Office of the Schools Adjudicator

Determination

Case reference:	**ADA3931**
Objector:	**A member of the public**
Admission authority:	**Urmston Grammar for Urmston Grammar Academy, Trafford**
Date of decision:	**22 September 2022**

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, we partially uphold the objection to the admission arrangements for September 2023 determined by Urmston Grammar for Urmston Grammar Academy, Trafford.

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

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case we determine the arrangements should be revised by 28 February 2023.

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 (the arrangements) for September 2023 for Urmston Grammar Academy (the school), a selective academy for children aged 11 to 18. The objection is to the way the school tests applicants, to the fairness and clarity of the oversubscription criteria and to the residence requirements.

2. The local authority for the area in which the school is located is Trafford (the local authority). The local authority is a party to this objection. Other parties to the objection are the objector and the admission authority for the school which is the single academy trust named Urmston Grammar (the trust).

Jurisdiction

3. The objector made objections to the admission arrangements for 2023 for this and ten other grammar schools. Jane Kilgannon and Phil Whiffing have been appointed as joint adjudicators for these objections as permitted by the Education (References to Adjudicator) Regulations 1999. Phil Whiffing has acted as lead adjudicator for this case.

4. There are a number of matters which are common to all but one of the objections. The objector has made objections to other schools in previous years about the same matters. Those objections have been determined by other adjudicators. Their determinations do not form binding precedents on us, and we have considered the matters afresh.

5. The terms of the academy agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing board on behalf of the trust on that basis. The objector submitted his objection to these determined arrangements on 5 May 2022. We are satisfied the objection has been properly referred to us in accordance with section 88H of the Act and it is within our jurisdiction. We have also used our power under section 88I of the Act to consider the arrangements as a whole.

Procedure

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

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

a. minutes of the meeting of the governing board held on 10 February 2022 at which the arrangements were determined;

b. a copy of the determined arrangements;

c. the objector's form of objection dated 5 May 2022 and supporting documents;

d. the response to the objection from the trust;

e. the response to the objection from the local authority;

f. comments from the trust on the matters we raised under section 88I of the Act; and

g. comments from the local authority on the matters we raised under section 88I of the Act.

The Objection

8. The objector quoted paragraph 1.31 of the Code which 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.” He said, “This is violated by (a) Reuse of the same tests for late sitters (b) Arbitrary 25% extra time for those labelled with the new “badge of honour”, called dyslexia (c) age standardisation for which there is no independent peer reviewed evidence the algorithm is accurate (d) Reuse of questions used in previous tests (as these end up in the hands of tutors).” He also questioned the fairness of the review process described in the arrangements.

9. The objector also quoted part of paragraph 1.8 of the Code, “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”. He said it was not clear how many places would be allocated under oversubscription criteria B and C. He also considered it unfair to give priority to children of members of staff and to children living in the catchment area.

10. The last part of the objection concerned the reasonableness and fairness of the residency requirements. The objector did not say which part of the Code he thought these aspects of the arrangements did not conform with. We think that paragraph 14 of the Code is the most appropriate part of the Code to test these aspects of the arrangement against.

Other Matters

11. Paragraph 14 of the Code says, “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.” There were a number of ways in which we considered that the arrangements may not be clear. The arrangements also appeared not to conform with the requirements for waiting lists set out in paragraph 2.15 of the Code. In relation to admission to the sixth form, we consider that the arrangements may not conform with paragraph 1.9g of the Code concerning reports from previous schools.

Background

12. The school is situated in Urmston, on the western side of the Manchester conurbation. The published admission number (PAN) for 2023 is 150. The oversubscription

criteria for children reaching the qualifying score in the selection test can be summarised as follows:

A. Looked after and previously looked after children;

B. The 20 top scoring children in the selection test and children with scores equal to the lowest score of these children;

C. The ten highest performing children eligible for the pupil premium and any other child eligible for the pupil premium with a score equal to the tenth highest;

D. Children of members of staff; and

E. Other children in order of the distance of their home from the school with priority being given to children living in the M41 and M31 postcodes.

Consideration of the objection

13. In addition to the objection form the objector sent in two appendices. The first was 17 pages long and related specifically to this case. The second was common to 10 of the 11 objections made by this objector to grammar school admission arrangements for 2023. It was 130 pages long and contained extracts from on-line forums and other media (some dating back 10 years), copies of correspondence with local authorities, examining boards and other test providers, transcripts of an employment tribunal and an ombudsman decision.

14. In the first appendix the objector set out his reasons for making this objection. These stem from his opinion about various organisations and individuals. None of these concern us. Our jurisdiction in relation to objections to admission arrangements is set out in section 88H(4) of the Act and is to "decide whether, and (if so) to what extent the objection should be upheld". In relation to admission arrangements generally this is set out in section 88I(5) of the Act and is to "decide whether they conform with those requirements [requirements relating to admission arrangements] and, if not, in what respect they do not." Outside of those parameters, it is not for schools adjudicators to reach conclusions about an objector's view of any individual, organisation or statute with which he may disagree.

Testing – The use of the same test

15. The objector quoted paragraph 1.31 of the Code, "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." The first part of the objection was that using the same test for "late sitters" did not conform with this requirement because children who had sat the test earlier could remember content and would pass information on to other children giving them an advantage.

16. The arrangements require parents to register their children for the selection test by a closing date. The arrangements continue to say, "If the specified closing date is not met for

completion of the on-line registration form, applicants cannot be tested in the Autumn term 2022. Further testing will not occur until after the National Allocation Day, which is 1st March 2023. Information regarding late application for the Urmston Grammar Entrance Examination is available from the Admissions Officer at the school." The arrangements are silent on the test that will be used after 1 March.

17. We consider that having no provision in the arrangements for children who cannot be tested on the appointed day because of unforeseeable exceptional circumstances or religious reasons would not be fair and so the arrangements would not conform with paragraph 14 of the Code. We also consider that it would also be unfair if the arrangements did not make provision for children whose applications were, for good reason, late to have the opportunity to have their ability assessed. The arrangements do not refer to any such opportunity; however, in its response to our enquiries the school explained that if a child was unable to sit the test on the appointed day because of illness, bereavement, accident or other serious reason, the child would be offered the same test one week later.

18. The objector argued that children can remember questions and do tell other children about the content of the test, either directly or indirectly through parents and tutors and this gives "late sitters" an unfair advantage. He provided references to support this view. The objector argued that there should be a different test for each sitting before setting out the issue of comparability of results in different tests. He also suggested other approaches to testing which an admission authority could adopt for example, sitting two tests on separate days with the highest, or only, score being taken into account.

19. Before considering this part of the objection, we have looked at the familiarisation material published on the school's website. This is intended to give parents and children a feel for the style of the test and how to complete the answer sheet. It is a multiple-choice test in which children are required to mark an answer sheet in a specified way so that their paper can be marked by a computer.

20. In our view, children could remember some aspects of these tests, for example that the comprehension test was based on an article about Japan, or that they were asked to find the area of some flower beds and the paving around them in the maths test. We doubt that many, if any, children could remember all 25 comprehension questions arising from the article on Japan including the four alternative options for each question. We also doubt that many would remember the diagram of the flower bed in sufficient detail that another child, parent, or tutor would be confident that the remembered answer was correct. As for the questions requiring the child to choose which of six shapes was the missing shape in a diagram of nine shapes, we think it unlikely that a child could remember any detail that would help another child.

21. If a child did tell their friend who missed the main test because of illness or a family trauma that the comprehension was about Japan, we doubt that a child who had been ill, or was distressed would have time to learn a sufficient amount about Japan before the later test to give them any advantage when all the necessary information to answer the questions is provided in the test. Considering other questions, let us assume that a child

does remember that there is a question which asks which word is the opposite to "prominent". They also remember the options are: A foreign, B distant, C unimportant, D wealthy and E exciting. Because of illness or a family trauma, their friend did not take the main test, but takes the test a week or so later. The child decides that they will tell their friend about this question and what answer they gave. The recently ill or distressed child now has to check in a dictionary that their friend's answer was correct, if not, learn the correct answer and remember all of the details. We think this is a long chain, but not impossible across a short period of time. For the tests taken after 1 March 2023, we do not consider the chain of memory among children could be reliably sustained.

22. The objector refers to tutors systematically collecting what children can remember from the test after the test has been sat. We think this is perfectly acceptable if the information is used to construct questions of similar style and difficulty for other children to practise, for example, calculating the area of flower beds designed by the tutor. However, passing on questions to children who will be taking the same test on a later date is colluding with and encouraging cheating.

23. Among the articles referred to by the objector in his second appendix was one by Professor Rebecca Allen, What does North Yorkshire tell us about how reliable the 11+ is, Education Datalab, May 2017. This study compared the results from a group of children's performance on two 50-minute verbal reasoning tests taken one week apart. The first conclusion of this study was that even the highest quality tests will result in pupils getting slightly different results from one test to the next. It also concluded "Sometimes less academically capable students will pass the 11-plus and more academic capable students will fail. Society needs to decide how much of this misallocation it can tolerate."

24. An experienced teacher would not expect every child in their class to get exactly the same mark on a test if the same test is repeated a few days later or even to be ranked in exactly the same order. Overall, the more able children will do better than the less able, but within this any individual may be healthier on one day than the other, correctly guess an answer they did not know on one day and guess incorrectly on the other or simply record their answer inaccurately. If we accept that it is possible for a child to pass on information after the test, directly or indirectly to another child who is taking the test at a later date, then does it introduce a greater degree of variability to that already in any testing system?

25. In these arrangements to reach the academic standard required for admission, a child must score 334 or above in the tests. However, reaching this score does not mean that a place is guaranteed. There are only 150 places available. This does not mean that the child ranked 150 on the test is offered a place and the one ranked 151 is not. Looked after and previously looked after children who reach the required standard must be offered places no matter where in the rank order they come. Consideration is also given in the oversubscription criteria to a child's eligibility for pupil premium and where they live. Some of the top 150 may have listed another school higher on the common application form and may be offered a place at a higher preference school so children ranked below 150 will be offered places. There are therefore many unpredictable variables which decide the cut off point for admission to the school and which children find themselves above or below it.

26. We conclude that within the variability already in the testing system any test content remembered by a child and passed to one taking the test at a later date will have little effect and will be within the “misallocation” tolerated by society referred to by Professor Allen. We do not uphold this part of the objection.

Testing – Additional time for children with dyslexia

27. The objector put forward a range of arguments which he said made giving 25 per cent more time in the test to children with dyslexia was unfair to other children. Whatever the merits of the objector’s arguments, we noted that the arrangements do not give 25 per cent additional time in the test to children with dyslexia.

28. The Equality Act 2010 (EA) requires that reasonable adjustments are made for children with disabilities. The arrangements say that if a child has special educational needs or a disability, parents can request that steps are taken to allow such children to access the test. The arrangements say, “The intention behind an access arrangement is to meet the particular needs of an individual applicant without affecting the integrity of the exam. Access arrangements are the principal way in which the School complies with the duty under the Equality Act 2010 to make ‘reasonable adjustments’.”

29. There is reference to requests for 25 per cent extra time in the arrangements, but this is not in the context of dyslexia or any specified disability. The arrangements say this will only be granted “where there is evidence of substantial impairment or exceptional circumstances.”

30. Dyslexia is a disability and as such reasonable adjustments must be made for children with the condition. We find that this aspect of the arrangements complies with the requirements of the EA and we do not uphold this part of the objection.

Testing – Age standardisation

31. The objector said, “There is zero peer reviewed evidence that age standardisation [sic] is required in 11+ tests.” More specifically he said, “The CEM age standardisation algorithm is not peer reviewed or evidence based” and argued that the algorithm used should be published. He was of the view that age standardisation was “a blunt average based system, which makes assumptions that age has a uniform affect on ability, by the day, so children learn linearly by the day or by the second. It ignores their individual innate ability and level of preparation as reasons for differences in ability (it also ignores IQ and genetics).” The objector said “Younger children can prepare more to alleviate any age disadvantage, if it even exists” and the “standardisation algorithm amounts to score manipulation”.

32. The degree to which a child’s date of birth affects their achievement compared to other children in their year group has been the subject of much academic research. While genetics and nurture do play a part in determining how an individual child will perform in a test at the end of their primary education, the academic studies emphatically find that the month in which a child is born matters for test scores at all ages. One example of this

research is a research report published by the DfE undertaken by Alex Sutherland, Sonia Ilie and Anna Vignoles at RAND Europe and the University of Cambridge in 2015, "Factors associated with achievement: key stage 2". We quote the findings in this report on the effect of age in full.

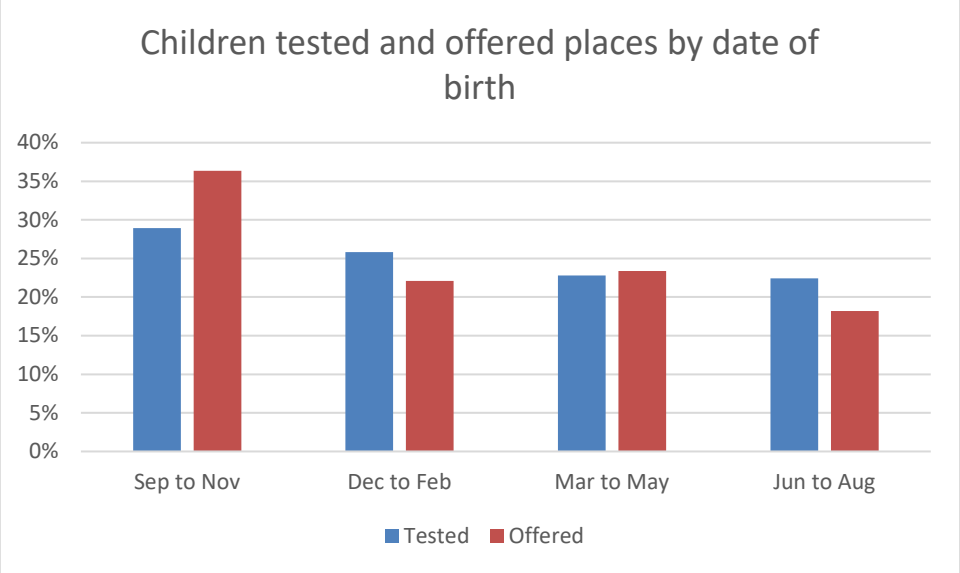
> "Residual differences between the quarters of birth of children were found in the model including all proxies, both when prior attainment was included, and when it was not. The differences are larger than the ones reported in the KS4 analysis, but seem plausible given the young age of children, where each additional three months of age may be strongly related to attainment because of developmental trajectories. This finding is also consistent with the existing literature as discussed in the KS4 report. Additionally, and again in contrast to KS4 results, the outcomes of the models with and without prior attainment do not result in a reversal of the relationship of quarter of birth to KS2 attainment, suggesting that both the absolute levels of attainment and the progress made are related to quarter of birth in the same manner. This would suggest that during KS2, older pupils start at higher levels of attainment and continue to make more progress than their younger peers; while during KS4, younger pupils are the ones progressing further, and therefore reaching similar levels of attainment to older children by the end of KS4."

33. We are of the view that it is well established that children born in the summer months on average achieve lower marks in tests at the age of 10 or 11 than children in the same year group who were born the previous autumn. Key Stage 2 tests measure what a child knows, understands and can do and the progress they have made over the previous four years; there is no question of passing or failing and so there is no need for age-standardisation. Eleven plus tests do have a pass mark which, without standardisation, children born later in the school year are less likely to achieve than children born earlier. We are of the view that it would be unfair if testing at this age did not attempt to give all children an equal chance of passing the test.

34. The question which we must consider in relation to this objection is whether the age standardisation applied to applicants to this school is fair. We do not consider it necessary to examine the mathematical processing undertaken. We think that if the process was unfair this would show up in the distribution of the dates of birth of children being offered places at the school. We asked the school for the dates of birth of the children taking the test for admission in 2022 and the dates of birth of those offered places.

35. The table below shows the number of children whose birthdays fell into each quarter of the school year. We have chosen to group the data into quarters because the number of birthdays in each month will be small and it is the same approach used in the research report quoted above. The following chart shows both sets of data as percentages. We have omitted the few children who were taking the test outside of the normal age group. We recognise that the quarters may differ in size by a few days but consider that any differences are negligible in the following analysis.

	Tested	Offered
September to November	726	56
December to February	648	34
March to May	572	36
June to August	563	28
Total	2509	154



36. Underpinning our analysis of this data is a belief that children born throughout the year have an equal distribution of innate ability and information from the Office of National Statistics (ONS) that the number of children born in each quarter is evenly distributed.

Sep to Nov	Dec to Feb	Mar to May	Jun to Aug
25%	24%	25%	26%

Source “How Popular is Your Birthday”, ONS 2015

37. Initial consideration of the data shows that a smaller proportion of the intake have birthdays in the last two quarters of the school year (23 per cent and 22 per cent) than in the first two quarters (29 per cent and 26 per cent). We have considered whether this is because children taking the test are a self-selecting group. Parents of children born later in the school year may have formed the view that their children are less able than others and so fewer of them are entered for the test. The proportion of entries from each quarter does show more children born earlier in the school year being entered for the test. The success rate (number offered places divided by the number tested) of children born in each quarter is shown in the table below.

Sep to Nov	Dec to Feb	Mar to May	Jun to Aug
8%	5%	6%	5%

38. The figures show that, even with age standardisation, fewer children born later in the school year are offered places at the school compared to those born earlier. However, fewer children born later in the year enter for the test. The success rates indicate that children born in the first quarter did better than those born in the other three quarters where the differences are small.

39. We have considered whether this could be within the range of outcomes which could occur by chance. The probability of a child having a birthday in any quarter of the year is 0.25. The probability of a number (from 0 to 154) of children out of 154 having a birthday in any quarter forms a binomial distribution. We have calculated the chance of 28 or fewer children with birthdays in any quarter being offered places at the school is 3 per cent. The probability of 56 or more children with birthdays in the same one quarter being offered a place by chance is almost zero. Statisticians refer to levels of significance when testing hypothesises; however, for the purposes of this determination to put these probabilities in context, the chance of a coin toss producing three heads in a row is 12.5 per cent, for four heads in a row it is 6.25 per cent and for five in row it is 3.125 per cent. We would not question the fairness of a coin which came down heads three or four times in a row. At five, we might start questioning the fairness of the coin, but it is not outside of everyday experience.

40. We conclude that even with the age standardisation applied to the test scores it appears that relatively fewer children born later in the school year are offered places than those born earlier. This may reflect the fact that fewer children born later in the year took the test or it could be down to chance. More sophisticated statistical analysis on data from across several years would be possible but is outside the scope of this determination and would be more appropriate for an academic study.

41. We find that age standardisation is necessary for a selection test to be fair to children born later in the school year. The objector was concerned that the standardisation process gave an unfair advantage to children born later in the year. We have found no evidence of this and so do not uphold this part of the objection.

Testing – Reuse of questions from previous papers

42. The objector said that the tests used by the school did not conform with the Code because they might include questions used in previous tests which tutors may have had access to. He did not provide any evidence of a particular question being reused in the past, or that the test to be used for admission in 2023 would contain previously used questions which were known to tutors. If a child was lucky enough to find themselves presented with a question which they had seen before, rather than just similar to others they may have practised, then, to make a difference to their score, it must be the case that

it was only by seeing the exact same question that they were enabled to provide the correct answer. The more able the child, the less likely this is. Alongside the other factors set out earlier in this determination which affect the allocation of places, we think this is within the range of variability of test results. We do not uphold this part of the objection.

Testing – The review process

43. Concerning the “Local Review” process described in the arrangements, the objector said “Why is it fair for students to be reviewed and elevated to the qualifying score? This process is not fair. Why have a test at all if the results can be ignored?”

44. The arrangements say “parents will have the opportunity to pursue a Local Review if their child has achieved a score between 321 to 333. The Local Review will be conducted solely by the "Admissions Review Panel" of Urmston Grammar”. The arrangements continue to explain that the panel takes into account the child’s test score, the invigilator’s report and a “Special Circumstances Form” with materials requested on that form. The review can deem a child as being eligible for the school if they have not reached the score of 334 normally required to be considered for admission.

45. The school told us that the Admissions Review Panel consisted of the “Headteacher, the Assistant Headteacher, (Admissions), a literacy advisor and the Admissions’ [sic] Officer”. We were told that in the last two years 378 applicants were put forward for review and 80 had their scores amended to the qualifying score. Decisions were taken on the basis of the latest primary school report, examples of the child’s current work in maths and English, a piece of creative writing undertaken in the primary school, the child’s test score, the invigilator’s report and a “Special Circumstance Form” completed by the parent or carer. The process is seen as “an opportunity for parents/carers to put forward their case as to why their child may have under performed.”

46. Paragraph 1.9g of the Code prohibits admission authorities “taking account of reports from previous schools”. Therefore, the process as described to us does not conform with the Code. The objection, however, was that this process was unfair although the objector raised it in the context of paragraph 1.31 of the Code which requires that the process of selection is “clear and objective”. Fairness is a requirement of paragraph 14 of the Code.

47. We have established above that on any one day a child may perform better or worse on a test that they would on the next. The reasons for this could include their health, family trauma or problems with travel. This may result in children presenting for the test in a state in which they are not fully able to demonstrate their ability.

48. The review is only available to children who score between 321 and 333 on the test; that is at least 96 per cent of the pass mark. However, it introduces a degree of subjectivity into the process relying on parents being able to complete a form effectively, obtain evidence strong enough to support their case and for the case to be decided without any independent scrutiny. The panel does not include anyone with medical qualifications or a psychologist to advise on any professional evidence provided. Nor were we told of any safeguards to ensure that a member of the review panel was not making decisions about

the future of a child of a relative or friend. We find that this is not objective and does not conform with paragraph 1.31 of the Code and so uphold this part of the objection. For the avoidance of doubt, this is not a finding about the use of review panels – which may be in conformity with the Code's requirements. It is a finding about the constitution and approach taken by this panel for this school.

Oversubscription criteria

49. The objector said "Category B and C are not clear. Why is "approximately" stated? What is approximately 20 or 10? Clear defined numbers should be stated."

50. The arrangements refer to "Entry Category B – approximately 20 places" saying, "Using the first list (rank score order) of candidates, the (20) top scoring candidates, irrespective of home residence, will be allocated a place under Category B. Candidates with equal scores to the lowest candidate in this second allocation will also be offered places."

51. It is possible for several children to get the same score as the twentieth child in the rank order. The school could have decided to choose between this unknown number of children in some way such as proximity of their home to the school, or random allocation. It does not choose to do so. It chooses to admit all children with the same score as the twentieth child. There is nothing in the Code to prohibit this and the number of children with equal scores to the twentieth cannot be known in advance of the test.

52. The arrangements also refer to "Entry Category C – approximately 10 places" saying "Ten places will be allocated to the highest performing candidates who qualify for Pupil Premium, irrespective of distance, and who did not qualify under Entry Categories A or B above. Candidates, on Pupil Premium, with equal scores to the lowest candidate in this third allocation will also be offered places."

53. Paragraph 1.41 of the Code permits the use of eligibility for pupil premium as an oversubscription criterion. No limits are placed on the number of places offered on this basis. As with the previous criterion, several children eligible for the pupil premium may have the same score as the tenth highest and this cannot be known beforehand. The school has chosen not to discriminate between these children and to admit all of them. We find that oversubscription criteria B and C are clear and so do not uphold this part of the objection.

54. The objector went on to ask "Why is category D fair? Why should children of employees be given preference? This is nepotism." This oversubscription criterion reads "Children who have parents who are serving members of Urmston Grammar staff, and who have had a permanent contract at UGS for at least eight continuous years will be offered a place."

55. Paragraph 1.39 of the Code permits admission authorities to give priority to children of members of staff. It is possible that an oversubscription criterion permitted by the Code may be unfair in a particular set of circumstances. The requirement in the Code is for the member of staff to have been employed for "two or more years" or recruited to fill a post

where there is a skill shortage. This criterion sets a much higher bar, requiring eight years of employment at the school.

56. The school said that it considered that eight years was required to prevent people joining the staff in order to gain a place for their child at the school. We were also told that only one child has been admitted on the basis of this criterion in the last two years. This criterion is permissible and rarely met. We see no unfairness arising from it and so do not uphold this part of the objection.

Catchment area

57. After the first four oversubscription criteria, the arrangements give priority to children on the basis of where they live. Children living in postcodes M41 and M31 have priority over other children. The Code defines a catchment area as a "geographical area, from which children may be afforded priority for admission to a particular school". The objector said "Why is the catchment area of M41and M31 necessary or fair? It is unfair and serves no reasonable purpose given children do not have to live near the school during attendance."

58. The school is situated in the centre of the postcode M41. This postcode area is bordered to the north by the Manchester Ship Canal, the east by the M60 motorway and to the south by the River Mersey. The postcode M31 is adjacent to M41 to the south of the Mersey and east of the Ship Canal. Most of M31 is occupied by fields and industrial units, the residential area of Partington is in the southwest of the postcode area approximately four miles from the school. Parents will know which postcode area they live in and so be able to understand the catchment area design and how it applies to them. Therefore, we find that the catchment area meets the requirement of paragraph 1.14 of the Code to be clearly defined.

59. The objector questioned whether the catchment area was reasonable because "children do not have to live near school during attendance." Attending a school close to a child's home which they can travel to quickly and easily promotes attendance and allows children to participate in more extracurricular activities. We think it is reasonable that an admission authority gives priority to children who can take advantage of living close to it. In this case, children living on the other side of the Manchester Ship Canal cannot easily access the school as there are few crossing points. We find nothing unreasonable about the catchment area and do not uphold this part of the objection.

The residence requirements

60. The objector raised concerns about the residence requirements set out in the arrangements. Paragraph 1.14 of the Code says "Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the 'home' address will be determined and the point(s) in the school or nodal points from which all distances will be measured. 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." Paragraph 14 of the Code requires that arrangements are fair.

61. The arrangements say: “Applicants who move into the priority admission area, after the date of registration, who submit an on-time application to their home Local Authority, including Urmston Grammar as a preference, will be given consideration from the address given on the original Trafford Grammar Schools CEM Consortium on-line registration website made direct to the school until after the first round of offers.” The arrangements also say: “Applicants who move further away from the School after the date of application will be considered from their new address with immediate effect.”

62. The arrangements say that for applicants moving into the “priority admission area”, which we understand to be postcodes M41 and M31, after registration for the test, “The new address will only be considered if the following evidence and legal documentation in relation to the change of residency is submitted to the school;

> • evidence and legal documentation to the effect that they have purchased the property along with proof of disposal of the previous home.
>
> • for leasing agreements, a legal contract for a minimum of 12 months without a break clause is required along with proof of disposal of the previous home, and
>
> • documentation to prove the applicant and their parent(s)/carer(s) became resident at the new home.”

63. The objector said that “The requirement for a minimum 12-month tenancy without a break clause is unfair as most tenancies are for 6 months and many and [sic] lords insist on a break clause.” The objector also said it was unreasonable “to consider a different address further away if a family moves away after the date of application. There has to be a cut off for an address to be considered. The school does not automatically consider a closer address after the CAF deadline.” The objector also questioned whether it was fair to insist that a previous property had been disposed of. A family retaining ownership of a property after moving to another address does not mean the family does not live at the new address.

64. We find that if it is possible to change a child’s priority for a place because they move further from the school, then it is equally possible to change a child’s priority if they move closer to the school, not to do so would be unfair. While the arrangements cover children moving into the priority area, they are silent on the address that applicants who move within the priority admission area and nearer to the school will be considered to live at or those whose move leaves them outside of the priority area but nearer to the school.

65. Our view is that it is fair for an admission authority to set out circumstances in which it may further investigate a home address and to set out the types of evidence which may be required in order for it to make a finding of fact as to whether a claimed address is genuine or not. This addresses the legitimate need to prevent the use of false addresses in applications.

66. We do not find it fair to have provisions which set out absolute requirements, for example tenancies of at least twelve months which some genuine applicants – by which we mean those who really do live in the catchment area and who have no intention of returning

to a different address - may be unable to meet. We understand that doing so may increase the administrative burden on schools in seeking further evidence and making a finding of fact as to address based on that evidence. However, we find that it is unfair to set such absolute conditions as to what does or does not qualify as a genuine home address.

67. We will set out here our view on tenancies where there is an absolute requirement for a term of more than six months. Assured shorthold tenancies (ASTs) are made under the provisions of the Housing Act 1988. The tenancy will have an initial term, the minimum being six months, and, when that term expires, the tenancy will automatically continue on a periodic basis (determined by the intervals for paying rent, so usually one week or one month) unless the landlord and tenant enter into a further agreement for some other term. Most residential tenancies are automatically ASTs unless specifically stated to be otherwise. The website for Shelter England states “An assured shorthold tenancy is the most common type of tenancy if you rent from a private landlord or letting agent. The main feature that makes an AST different from other types of tenancy is that your landlord can evict you without a reason”. Shelter goes on to state that such tenancies are for a fixed term “often 6 or 12 months” or periodic “rolling weekly or monthly”. Government guidance “Tenancy Agreements: a guide for landlords (England and Wales)” states “The most common form of tenancy is an AST. Most new tenancies are automatically this type”. To sum up, tenancies will be for a range of terms but often this will initially be for six months and thereafter on a monthly periodic basis, as this gives the greatest flexibility to the landlord. Families with low income and/or in receipt of benefits are most likely to have short tenancies as they are more likely to be in a poor bargaining position.

68. It is acknowledged that some families will take short tenancies near to a school in order to seek to secure a place for a child with no genuine intention to make that property their main residence. It is understandable that admission authorities wish to prevent such families gaining an unfair advantage. It is also acknowledged that a provision requiring tenancies to be for a longer term will help to prevent this. Admission authorities take different approaches to this problem. Some specify circumstances in which they will make further enquiries in order to establish whether the address given is a genuine home address, a short term tenancy being a common example. Others make a longer term tenancy an absolute requirement. In the latter case some families, particularly those that have limited resources, will be excluded despite the home address being genuine. Such families may have had no choice but to accept a short lease. For that reason, we find that it is not fair to make a lease of longer than six months an absolute requirement. We find the absolute requirement for a lease to be for a term greater than six months does not comply with the provisions of paragraph 14 of the Code.

69. Some schools also provide that in certain circumstances a recent move from a more distant address where the previous property is retained will lead to a rejection of the current address as genuine. We understand that this measure is intended to prevent the use of a temporary address in order to gain an unfair advantage in admissions and this is, of course, a legitimate purpose. However, the difficulty arises where this is an absolute provision. It is conceivable that families may, for example, retain a more distant alternative property whilst having a genuine home address at a property nearer the school from which the application

is made. We would have no difficulty with such provisions if these circumstances were treated as a reason for casting doubt on the accuracy or completeness of an application which led to a requirement for additional evidence, but as an absolute requirement which does not allow for a family to provide evidence that, despite this, the home address given is genuine, we find this aspect of the arrangements to be unfair.

70. Where a tenancy is for less than six months, or a family has recently moved and retained another property, we accept that an admissions authority may reasonably consider that this casts doubt on the genuineness of the address claimed. In these circumstances an admission authority may legitimately require further evidence of one kind or another. It should not then be difficult for the admission authority to make a finding of fact, based on the balance of probabilities, as to whether or not the home address given is genuine, and to proceed to process the application on that basis.

71. It may assist if we set out what we consider would be a fair process, although we stress that it is for each admission authority to formulate its admission arrangements. An admission authority could set out a number of circumstances which would cause it to presume that an address is not genuine. This could be short tenancy or the retention of another property more distant from the school. The applicant could be invited to provide further evidence to rebut that presumption. The school can then consider whether the evidence provided by the applicant is sufficient for it to overcome the presumption and to find as fact that the address given in the application is genuine. Conversely it may not consider that the evidence provided is sufficient to overcome the presumption and it will find as fact that the address given is not genuine. For the reasons set out above, we uphold this part of the objection.

Other Matters

The clarity of the selection process

72. Paragraph 14 of the Code requires that admission arrangements are clear and paragraph 1.17 requires that the process of selection is set out in the arrangements. The arrangements do not include the dates of when parents must register for the test and do not say when the test will be, except that it is in September.

73. The school said that it did not publish these dates in the arrangements as they were not known until a later date. It said all information is updated on the school's website once the dates were confirmed. The school also said but they were "circulated widely via email to all feeder primary schools, in Trafford, Salford and Manchester." It referred to an email sent out on 25 April 2022 notifying parents that registration was between 9 May 2022 and 24 June 2022 and said the dates were agreed by the consortium of five grammar schools in Trafford.

74. The Code requires that admission arrangements are determined by the admission authority by 28 February and published by 15 March. The Code requires that the process of selection is set out clearly in the arrangements, not in emails to primary schools in the last

week of April or at some other time on a website. Without key dates, we find that the process of selection is not set out in the arrangements as required by the Code.

Admission of children outside of the normal age range

75. The arrangements state on the first page "The applicant's date of birth must be between 1st September 2011 and 31st August 2012." A similar definitive statement appears in the sixth form admission arrangements. Paragraph 2.18 of the Code requires "Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group." This sentence in the arrangements suggests that there is no such process. However, on the fifth page of the arrangements is a section headed "Admission of children outside their normal age group". This section refers to paragraph 2.18 to 2.20 of the Code yet states "Younger applicants may be considered for entry providing they are currently in a class one year ahead of their correct cohort and they achieve the qualifying score in the Entrance Examination. Older applicants may be considered for entry providing they are currently in a class one year behind their current cohort and where a Local Authority deferral has been granted."

76. Paragraph 2.19 of the Code begins "Admission authorities **must** make decisions on the basis of the circumstances of each case". By placing restrictions on who the school will consider ahead of receiving a request, the arrangements do not conform with the Code. The school acknowledged this and proposed some alternative wording. The proposed wording did not, however, meet the requirement to make clear the process of requesting admission outside of the normal age group.

The use of obsolete terms

77. The arrangements refer to statements of special educational need. These statements are no longer used and including obsolete terms may render the arrangements unclear and so they do not conform with paragraph 14 of the Code. Related to this, the arrangements do not make it clear that any child meeting the academic standard for the school with an Education, Health and Care Plan which names the school must be admitted. This requirement is set out in paragraph 1.6 of the Code. The school said it would address this matter.

Measurement of distance

78. Paragraph 1.13 of the Code Admission authorities **must** clearly set out how distance from home to the school and/or any nodal points used in the arrangements will be measured. This **must** include making clear how the 'home' address will be determined and the point(s) in the school or nodal points from which all distances will be measured. 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. The arrangements say that co-ordinates from the local land and property gazetteer will be used, but also say that "in some circumstances" postal address information will be used. If it is necessary to use co-ordinates drawn from two different sources, then

without explaining when one source is used and when the other is used, the arrangements do not meet the requirement of paragraph 14 of the Code to be clear.

79. The arrangements also say “In the case of parents/carers who are separated and where child-care arrangements are shared between two addresses, in the priority admissions area, the average of the distances of the two addresses from the school will be used for the purposes of determining priority for admission. Where one of the addresses is outside the priority admission area, the applicant will be regarded as living outside this area and the average of distances of the two addresses from the school will be used for determining priority for admission”.

80. Apart from not including provision for when both addresses are outside of the priority area, a child who lives at a house in the next street to the school on Monday, Tuesday, Wednesday and Thursday and with another parent 20 miles away on Friday, Saturday and Sunday would be treated as living 10 miles away, somewhere they never live. We find this is not fair and so does not conform with paragraph 14 of the Code.

Waiting lists and in-year admissions

81. The requirements for waiting lists are set out in paragraph 2.15 of the Code, “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”. The arrangements say “The School will operate a waiting list for Year 7 admission in September. From September to December of Year 7, any vacancies must be filled from the waiting list in accordance with the over-subscription criteria detailed above. From January each year, any subsequent available places will be offered to the candidate performing at the highest level in a re-assessment process, the details for which are communicated prior to the re-assessment (of recently completed schoolwork) being conducted. Applicants for in-year admission to Years 7 to 11 may join the waiting list of the relevant year group if a place is not available within the year group, providing they have a positive outcome to the Urmston Grammar Entrance requirements.” This does not include statements required by paragraph 2.15 of the Code.

82. The Code which came into effect in September 2021 contains further provisions concerning in-year admissions and waiting lists in paragraphs 2.23 to 2.31. This includes the provision in paragraph 2.29 that “Where an admission authority is dealing with multiple in-year admissions and do not have sufficient places for every child who has applied for one, they **must** allocate places on the basis of the oversubscription criteria in their determined admission arrangements only. If a waiting list is maintained, it **must** be maintained in line with paragraph 2.15.” A footnote to this paragraph says that the oversubscription criteria used must be those set for admission to the relevant school year.

83. For children who meet the required academic standard, the oversubscription criteria include: status as a looked after or previously looked after child, the score in a test, eligibility for pupil premium and where a child lives. Under the heading of “In-Year Assessment Process”, the arrangements say “Suitability is determined by either the sitting of a series of

tests or through an assessment of existing academic materials. It remains the right of Urmston Grammar to decide the route for each candidate" and refer to places being offered to "the candidate performing highest". If children are assessed in different ways, it is not clear how their ability can be compared objectively to be placed on a waiting list. It is also not clear how the other factors taken into account in the oversubscription criteria are applied to the waiting list.

84. When we raised this matter with the school, it suggested ranking the waiting list solely on the second oversubscription criterion (the highest 20 scores in the test). In practice, there may never be any child meeting the first oversubscription criterion applying to join the waiting list, or never more than 20 children on the waiting list making subsequent criteria irrelevant. However, there could be, and there could be two children with the same score who may need to be separated for the last place. The oversubscription criteria would deal with this situation and the Code requires that they are used. We find that the waiting list and in-year admissions process as set out in the arrangements do not conform with the Code.

Sixth form admissions

85. Paragraph 1.2 of the Code requires that a PAN is included in the arrangements for each relevant age group. The sixth form arrangements say this is "usually 60" which does not make the PAN for admission to Year 12 clear.

86. When we raised this matter with the school its reply was a suggestion that the arrangements were revised to say, "The admission number for Year 12 external applicants is 60 with 175 internal and external applicants to be admitted." However, paragraph 2.6 of the Code says, "Children and their parents applying for sixth form places may use the CAF, although if they are already on the roll, they are not required to do so in order to transfer into year 12. Admission authorities can, however, set academic entry criteria for their sixth forms, which **must** be the same for both external and internal places. School sixth form admission arrangements for external applicants **must** be consulted upon, determined, and published in accordance with the same timetable as for admission arrangements for other entry points. As with other points of entry to schools, highest priority in oversubscription criteria for sixth form places **must** be given to looked after children and previously looked after children who meet the academic entry criteria." The arrangements do not make clear the PAN for Year 12, nor the criteria that will be used to decide which applicants would be admitted if more than that number reach the required academic standard as is required by the Code.

87. The sixth form arrangements also refer to a student's admission being dependent on "a satisfactory reference from their current school". Paragraph 1.9g of the Code prohibits admission authorities from taking into account "reports from previous schools about children's past behaviour, attendance, attitude, or achievement".

Summary of Findings

88. For the reasons set out above, we do not uphold the parts of the objection concerning: repeated use of the same test, additional time during the test for children with dyslexia, age standardisation of the test, the reuse of questions from previous tests, the use of pupil premium in the oversubscription criteria, and the use of a catchment area.

89. We do uphold the parts of the objection concerning the local review process, the priority given to children of members of staff in the oversubscription criteria, and the residence requirements.

90. We also find the arrangements do not conform with requirements in the other ways set out above.

91. We have considered carefully the date by which the admission authority must revise the arrangements. The deadline for registering for the test has now passed and the testing process is underway. The closing date for applications for secondary schools for admission in September 2023 is 31 October 2022. We do not consider that it would be right to require the school to make changes in time for the main admissions round for 2023. We have decided to set a date of 28 February 2023 as the deadline for the arrangements to be revised.

Determination

92. In accordance with section 88H(4) of the School Standards and Framework Act 1998, we partially uphold the objection to the admission arrangements for September 2023 determined by Urmston Grammar for Urmston Grammar Academy, Trafford.

93. 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.

94. 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 unless an alternative timescale is specified by the adjudicator. In this case we determine that the arrangements must be revised by 28 February 2023. .

Dated: 22 September 2022

Signed:

Schools Adjudicator: Phil Whiffing and Jane Kilgannon