



Office of  
the Schools  
Adjudicator

## Determination

<b>Case reference:</b>	<b>ADA3914</b>
<b>Objector:</b>	<b>A member of the public</b>
<b>Admission authority:</b>	<b>The governing board for Dover Grammar School for Boys, Kent</b>
<b>Date of decision:</b>	<b>6 September 2022</b>

## Determination

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, we do not uphold the objection to the admission arrangements for September 2023 determined by the governing board for Dover Grammar School for Boys, Kent.**

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

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

## The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by a member of the public (the objector), about the admission arrangements for September 2023 (the arrangements) for Dover Grammar School for Boys (the school), a selective foundation school for boys aged 11 to 18. The objection concerns whether the admission authority met the requirement, set out at paragraph 1.50 of the School Admissions Code (the Code) that the arrangements must be published on the school's website by 15 March 2022.

2. The local authority for the area in which the school is located is Kent County Council. The parties to the case are the objector, the governing board for the school (the admission authority) and the local authority.

## **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by the school's governing board, which is the admission authority for the school. The objector submitted his objection to these determined arrangements on 20 April 2022. We are satisfied that the objection has been properly referred to us in accordance with section 88H of the Act and it is within our jurisdiction. We have also used our power under section 88I of the Act to consider the arrangements as a whole.

## **Procedure**

4. In considering this matter we have had regard to all relevant legislation and the Code.

5. The documents we have considered in reaching our decision include:

- a. a copy of the minutes of the meeting of the governing board (held on 13 January 2022) at which the arrangements were determined;
- b. a copy of the determined arrangements, which included a Supplementary Information Form (SIF);
- c. the objector's form of objection dated 20 April 2022 and supporting documents;
- d. the admission authority's response to the objection and supporting documents;
- e. the local authority's response to the objection; and
- f. the content of the school's website (as accessed on 30 April 2022).

## **The Objection**

6. The objector asserted that the arrangements had not been published on the school's website by the deadline set out at paragraph 1.50 the Code, namely 15 March 2022.

## **Other Matters**

7. We were concerned that a number of aspects of the arrangements did not, or may not, conform with admission requirements. These aspects related to: the priority afforded to looked after and previously looked after children, the clarity of the waiting list arrangements, the information requested on the SIF, the fairness and objectivity of the way in which the SIF is used, the approach to calculating home to school distance when children live at more than one address, and whether it is clear that the use of random allocation is supervised by someone independent of the school. We also identified a significant typographical error.

## Background

8. The school has a Published Admission Number (PAN) of 150 for September 2023.
9. The school is designated as a selective grammar school and the arrangements indicate that only pupils who attain a “required standard” by reference to “ability and aptitude” will be eligible to be considered for admission to the school. The “required standard” is measured by reference to either: (a) “satisfactory scoring” in a set of tests administered by the school; or (b) having been assessed by the local authority in its own “Age 11 assessment” as suitable for a grammar school education.
10. In the event of oversubscription, priority for places at the school is determined by application of the following criteria (in summary):
  - a. Children in local authority care;
  - b. Internationally adopted children;
  - c. Children previously in state care outside of England;
  - d. Children in receipt of the Pupil Premium;
  - e. Current Family Association (a sibling attending the school);
  - f. Health and Special Access reasons;
  - g. Children of school staff; and
  - h. Distance (proximity of home to school).

## Consideration of Case

11. The objector asserted that the arrangements had not been published on the school’s website by the deadline set out at paragraph 1.50 of the Code, namely 15 March 2022. He provided evidence of the ‘Admissions’ page of the school’s website (under ‘Key Information’ – ‘Admissions’), accessed on 20 April 2022, which appeared to indicate that the arrangements were absent from that page.
12. We accessed the school website on 30 April 2022 and noted that the arrangements did not appear on the ‘Admissions’ page. However, they did appear elsewhere on the website (under ‘Key Information’ – ‘Key Policies’).
13. We asked the admission authority to respond to the objector’s concern that the arrangements were not published on the school’s website by 15 March 2022. The admission authority explained that the arrangements had been published on the school’s website by the required date. It explained that the arrangements were uploaded to the ‘Key Policies’ section of the website “well in advance” of the deadline of 15 March 2022, and were then duplicated in the ‘Admission’s section of the website at a later date. The

admission authority provided a screenshot from the “backdoor portal” of the school’s website. This appeared to show that a document entitled “dgsb-admissions-policy-for-2023-2024” was uploaded to the website as a “Key Information Document” at 15:39 on 18 January 2022.

14. The admission authority later explained that it considered that the arrangements had been made “readily available” on the school’s website.

15. On the basis of the evidence provided by the admission authority, and our own search of the school’s website, we find that the arrangements were published on the school’s website on 18 January 2022 in the ‘Key Information’ – ‘Key Policies’ section of the website and remained published in that location until at least 30 April 2022.

16. We note that the requirement at paragraph 1.50 of the Code is simply that the arrangements be published on the school’s website. There is no prescription as to where on the website the arrangements must be located, nor how prominent or easy they must be to locate. However, we consider that one of the purposes of the requirement at paragraph 1.50 is to ensure that arrangements are made available to parents and others so that they can see them and raise any objection to them with the adjudicator by 15 May. By publishing the arrangements for 2023 in a different place to those for previous years and not under the heading of ‘Admissions’, we consider that the admission authority have made it more difficult for parents to find.

17. Given that we have found that the arrangements were published on the website before 15 March 2022, it follows that the requirement at paragraph 1.50 of the Code was met. We therefore do not uphold the objection. We do, however, wish to draw the admission authority’s attention to the fact that its decision to publish the arrangements in a location of their website other than the ‘Admissions’ page will have made it difficult for parents and other interested parties to access the arrangements.

## Other Matters

18. We noted that the arrangements afforded priority first to “Children in Local Authority Care”, then to “Internationally Adopted Children” and then to “Children Previously in State Care Outside of England”. We were concerned that giving different levels of priority to these three categories of children may not meet the requirements of paragraph 1.7 of the Code. The requirement is “the highest priority must be given, unless otherwise provided in this Code, to looked after children and all previously looked after children, including those 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.” The admission authority explained that it was not its intention to create any disparity or different level of priority between these three categories of children, accepted that it might be better for the three categories to be “subsumed into one” and offered to undertake such an amendment to the arrangements. We find that the current way in which the first three oversubscription criteria are set out does not meet the requirements of paragraph 1.7 of the Code and so the

arrangements must be revised. We are grateful to the admission authority for indicating that it will do so.

19. We noted that the waiting list provisions in the arrangements – which refer to “eligible students who have requested a place” appeared to be unclear, contrary to the requirement of clarity set out at paragraph 14 of the Code. We considered that it was not clear whether the place referenced was one at the school, or one on the waiting list. We also pointed out that it would be the parent who made such a request, and not the student. Further, we were concerned that the waiting list appeared to be held “until the end of term”, rather than until 31 December, as required by paragraph 2.15 of the Code. The admission authority indicated that it accepted all of these concerns and would revise its arrangements accordingly. We require the relevant revisions to the arrangements to be made and are grateful to the admission authority for its indication that it is content to make the revisions.

20. Paragraph 2.4 of the Code requires that admission authorities “must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability.” The SIF for “Children Previously in Care Outside of England” asks for the child’s current primary school. We were concerned that this may not conform with paragraph 2.4 of the Code because it was unclear to us why a child’s current primary school would or should have a direct bearing upon decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. The admission authority indicated that it accepted this concern and would revise its arrangements accordingly. We require the relevant revision to be made to the arrangements and are grateful to the admission authority for its indication that it is content to make the revision.

21. We noted that the admission authority requires the completion of a SIF for children applying as eligible for a place under oversubscription criterion (3), “Children Previously in State Care Outside of England”, but not for children applying under oversubscription criteria (1) (“Children in Local Authority Care”) or (2) (“Internationally Adopted Children”). We did not understand this difference of treatment and were concerned that it may not comply with the requirements of fairness and objectivity in paragraphs 14 and 1.8 of the Code. The admission authority indicated that it accepted these concerns and would revise its arrangements accordingly. We require the relevant revisions to be made to the arrangements and are grateful to the admission authority for its indication that it is content to make the revisions.

22. Paragraph 1.13 of the Code requires that admission authorities must clearly set out how distance from home to the school will be measured. The Code states “This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent”. We were concerned that the arrangements may not meet this requirement because they do not appear to make such provision in relation to the calculation of distance from a child’s home to the school. The admission authority indicated that it accepted this concern and would revise its arrangements accordingly. We require the relevant revision to be made to

the arrangements and are grateful to the admission authority for its indication that it is content to make the revision.

23. Paragraph 1.35 of the Code requires that where random allocation is used, the process must be supervised by someone independent of the school. At the end of page 2 of the arrangements it is indicated that “in the unlikely event that two or more children in all other ways have equal eligibility for the last available place at the school, the names will be issued a number and drawn randomly to decide which child should be given the place”. As there is no reference to the process being supervised by someone independent of the school, we were concerned that this aspect of the arrangements may not meet the requirements of paragraph 1.35 of the Code. The admission authority indicated that it accepted this concern and was content to revise its arrangements to “incorporate provision for independent adjudication”. We require the relevant revision to be made to the arrangements and are grateful to the admission authority for its indication that it would make the revision.

24. We noted that page 1 of the arrangements refers to the “intended admissions for the year commencing 1<sup>st</sup> September 2022”. This appears to be a typographical error as the arrangements relate to entry in September 2023. As the error could cause confusion for parents reading the arrangements, we consider that it renders the arrangements unclear and therefore in breach of the requirement at paragraph 14 of the Code for clarity. We therefore require this aspect of the arrangements to be revised.

## Summary of Findings

25. We find that the admission authority published its arrangements on the school’s website by the deadline prescribed by the Code. We therefore do not uphold the objection.

26. We find that there are a number of ways in which the arrangements do not conform with admission requirements set out in the Code. We therefore require the arrangements to be revised accordingly.

## Determination

27. In accordance with section 88H(4) of the School Standards and Framework Act 1998, we do not uphold the objection to the admission arrangements determined by the governing board for Dover Grammar School for Boys, Kent.

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

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

Dated: 6 September 2022

Signed:

Schools Adjudicators: Jane Kilgannon  
Phil Whiffing