



Office of
the Schools
Adjudicator

Determination

Case reference: ADA3932

Objector: A member of the public

Admission authority: The Harvey Academy for The Harvey Grammar School,
Kent

Date of decision: 13 October 2022

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 Harvey Academy for The Harvey Grammar School in 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 (the arrangements) for September 2023 for The Harvey Grammar School (the school), a selective academy school for boys aged 11 to 18. The objection is to the way the school tests applicants; the priority given to pupils eligible for the Pupil Premium; and the reasonableness of the catchment area.

2. The local authority in which the school is situated is Kent County Council (the local authority). The local authority is a party to the objection. Other parties to the objection are

the objector and The Harvey Academy, which is the academy trust that is the admission authority for the school (the admission authority).

Jurisdiction

3. The objector made objections to the admission arrangements for 2023 for this and ten other grammar schools. There are a number of matters which are common to all but one of the objections. Jane Kilgannon and Phil Whiffing were appointed as joint adjudicators for these objections as permitted by the Education (References to the Adjudicator) Regulations 1999. Jane Kilgannon has acted as lead adjudicator for this case.

4. The objector has made objections to the admission arrangements of other schools in previous years about the same and similar matters. Those objections were determined by other adjudicators and do not form binding precedents. Therefore, the matters raised in this objection have been considered afresh.

5. The terms of the academy agreement between the admission authority 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 Body of the admission authority on 24 February 2022 on that basis.

6. The objector submitted their objection to these determined arrangements on 4 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

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

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

- a. a copy of the minutes of the meeting of the governing board of the admission authority at which the arrangements were determined;
- b. a copy of the determined arrangements, which include the Supplementary Information Form (SIF);
- c. the objector's form of objection dated 4 May 2022 and supporting documents and subsequent correspondence;
- d. the admission authority's response to the objection and matters raised by us under section 88I of the Act; and
- e. the local authority's response to the objection.

The Objection

9. 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 the same questions from previous tests (as they end up in the hands of tutors and are passed on to students).”

10. The objector 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”. The objector queried the reasonableness of using a catchment area in the arrangements stating that, “The catchment area is not reasonable or objective. It serves no purpose, as there is no requirement to live in the catchment area when attending the school”. The objector also queried the reasonableness of the priority afforded to children eligible for the Pupil Premium without imposing a limit of, for example, 25 per cent of all places.

11. The objector questioned the clarity and objectivity of the qualifying standard for the school, and the fairness of using two different selection tests that may not be comparable. We considered these aspects of the objection in relation to the requirement at paragraph 14 that the arrangements must be clear, objective and fair.

Other Matters

12. The arrangements appeared not to conform with the following requirements of the Code: independent supervision of random allocation (paragraph 1.35); clarity on how home to school distance will be measured where the parents have shared responsibility for the child following the breakdown of their relationship and the child lives for part of the week with each parent (paragraph 1.13); decisions relating to admission of children outside of their normal age group (paragraph 2.19); and the information that may be requested in SIFs (paragraph 2.4).

Background

13. The school is situated in Folkstone, Kent, and has a Published Admission Number (PAN) of 150 for September 2023.

14. The school is designated as a selective grammar school and the arrangements indicate that only boys who attain the “required standard” by reference to ability and

aptitude in either the test organised by the school or the test organised by the local authority will be eligible to be considered for admission to the school.

15. Priority for eligible children can be summarised as follows:

- a. Looked after and previously looked after children;
- b. Children eligible for the Pupil Premium;
- c. Children who reside in the catchment area; and
- d. Proximity of home address to the school.

16. In the event of a tie-break being required, “the names will be issued a number and drawn randomly to decide which child should be given the place”.

17. The selection test used by the school (referred to as The Shepway Test) is provided by the Centre for Evaluation and Monitoring (CEM). The selection test used by the local authority is provided by GL Assessment.

Consideration of Case

18. 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 ten 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.

19. 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) 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

20. 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.

21. The arrangements provide that in order to be eligible for consideration for admission to the school “at age 11, would-be pupils must either: (a) attain satisfactory scoring across tests taken at The Harvey Grammar School [...] There will be provision for children unable to sit the test on the prescribed date due to illness or for religious reasons [...]; or (b) to be selected for grammar school education by the Kent Age 11 assessment administered through the Local Authority co-ordinated scheme [...]”.

22. We consider that if there was no provision for children who cannot be tested on the appointed day because of exceptional circumstances, the arrangements 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 late for good reason, to have the opportunity to have their ability assessed. Religious observance may also prevent children from taking a test on a particular day. In such cases not making a test available on a different day would contravene the requirements of the Equality Act 2010 (the EA).

23. 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 documents 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. One of his suggestions was that children should all be given the opportunity to sit the test on two occasions with the highest mark being the one used to decide if the child should be admitted. It is not for us to consider alternative approaches our role is limited to the arrangements as they stand.

24. Nowhere do the arrangements say that the same test is used for the main and late tests. In relation to its own test, which it referred to as “the Shepway Test”, the admission authority confirmed that the same test is used for the main and the later sitting of the school’s own test. In relation to the local authority selection test, the local authority confirmed that the same test is used “for all those seeking a year 7 place at a Kent grammar school up until the end of the first term after the relevant Year 7s are admitted to school”.

25. The local authority provided a link to a page on its website entitled “Kent Test” which included an embedded link to an 18-page pdf document entitled “Familiarisation Booklet” (GL Assessment, 2014). This material says it is intended to help children understand what to expect by giving a brief description of the different parts of the test, how certain question types should be approached, and how to complete the answer sheet. It is explained that there will be two test papers (a Reasoning Test and an English & Maths Test) that each last about one hour. The tests are ‘multiple-choice’ and children are required to mark a sheet in a specified way so that their paper can be marked by a computer.

26. In our view, children could remember some aspects of such tests. However, we doubt that many, if any, children could remember all questions arising from a particular article including all alternative options for each question. We also doubt that many children would remember the details of a given question in sufficient detail that another child, parent, or tutor would be confident that the remembered answer was correct.

27. If a child did tell their friend who missed the main test because of illness that some of the questions were about a specific topic, we doubt that a child who had been ill would have time to learn a sufficient amount about that topic before the late test to give them any advantage.

28. 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. However, passing on questions to children who will be taking the same test on a later date is encouraging cheating.

29. 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."

30. 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?

31. In these arrangements, in order to be eligible for consideration for admission, a child must achieve the "required standard" in one of the tests. However, achieving such a score does not mean that a place is guaranteed. There are only 150 places available. Furthermore, the allocation of places depends on other factors including: whether a child is looked after or previously looked after; whether the child is eligible for the Pupil Premium; whether the child lives in the catchment area; and how close the child lives to the school. Some children ranking highly in these criteria may have listed another school higher on the common application form and may be offered a place at the preferred school rather than this school. There are many unpredictable variables which decide the cut off point for admission to the school and which children find themselves above or below it.

32. The number of children taking the tests late appears to be relatively small. The number taking the Shepway Test on its main date for entry in September 2022 (on 11 September 2021) was 352, whereas 6 children sat the test late (on 22 September 2021). When asked how many children that applied to the school sat the local authority selection test on its main date and late date(s), the local authority indicated that the number was 308 children in total but that it does not have a record of the breakdown between the main and the late sittings of the test.

33. For one of the children sitting one of the later tests to benefit from information about the test received from another child who sat an earlier test, it must lead to them getting right a question they would otherwise have got wrong. The more able the child, the less likely this is. For a child for whom this information pushes them into the “required standard” score, many other factors come into play before they would be offered a place.

34. We concluded 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. There is also no evidence that a greater proportion of children who take the test on a later date are offered places at the school. We do not uphold this part of the objection.

Testing – Additional time for children with dyslexia

35. 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. He said “there is no published scientific or trailed evidence that points to 25% extra time being reasonable or required in all cases in this arbitrary assessment or is fair in a CEM test. Just because something happens in some exams it does not mean not [sic] should continue in others.” He continued, “Dyslexia is a spectrum [sic] “disability”. All dyslexics do not have the same level of disability. To give all dyslexics 25% extra time cannot be fair or provide an accurate level of ability. Each child should be individually titrated. But in reality everyone has some disability or disadvantage.”

36. The admission authority and local authority declined to comment on this aspect of the objection. The arrangements do not say that children with dyslexia will receive 25 per cent additional time. Therefore, we do not uphold this part of the objection.

Testing – Age standardisation

37. 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 suggested “Younger children can prepare more to alleviate any age disadvantage, if it even exists.”

38. 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 children 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 report published by the Department for Education (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.”

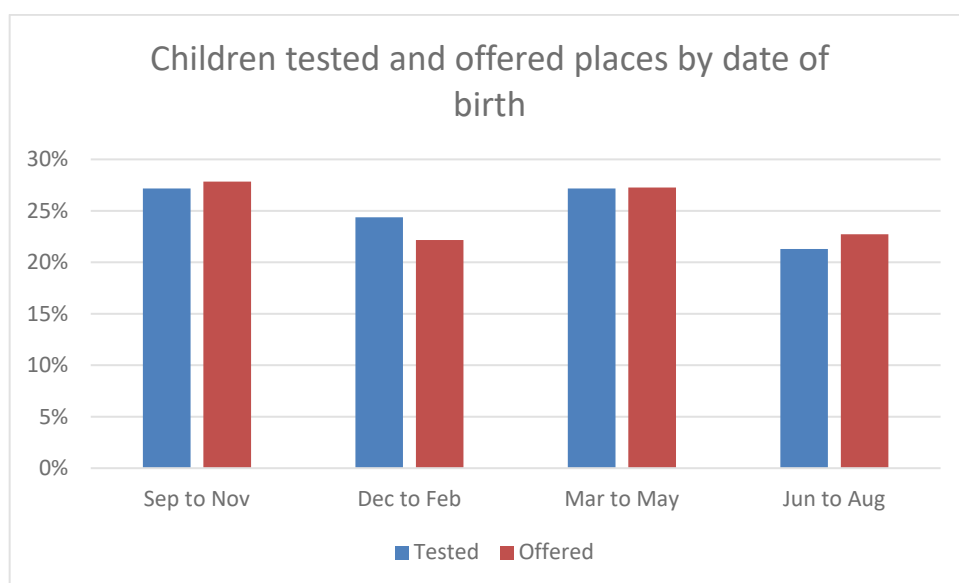
39. We are of the view that it is well established that children born in the summer months on average achieve lower marks in tests at the age of 10 or 11 than children in the same year group who were born the previous autumn. Mandatory Key Stage 2 tests (“SATs”) measure what a child knows, understands 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 children born later in the school year are less likely to achieve than children born earlier simply through accident of birth. We are of the view that it would be unfair if testing of this type at this age did not attempt to give all children an equal chance of passing.

40. 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.

41. The table below shows the number of children who sat The Shepway Test for entry in September 2022 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	97	49
December to February	87	39
March to May	97	48
June to August	76	40
Total	357	176



42. 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

43. Initial consideration of the data shows that the proportion of the intake in each quarter is similar, between 22 per cent and 23 per cent. 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
51%	45%	49%	53%

44. The figures set out in this way suggest that children born later in the year are slightly more successful in being offered places than those born earlier. However, 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 176) of children out of 176 having a birthday in any quarter forms a binomial distribution. We have calculated the chance of 39 or fewer children with birthdays in any quarter being offered places at the school by chance is 22 per cent. The probability of 49 or more children with birthdays in any quarter being offered a place is 17 per cent. Statisticians refer to levels of significance when testing hypotheses, however, for the purposes of this determination to put these probabilities in context, the chance of a coin toss producing two heads in a row is 25 per cent and for three heads in row, it is 12.5 per cent. We would not question the fairness of a coin which came down heads two or three times in a row.

45. We conclude that the proportions of children with birthdays in each quarter are within the ranges which would occur by chance. More sophisticated statistical analysis on data across several years would be possible but is outside the scope of this determination and would be more appropriate for an academic study.

46. We find that age standardisation is necessary for a selection test to be fair to children born later in the school year. The standardisation algorithm used in 2022 led to the proportion of children born in each quarter of the year being within expected ranges. The objection was that children born later in the year benefit from the standardisation algorithm unfairly. The evidence we have is that this is not the case and so do not uphold this part of the objection.

Testing – Reuse of questions from previous papers

47. 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 objector said that the tests used by the school did not conform with the Code because they might include questions used in previous tests.

48. The objector 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. We also note that nowhere do the arrangements say that test questions are re-used in subsequent tests.

49. The extent to which test questions are reused (on which we have not been presented evidence), and the unpredictability of knowing which of those questions will be reused, means that even if some children have been provided access to previously used questions by tutors, the number of those children who will be able to accurately recall those questions is likely to be small. For one of these children to benefit from information about previously used questions, it must lead to them getting right a question they would otherwise have got wrong. The more able the child, the less likely this is. For a child for whom this information pushes them into a high ranking score, many other factors come into play before they would fall into one of the oversubscription categories and would be offered a place at the school.

50. Within the variability already in the testing system, any test content remembered by a child and passed to another child taking the test at a later date (perhaps a whole year or two later) will have little effect alongside the other variables. We do not uphold this part of the objection.

Catchment area – reasonableness

51. The objector raised a concern about whether the admission authority's use of residence in a catchment area as an oversubscription criterion met the requirement of reasonableness at paragraph 1.8 of the Code. In his Appendix 1 document, the objector explains that if the point of a catchment area is to ensure that children live locally to the school when attending it, then the requirement should be that children attending the school are resident in the local area, not that children should be resident in the local area before they attend the school. He makes the point that universities do not require applicants to be resident in the local area, so why should schools?

52. The Education (Pupil Registration) (England) Regulations 2006 do not allow children to be taken off the roll of a school on the grounds of changing address. Universities provide education for adults who can live independently, not children who live with their parents. The objector's argument does not bear scrutiny.

53. The admission authority and local authority declined to respond to this aspect of the objection.

54. Catchment areas are expressly permitted by the Code (paragraph 1.14) and we consider that it is legitimate for an admission authority to seek, via its oversubscription criteria, to serve a local community. One way to do this is by employing a catchment area in the oversubscription criteria of a set of arrangements.

55. We consider the admission authority's use of a catchment area in its oversubscription criteria to be reasonable and we do not uphold this part of the objection.

Clarity and objectivity of the "required standard" in the selection test

56. The objector questioned the clarity and objectivity of the arrangements in relation to the "required standard" in the selection test on the basis that the admission authority seeks

to set the standard at a level which the objector considers to be impossible to identify. The arrangements state that the “minimum scoring for entry will be that which will reasonably predict that at the end of Year 11 the candidate will attain qualifications sufficient to embark on Sixth Form studies at the school”. The objector has asserted that it is not possible to accurately predict how a child will progress from Year 6 to Year 11.

57. The admission authority and the local authority declined to comment on this aspect of the objection.

58. We note that the arrangements also state that “It is anticipated that this level will correspond approximately with that which would be attained or exceeded by 25% of the age group nationally”.

59. We are satisfied that the arrangements make clear that the “required standard” will be set at the approximate level of attainment of the top 25 per cent of children in that age group nationally. We consider that to be clear enough for parents to understand the “required standard” set as part of the testing process employed by the school. We also consider it to be an objective standard because it is set by reference to attainment of children of the age group nationally – not a figure that has been or can be chosen arbitrarily. We also think it entirely reasonable to expect that a child assessed as being in this ability range at age 11 would be able to progress to study A level subjects at age 16 given that in 2022 over 250,000 students sat A levels and the number of 18 year-olds in the United Kingdom (not all parts of which use A levels) is estimated at 740,000. We therefore do not uphold this part of the objection.

Use of two selection tests, comparability and fairness

60. The objector has questioned the fairness of the admission authority’s use of two selection tests (The Shepway Test and the local authority’s selection test) given that they are provided by different test providers. He has queried whether the two tests can be compared and asserted that CEM has stated that they cannot be compared.

61. The admission authority and the local authority declined to comment on this aspect of the objection.

62. We note that the arrangements do provide for two routes to meeting the “required standard” – via the Shepway Test or via the local authority selection test. We note that the arrangements do not seek to compare the two tests, nor to compare children’s scores that have set the two tests. They simply say that meeting the “required standard” in either test renders a child eligible to be considered for admission to the school. We have not been presented with any evidence that the two tests assess to different attainment levels such that there would be a problem with using the tests alongside one another to assess for the “required standard”.

63. Furthermore, if the use of two tests is said to be unfair, we are unclear who it is said to be unfair to. We note that there does not appear to be any restriction on which test route an applicant must take. Therefore, an applicant can take the test they prefer or indeed can

take both. In such circumstances, it seems unlikely that one test would be set at an obviously different level such that one could attain the “required standard” more easily via one test route as compared with the other test route. For these reasons, we do not find the use of two different selection tests to be unfair and we do not uphold this part of the objection.

Other Matters

Random Allocation

64. 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 page four 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.

65. The admission authority responded that “We are happy to add to our Admission Arrangements that the process would be supervised by someone independent of the school if the adjudicator felt this necessary”.

66. We find that without explicit reference to the supervision of the random allocation process by someone independent of the school, this aspect of the arrangements does not conform with the requirement at paragraph 1.35 of the Code. We are grateful to the admission authority for its indication that it is willing to revise the arrangements to ensure conformity.

Measurement of home to school distance

67. 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 when referencing distance of a child’s home from the school under oversubscription criteria three and four.

68. The admission authority responded that “We use the address that is given to us by the applicant to measure the distance. We are happy to be guided by the adjudicator if it is believed that this should be changed”.

69. There is no requirement for the school to change its approach from basing home address on what it is has been told. However, the Code requires that the arrangements make provision for the identification of the home address in situations where a child lives for part of the week with each parent, or to put it another way, that the arrangements say what

the approach taken is. The absence of this means that the arrangements do not conform with the requirements of paragraph 1.13 of the Code. We are grateful to the admission authority for its indication that it is willing to revise the arrangements to ensure conformity.

Admission outside of the normal age group

70. At page two of the arrangements, reference is made to parents who may wish to apply for a place for their child “a year early” or “a year later than expected”. This appears to restrict applications outside of the normal age group to one year on either side. We were concerned that restricting the age of the applicant in this way may not meet the requirement at paragraph 2.19 of the Code that decisions about applications for admission outside of the normal age group must be taken on the basis of the circumstances of each case.

71. The admission authority responded that “We are happy to be guided by the adjudicator if it is believed that we should remove the age restriction”.

72. We find that placing an age restriction on who can apply for a place at the school outside of their normal age group means that this aspect of the arrangements does not comply with the requirement at paragraph 2.19 of the Code that decisions on such applications must be taken on the basis of the circumstances of each case. We are grateful to the admission authority for its indication that it is willing to revise the arrangements to ensure conformity with the Code.

73. We also noted that the section in the arrangements on “late entrants” to the school does not allow for applications from children aged over 14. We were concerned that this may not conform with paragraph 2.23 of the Code which provides that “a parent can apply for a place for their child at any school, at any time”.

74. The admission authority responded that “We do allow pupils over the age of 14 to apply and will remove reference to ages in this paragraph”.

75. We find that the restriction on applications from children aged over 14 does not conform with the requirement at paragraph 2.23 of the Code. We are grateful to the admission authority for its indication that it is willing to revise the arrangements to ensure conformity.

Supplementary Information Forms (SIFs)

76. Paragraph 2.4 of the Code provides that admission authorities must only use SIFs to ask for additional information “when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability”. We noted that the school’s SIF asks for the applicant’s current school. We were unclear why the admission authority would need this information and therefore concerned that this aspect of the arrangements may not conform with the requirement at paragraph 2.4 of the Code.

77. The admission authority responded that “The current school is added to the form as a means of checking pupil premium eligibility. We are happy to be guided by the adjudicator if it is believed that this should be changed”.

78. The Department for Education (DfE) advice document “Using the pupil premium, service premium or early years premium in admission arrangements” (December 2014) states “If schools need to ask parents for evidence of their eligibility for the relevant pupil premium their admission arrangements must include what they require”. The same document suggests a tick box on either the common application form or a school’s SIF and using the local authority’s access to the DfE free school meal eligibility checking service to verify eligibility. This kind of checking is unlikely to be an onerous task.

79. Given that an applicant’s current school is an unnecessary piece of information for the admission authority to be able to check an applicant’s eligibility for the Pupil Premium, we find that the request for that information on the SIF means that this aspect of the arrangements does not conform with the requirement at paragraph 2.4 of the Code. We are grateful to the admission authority for its indication that it is willing to revise the arrangements to ensure conformity.

Summary of Findings

80. For the reasons set out above, we do not uphold any part of the objection.

81. We find that there were a number of ways in which the arrangements do not conform with the requirements, namely: independent supervision of random allocation; clarity on how home to school distance will be measured where the parents have shared responsibility for the child following the breakdown of their relationship and the child lives for part of the week with each parent; decisions relating to admission of children outside of their normal age group; and the information that may be requested on the SIF.

Determination

82. 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 Harvey Academy for The Harvey Grammar School in Kent.

83. 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.

84. 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: 13 October 2022

Signed:

Schools Adjudicator: Jane Kilgannon

Phil Whiffing