting and standardising the test results in the arrangements, which are already 15 pages long, would obscure essential detail and make the arrangements less clear. Whether the admission authority can make these details available on request to parents may be governed by its contract with the test supplier, that is not a matter that I can consider. I do not uphold this part of the arrangements.

Paragraph 1.32 – Informing parents of test results

55. This paragraph says "Admission authorities **must**:

> a) ensure that tests for aptitude in a particular subject are designed to test only for aptitude in the subject concerned, and not for ability;
>
> b) ensure that tests are accessible to children with special educational needs and disabilities, having regard to the reasonable adjustments for disabled pupils required under equalities legislation, and
>
> c) take all reasonable steps to inform parents of the outcome of selection tests before the closing date for secondary applications on **31 October** so as to allow parents time to make an informed choice of school - while making clear that this does not equate to a guarantee of a selective place."

56. The objection was that because the arrangements say that in mid-October parents will be told the child's test score and the AQS and waiting list scores for previous years, part c) is not complied with. Parents will not know by the time they make their application whether or not their child has met either of the standards for 2022.

57. I have explained above that because the required standard is based on the number of applicants from a specified geographical area, it cannot be set until after 31 October which is the deadline for applications to be made. I have been provided with the AQS and the waiting list score for the last three years and these are set out in the table above.

58. The Code requires that "all reasonable steps" are taken. In these circumstances I am satisfied that all reasonable steps are taken and that knowledge of previous AQS and waiting list scores and the degree of variation in them together with the child's score would allow parents to make informed choices. I do not uphold this part of the objection.

59. At the meeting another issue arose which I will refer to under this section as it concerns paragraph 1.32b of the Code. The arrangements require that requests for adjustments to the selection test so they are accessible to children with special needs and disabilities should be made by 11 June 2021. This is 19 days before the closing date to register for the test. When at the meeting the objector questioned the need for this earlier date, the local authority (which organises the test) said that the earlier date was necessary for practical reasons. It would seem to me that requiring parents of children with disabilities to, in effect, register for the test earlier than other children could be a breach of equalities

legislation and that the practical reasons for the earlier deadline would need to be significant to justify it.

Paragraph 1.33 – Adjusting test scores

60. This paragraph says: “Admission authorities **must not** adjust the score achieved by any child in a test to take account of oversubscription criteria, such as having a sibling at the school.” While the AQS may vary from year to year to enable a target number of children from particular geographic areas named in oversubscription criteria to meet it, there is nothing in the arrangements to suggest that any child’s score is adjusted. I do not uphold this part of the objection.

Paragraph 1.39 – Children of members of staff

61. This paragraph was listed on the objection form. The school gives no priority in its admission arrangements for children of members of staff and no further comment was provided on this issue by the objectors. I do not uphold this part of the objection.

Paragraph 1.42 and 1.44 – Consultation

62. Paragraph 1.42 of the Code sets out when admission authorities must consult on their admission arrangements and paragraph 1.44 sets out who must be consulted. The objectors argued that because the AQS and waiting score change from year to year, they must be consulted on annually. I have set out above the reasons why the AQS and waiting list score cannot be known until after applications have been received. I do not uphold these parts of the objection.

Paragraph 1.47 - Publication

63. Paragraph 1.47 requires: “Once admission authorities have determined their admission arrangements, they **must** notify the appropriate bodies and **must** publish a copy of the determined arrangements on their website displaying them for the whole offer year (the school year in which offers for places are made).” The objection was that the published arrangements did not contain the numerical value of the AQS. I have dealt with this matter above. The arrangements are published as required and I do not uphold this part of the objection.

Paragraph 2.14 – Waiting lists

64. This paragraph concerns waiting lists and says: “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 a Fair Access Protocol, **must** take precedence over those on a waiting list.” The objection concerned the relationship between the waiting list and the FAP and testing of children before they join the waiting list.

65. As a designated grammar school only children who have met the required academic standard will be placed on the waiting list; indeed, if there are not enough children who meet this academic standard, then as explained in paragraph 1.18 of the Code, the school may keep places empty. The arrangements explain that children who were part of the main admissions round, who reached the required standard but could not be offered a place, will be placed on the waiting list according to the oversubscription criteria. The arrangements also explain how children who did not apply during the main admissions round will be assessed in order to establish if they are of the required academic standard to be added to the waiting list. I find nothing in this part of the arrangements which does not conform with paragraph 2.14.

66. The waiting list is for children above the required academic standard whose parents wanted them to attend the school but could not be offered a place. These children will have a place at another school or will be home educated. They stay on the waiting list until a place becomes available, or the waiting list is no longer kept. The FAP is a local authority process to find a school place for children who have not been offered a place at any school outside of the normal admission round and whose parents do not want to home educate them. Should any of these children be of the required academic standard and the FAP leads to them being placed at the school, they must take precedence over children on the waiting list, but the Code does not require the arrangements to state this. I do not uphold this part of the objection.

Paragraph 14 – Overall fairness, clarity and objectivity

67. I consider that the arrangements for the Warwickshire grammar schools are relatively complex compared to those for most other grammar schools in England. This is mainly through the use of two academic thresholds which may be necessary in the context of the schools, in particular their geographical location. Where complex arrangements are necessary, it is important that the explanation of them is clear. Where the explanation is not clear, then parents will not be able to see that they are fair and objective or otherwise.

68. I have addressed the clarity of some parts of the arrangements when considering the objection earlier in this determination. I will now consider aspects of the arrangements not referred to by the objectors which I consider are not clear.

69. The first matter which came to my attention was in the definition of the priority area, which as noted above is what the Code calls catchment areas. The priority area is clearly defined on the second page of the arrangements as “a circle with a radius of 16.885 miles drawn from the Fountain in Rother Street, Stratford-upon-Avon to the County boundary south of Long Compton. In drawing a priority area in this manner, the schools are able to comply with their duty following the Greenwich Judgement (1989).”

70. The Greenwich Judgment is R v Greenwich London Borough Council, ex parte John Ball Primary School (1989) 88 LGR 589 [1990] Fam Law 469 which held that pupils should not be discriminated against in relation to admission to the school simply because they reside outside the local authority area in which the school is situated. It was not clear to me why setting the radius of the priority circle as it is, is required to comply with the duty to

follow the Greenwich Judgment. The reason for the plural of schools in this part of the arrangements is also unclear.

71. When I raised this matter with the school it said “The reference to the Greenwich Judgment was initially included to demonstrate the reasonableness of the change when the school adopted a priority circle in response to the Judgment and remains helpful in our context, and is factually correct. Its inclusion has never been raised as being confusing, including in previous adjudications.”

72. The Greenwich Judgment did not require the school to adopt a priority circle in response to it. Schools can and do set catchment areas in many ways which comply with the Greenwich Judgment and which are not circular. There are other relevant cases which followed Greenwich in particular the Rotherham Judgment (R v Rotherham Metropolitan Borough Council, ex parte LT and others (1999)) from which I quote: “One cannot simply place the point to a pair of compasses on the school and draw a circle of so many miles radius around it. If you did that with each school you would have a series of circles, some of which overlap, so some people might live in two or more catchment areas and some people might miss out altogether. Catchment areas have to be carefully considered so that they interlock with each other and have regard to areas of population and bus routes, safe walking distance and matters of that sort.”

73. I am not suggesting that there is anything unclear, unreasonable or unfair about the priority circle used by the school. It serves a different purpose from the interlocking catchment areas described in the Rotherham Judgment. I am simply saying that the Greenwich Judgment does not require the school to adopt the approach it has. In any case, the Code does not require that the rationale for catchment areas is set out in admission arrangements; however, the admission authority has chosen to do so, and I consider that the rationale given is unclear and does not justify the catchment area.

74. There may be other ways in which the priority circles can be justified taking into account factors such as those referred to in Rotherham and other considerations pertinent to selective schools. This could be as simple as taking the view that, in the circumstances of the school, the distances created by the circles were appropriate to balance the need for children not to have too long a journey to school and for the areas to include enough children of an academic ability capable of benefiting from attending the school. If there was a future objection to the fairness or reasonableness of the circles those factors would need to be considered at that time. What I find is that the arrangements are not clear because the admission authority has chosen to justify the priority circles solely by reference to the Greenwich Judgment in the arrangements. That judgment appears to have been misunderstood and most parents will not be aware of or understand it.

75. On the second page the arrangements say: “parents/carers must have named our School first on the Common Application Form (CAF).” Paragraph 1.9c of the Code prohibits giving priority to children whose parents rank schools in a particular order including “first preference first” arrangements. However, the arrangements also say on page 8: “All local

authorities operate an equal preference system". When drawn to its attention the school said this statement was an error and would be removed.

76. Throughout the arrangements there are a number of references to late registration or applications. On page 2 "Late 11+ registrations and late secondary school applications will not be considered in the first round of offers." On page 7 "If your registration is considered to be late your child will not be tested until after 1st Tuesday March 2022. It is unlikely that results will be available prior to the deadline 31st of Sunday October 2021 for submitting an application for a school place" and "Those registering late are treated the same as those submitting a late application for a school place" and "If your form is received after the closing date of 11.59pm on Wednesday 30th June 2021 it will only be treated as on time for this school if you can provide evidence of a 31st move of address into the priority circle by 11.59pm on Friday December 2021." On page 8 following an explanation of procedures if a girl is ill on the day of the test; "Supplementary Test Sessions may be held, primarily to accommodate families moving into the area. Sessions will also be arranged for parents / carers registering for the test after Offer Day and parents / carers are asked to contact Warwickshire Admissions or The Grammar Schools in Birmingham in these circumstances." There are further references to late application on page 11 of the arrangements.

77. It appeared to me that the arrangements begin by saying that there is no flexibility for late registration or applications, but then suggest that in some circumstances there might be and describe as "unlikely" something that is impossible (results of tests taken after 1 March 2022 being available by 31 October 2021). In my view there could be some exceptional and compelling reasons why a registration or application may be late, or a girl may be prevented from taking the test on the appointed day by reason of illness for example and not to have a safety net for these rare circumstances would not be fair. Equally, there will be a date by when it is impossible to test a child and include her in the main admission round. Nor would I expect an admission authority to arrange tests on an ad hoc basis up until that point, a single opportunity for all affected girls would suffice.

78. In its response to me on these matters the school said that it would "give consideration to treat such as on time where exceptional circumstances can be evidenced. This includes, but is not limited to, children who move into, or within, Warwickshire by the Local Authority's extended application deadline of 31st December 2021." It continued "children who are unable to sit the test on the main session dates for religious reasons, illness or other evidenced circumstances, will still be classed as on time and will be invited to sit the 11+ test at a later date."

79. From the school's response to me I conclude that there is a safety net for children with exceptional, compelling or unpredictable reasons for not being able to register or take the test on a set day, but the arrangements are not clear about what that safety net is. This makes the arrangements unclear.

Summary of Findings

80. The objectors were of the view that the Code requires the arrangements to include the mark which a girl must reach in the selection test in order to be considered for admission to the school. They considered that because this mark was not published in them, the arrangements did not conform with many parts of the Code.

81. There is nothing in the Code that requires the pass mark to be published in the arrangements. Because for this school, the academic standard required for admission takes into account where applicants live, it cannot be known until after applications have been received what mark represents the academic standard for 2022.

82. I have gone on to consider whether the Code requires that the arrangements describe the required academic standard to meet the requirements of paragraph 1.17 of the Code to "publish the entry requirements for a selective place". The Code also requires that arrangements are clear so a balance must be struck between including the necessary information so parents can apply for a place and including detail which may be of interest to a few parents but could obscure what all parents must know. Consequently, I think that an admission authority could decide not to state the required academic standard explicitly in the arrangements, in which case the arrangements would need to clearly point to where an interested person could find that detail. If an admission authority decides to describe the academic standard in the arrangements, it must do so clearly.

83. In this case the admission authority has decided to include the academic standard in the arrangements; I understand this to be the academic standard of the most able 120 girls who apply from the priority circle. I find that this is not clear. However, the objection was that the mark representing this academic standard was not published and so I do not uphold this part of the objection, nor the other parts of the objection which were based on the mark not being published in the arrangements. Nor, for the reasons set out in the determination, do I uphold any other part of the objection.

84. I do however find that the arrangements are unclear, not only about the required academic standard, but on the safety net for girls where exceptional and unforeseeable events prevent on time registration or application or prevent them from taking the test on the appointed day. I also find that the justification of the catchment area to be unclear and that it is unclear that it is the waiting list score which looked after, previously looked children and those with a EHC plan which names the school must reach.

85. Paragraph 3.1 of the Code explains that "The admission authority **must,** where necessary, revise their admission arrangements to give effect to the Adjudicator's decision within two months of the decision (or by **28 February** following the decision, whichever is sooner), unless an alternative timescale is specified by the Adjudicator. An Adjudicator's determination is binding and enforceable." This determination has taken longer to complete than I would have wanted, and the arrangements for entry in 2022 are of necessity being applied before it is published. The revisions which are required concern the clarity of the arrangements and will not change the children who will be offered places at the school in

September 2022. I have therefore decided to set the date of 28 February 2022 for them to be revised. This will allow time for the school to consider exactly how it wishes to vary its arrangements in accordance with this determination.

Determination

86. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2022 determined by Stratford Girls' Grammar School for Stratford Girls' Grammar School, Warwickshire.

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

88. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2022.

Dated: 24 November 2021

Signed:

Schools Adjudicator: Phil Whiffing