Office of the Schools Adjudicator

Determination

Case reference: ADA3871

Objector: Two members of the public

Admission authority: Lawrence Sheriff School Academy Trust for Lawrence Sheriff 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 Lawrence Sheriff School Academy Trust for Lawrence Sheriff 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 Lawrence Sheriff School (the school), a selective academy school for boys 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 Lawrence School Academy Trust (the trust).

3. The objectors made similar objections to four other selective schools in Warwickshire which are considered in determinations ADA3812, ADA3872, ADA3873 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. They also referred to the admission arrangements for previous years and actions taken by the school and the local authority when applying admission arrangements in previous years. 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 in the sense that there were not within the admission authority's gift or under its control.

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 and attached documents;

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). 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 10 were within my jurisdiction: 14, 1.8, 1.9, 1.20, 1.31, 1.32, 1.33, 1.39, 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 in 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. I have specific concerns with what is said in the arrangements concerning the admission of children with Education, Health and Care Plans (EHC Plans).

Background

17. The school is situated in Rugby where there is also a girls' grammar school and a partially selective school and some non-selective schools. The school uses the same selection test as the girls' grammar school and the partially selective school. The same test is used by three 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 twenty pages long and describe an admissions process for 2022 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 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 150 and oversubscription criteria which can be summarised as:

1. Looked after and previously looked after children
2. Thirty places for children who live in the priority areas who are eligible for the pupil premium because they are eligible for free school meals and reach the waiting list score or 20 marks below the AQS whichever is lower
3. Five places for children who are eligible for the service premium and meet the academic standard described above
4. Children living in the Eastern Area of Warwickshire who reach the AQS
5. Children living in the "Priority Circle" who reach the AQS
6. If less than 30 places have been allocated under 2 above, the remainder to children living outside of the priority areas who meet the same conditions and academic standard
7. If less than 5 places have been allocated under 3 above, the remainder to children living outside of the priority areas who meet the same conditions and academic standard
8. Children living outside the priority areas who achieve the AQS
9. 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 eligible for pupil premium, then those 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 areas used in the arrangements meet 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 1.6 – Children with an Education, Health and Care Plan

The arrangements say, “Children with a Statement of Special Educational Needs or Education, Health and Care (EHC) Plan naming the school who meet the required standard for entry (Automatic Qualifying Score) must be admitted.” I find this unclear for two reasons. The first is that statements of special educational needs have now been entirely replaced by EHC Plans. The second reason is that if the waiting list score represents the academic standard required for admission to the school, then a child with an EHC Plan naming the school who reached that standard must be admitted, they would not be required to reach the higher AQS.

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, <u>outside</u> 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 was whether it was clear that if there were fewer than 30 boys meeting the second criterion or fewer than five meeting the third criterion, then the Code requires in paragraph 1.6 that they are allocated to boys meeting criteria numbered four and five and cannot be held back for allocation under the sixth or seventh criteria. When I raised this point with the school it said that it did not hold back places for boys eligible for a premium and if fewer than 30 or five boys met criteria 2 or 3 respectively these places would be allocated to boys meeting the next criteria. It said its aim was to prioritise applications from within the priority areas, but if places were available for boys from outside of these areas it wanted to give priority to those eligible for a premium if it had not already reached the numbers of such boys that it wanted to admit. I consider that this is a worthy and legitimate aim which the oversubscription criteria will meet, and I have thought about why the aim and practice was not clear to me from the arrangements.

29. I think this is because of a number of factors. The oversubscription criteria are listed as "Category1", "Category 2" and so on, not as criteria. So, a criterion which begins "Category 2 – 30 places will be allocated..." implies that 30 places <u>will</u> be allocated to boys eligible for the pupil premium and these places are set aside solely for such boys. This is compounded by "Category 6 – If any of the 30 places available under Category 2 have not been offered ..." It is not for me to tell an admission authority how to word its arrangements, but it should made clear that the second criterion is for up to 30 boys and that the sixth

criterion only comes into play if both of the following are true, fewer than 30 boys were offered places under the second criterion and the PAN has not been reached at an earlier point.

Paragraph 1.9 - Prohibitions

30. 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.

31. 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 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 that the numerical value of the score must be published in the oversubscription criteria and I do not uphold this part of the objection for the same reasons.

32. 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, and its predecessor school was designated as such under section 104 of the Act. It may accordingly select all of its pupils on the basis of general ability with a view to admitting only those of high ability. As the school is and has for many years been wholly selective it cannot be considered to be introducing any new selection by ability. When and how it selects is not covered by this part of the Code. I do not uphold this part of the objection.

33. The objectors also referred to paragraph 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.

34. 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.

Paragraph 1.17 – Publication of entry requirements and the selection process

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.

40. 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 such a standard.

41. 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.

42. 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 10 of the arrangements, it is stated that the AQS is set by the Committee of Reference "taking account of the applications for the individual schools and the number of places available." The arrangements also say, "The Committee of Reference has an overriding discretion to set the Automatic Qualifying Score and the minimum score for the waiting list as it considers appropriate to ensure that those offered places, and those on the waiting list, have reached an academic standard which will enable them to benefit from a grammar school environment." They say, "The Committee will consider the descending score order and the number of children applying for each school (living within the priority areas and who registered before the closing date) and set the Automatic Qualifying Score for each school as close to the planned admission numbers as possible." And "The Committee will also consider the scores of children just below the Automatic Qualifying Score and determine for each school the minimum score for the waiting list for that year."

43. I find it unclear to say that the AQS will be set as close to the planned admission number as possible (the AQS has been 210 in recent years and the PAN is 150). I understand the arrangements to mean the AQS is set to represent the ability of the most able 150 boys living in the priority circles who apply to the school in 2022. The waiting list score is set just below this figure.

44. 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.

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

45. 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.” The first oversubscription criterion clearly gives priority to looked after and previously looked after children who reach the waiting list score, or 20 marks below the AQS, which ever is lower.

46. The objection was that without the AQS being published in the arrangements the requirement of paragraph 1.20 was not met. I have discussed the matter of publishing the AQS in the previous section of this determination and for the reasons set out there I do not uphold this part of the objection.

Paragraph 1.31 – Selection tests

47. 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.”

48. 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.

49. 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.

50. I think that publishing the detail of the mathematical process of weighting and standardising the test results in the arrangements, which are already 20 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

51. 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."

52. 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.

53. I have explained above that because the required standard is based on the number of applicants from specified geographical areas, 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.

	2019	**2020**	**2021**
AQS	210	210	210
Waiting list score	208	206	205

54. 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 the AQS and waiting list score which have little variation for the last three years and the child's score would allow parents to make informed choices. I do not uphold this part of the objection.

55. At the meeting another issue arose which I will refer to under this section as it concerns paragraph 1.32b. 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

56. 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

57. 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

58. 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

59. 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

60. 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.

61. 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.

62. 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 required to be kept. The FAP is a local authority process to find a school place for children who do not have 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.

63. I do not uphold this part of the objection.

Paragraph 14 – Overall fairness, clarity and objectivity

64. 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 (which I believe these to be) and objective or otherwise.

65. 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.

66. On the second page the arrangements say, “Late entrance test registrations and/or late secondary school applications and/or late/incorrect residency documentation will mean that your son will not be considered in the first round of offers.” On the sixth page they say, “If your registration is considered to be late your child will not be tested until on or after 1 March 2022.” It appeared to me that this may not be fair to families who were prevented from meeting these deadlines for unpredictable, exceptional and compelling reasons. These might include bereavement, accident or illness. It may also be unfair to families who discovered after these dates that they were moving into the area. In my view not to have a safety net for these circumstances would not be fair.

67. However, on page 7 of the arrangements it says, “If your form is received after the closing date of 23.59 on Wednesday 30 June 2021 it will only be treated as on-time for this school if you can provide evidence of a move of address within or into the priority area by 23.59 on Friday 31 December 2021.” This suggests there may be circumstances where the earlier statements do not apply in all cases. On page 8 of the arrangements there is a heading “Special Arrangements – exceptional circumstances such as religious observance,

illness, disability or bereavement”. This says there will be supplementary test dates for children who for good reasons cannot attend a test on the prescribed date. On the same page it explains action which should be taken if a child is ill on the day of the test so that an alternative test can be sat. It also says there will be additional test sessions in January 2022 for children who have moved house and registered by 31 December 2021.

68. The school wrote to me at length about the challenges of arranging alternative test sessions. It referred me to previous determinations by schools adjudicators and a Special Educational Needs and Disability (SEND) Tribunal finding. It is clear that these challenges are overcome to provide a safety net for children who for exceptional, compelling and unforeseeable reasons are prevented from registering or applying on time or cannot attend their appointed test session. However, it is stated early in the arrangements that late registrations or applications will not be considered in the first round of allocations. It is this contradiction which makes the arrangements unclear as those which are late for good reason are considered in the first round of allocations.

69. The statement on page 7: “If your form is received after the closing date of 23.59 on Wednesday 30 June 2021 it will only be treated as on-time for this school if you can provide evidence of a move of address within or into the priority area by 23.59 on Friday 31 December 2021” does give me another concern. Paragraph 15d of the Code says: “a parent can apply for a place at any state-funded school in any area.” I have considered the lawfulness of restricting this safety net to families moving to an address within the priority area.

70. The arrangements provide that a boy moving to an address 10 miles from the Rugby water tower and so within the priority area on 31 December 2021 would be tested and included in the main admissions round. However, a boy moving to an address 10 yards farther away, and so outside of the priority circle which has a radius of 10.004 miles would not be tested and not included in the main round. I note the school’s concerns about the workload involved in administering tests and have considered whether the approach set out in the arrangements could be justified on the grounds that a boy living outside of the priority area who passed the test would have low priority for a place and so arranging a test would not be good use of time. However, if the boy was, say, a previously looked after child, then they would have the highest priority for a place if they reached the required standard no matter where they lived. I do not think limiting inclusion of boys moving house to those who do so within the priority area conforms with the Code.

71. The school argues that a system where anyone who can afford to move house anywhere in the country by 31 December 2021 is allowed to be considered as a late applicant would be unfair on families who cannot afford to move house and give priority based on financial status which is prohibited by the Code. I think this misses the point. The vast majority of applicants should be expected to register, sit the test and apply by the published deadlines; if they fail to do so without exceptional and compelling reasons, they cannot expect to be included in the main admissions round. However, where there are exceptional and compelling reasons for missing a deadline or test it would not be fair if the

arrangements did not include a safety net. This does not mean that there should be a plethora of alternative tests and deadlines and there are logistical constraints to take into account; a single second opportunity would suffice. A looked after child of high ability being placed in a home locally before whatever final date by which they could be tested and included in the main admissions round would present compelling reasons for being included in the safety net; a family moving to an address by choice some distance away which would give them low priority for a place at the school would present a less compelling case.

72. These arrangements begin by saying there is no safety net if deadlines are missed and later say there are opportunities for later tests for reasons such as illness and go on to provide for boys moving into the priority area until 31 December 2021 to be tested in January 2022. I find this unclear.

Summary of Findings

73. The objectors were of the view that the Code requires the arrangements to include the mark which a boy 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.

74. 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.

75. 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 point clearly 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.

76. 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 150 boys who apply from the priority areas. 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.

77. I do however find that the arrangements are unclear, not only about the required academic standard, but on the safety net for boys 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 oversubscription criteria concerning boys eligible for the pupil or service premium are not clear and that it is unclear that it is the waiting list score which children with a EHC plan which names the school must reach to be admitted.

78. 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

79. 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 Lawrence Sheriff School Academy Trust for Lawrence Sheriff School, Warwickshire.

80. 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.

81. 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