



Determination

Case reference:	ADA4312
Objector:	A parent
Admission authority:	The Thinking Schools Academy Trust for the Maritime Academy, Gillingham
Date of decision:	3 October 2024

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2025 determined by The Thinking Schools Academy Trust for the Maritime Academy, Gillingham.

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

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the decision unless an alternative timescale is specified by the Schools Adjudicator. In this case I specify that the arrangements must be revised by 15 October 2024 *.

* This will ensure that the admission authority will be obliged to implement the required changes prior to the closing date for the current application round for entry in 2025.

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 parent (the objector), about the admission arrangements (the arrangements) for September 2025 for the Maritime Academy (the MA or the school).

2. The school is a secondary free school (a type of academy) for 11 to 19 year olds. The school is part of a multi-academy trust called The Thinking Schools Academy Trust (TTSAT or the trust), the governing board of which acts as the admission authority for the school (the admission authority).
3. The local authority (LA) for the area in which the school is located is Kent County Council. The LA is a party to this objection. Other parties to the objection are the objector, the trust and the school.
4. The objector is concerned that prioritising the admission of those applying for places at the MA and who are attending those TTSAT feeder schools named in the arrangements is unfair to those applying from primary schools which are not named and which are located closer to the MA than the named feeder schools.

Jurisdiction

5. The terms of the funding agreement between the trust and the Secretary of State for Education require that the admissions policy and arrangements for the school, as a type of academy, are in accordance with admissions law as it applies to maintained schools. These arrangements were determined on 7 February 2024 by the trust, which is the admission authority for the school, on that basis.
6. The objector submitted their objection to these determined arrangements on 25 April 2024. The objector has asked to have their identity kept from the other parties and has met the requirement of regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of their name and address to me.
7. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction.
8. The objector has made a suggestion as to how the arrangements for 2025/26 for the school could be changed to make them, in their view, 'fairer'. As an adjudicator, my role is to consider Code compliance issues; it is not to give advice. My jurisdiction is for the arrangements as they are set out. It is not open to me to determine how they could be. I cannot, therefore, advise on the suggestion made.
9. I have also used my power under section 88I of the Act to consider the arrangements as a whole and to determine whether or not they conform with the requirements relating to admissions and, if not, in what ways they do not so conform. I will refer to these as 'Other Matters' and they are covered in the sections of the determination under that name.
10. Although the trust is the admission authority, it has been the school that has responded to my requests for further information. I will therefore refer to the school and not the trust in this determination when dealing with those responses.

Procedure

11. In considering this matter I have had regard to all relevant legislation and the Code.
12. The documents I have considered in reaching my decision include:
 - a. a copy of the minutes of the meeting of the trust's governing board at which the arrangements were determined;
 - b. a copy of the determined arrangements for 2025 and those for 2022, 2023 and 2024 (for comparison);
 - c. the objector's form of objection;
 - d. the responses of the school and LA to the objection and to my requests for information, along with supporting documents;
 - e. a copy of the trust's master funding agreement and the supplementary funding agreement for the school;
 - f. a copy of the original free school application by the trust to set up the school;
 - g. the LA's online composite prospectus for admissions to secondary schools;
 - h. Google Maps;
 - i. information available on the websites of the school, trust, LA, the Department for Education (DfE – particularly the 'Get Information About Schools' (GIAS) site) and Ofsted;
 - j. the DfE's "Travel to school for children of compulsory school age: Statutory guidance for local authorities";
 - k. previous determinations cited by the objector – case references: ADA3656 (The governing board of The Thomas Aveling School); ADA3657 (The governing board of The Robert Napier School); ADA3851 (Skills for Life Trust, for Walderslade Girls' School); and ADA3852 (Skills for Life Trust, for Greenacre Academy); and
 - l. a previous determination for the Fort Pitt Grammar School, case reference number ADA3430.
13. I have looked at the determinations listed above. About their outcomes, I note the following:
 - 13.1. In case reference number ADA3430, the adjudicator upheld the objection in respect of trust feeder schools because they were not named, but found that if the trust's then-two feeder schools had been named, it would have been reasonable for those schools to be named as feeder schools on the grounds that they shared the same ethos and were close geographically.

13.2. The adjudicator in case reference numbers ADA3656 and ADA3657 upheld the objections to the named trust primary schools on the basis that their location was much further away than those closer primary schools not named as feeder schools in the arrangements; this would have caused unfairness as giving priority to pupils attending the feeder schools and would have the effect of displacing those applying who lived closer to the schools but not attending the feeder schools.

13.3. In case reference numbers ADA3851 and ADA3852, the adjudicator found that the approach of naming feeder schools from the same trust to be logical and reasonable for each of the schools which were the subjects of the objections.

14. In respect of me having had sight of previous determinations, those determinations do not set precedents. I have considered the arrangements for the MA on their merits against the requirements set out in legislation and the Code and in the light of the facts and circumstances as they are now.

The Objection

15. The objector is concerned that prioritising the admission of those applying for places at the MA and who are attending those TTSAT feeder schools named in the arrangements (under oversubscription criterion 3) is unfair to those applying from primary schools which are not named and which are located closer to the MA as they would be given lower priority under oversubscription criterion 6.

16. In respect of this concern, the objector referenced the following paragraph of the Code in their form of objection:

- 1.9 (part): “It is for admission authorities to formulate their admission arrangements, but they **must** not:

[...]

- b) take into account any previous schools attended, unless it is a named feeder school;”

17. I have identified that the following paragraphs of the Code are relevant to the objection raised:

- 14 (part): “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 [and] clear [...]”.
- 1.15: “Admission authorities may wish to name a primary or middle school as a feeder school. The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.”

- 1.8 (part): “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 [...]”

18. Given that the inclusion of named feeder schools is permitted under paragraph 1.15 and paragraph 1.9 b) excludes named feeder schools from that which an admission authority should not take into account in terms of previous schools attended, I determine paragraph 19 b) of the Code is not relevant to his objection.

19. All admission arrangements create advantage for some applicants and disadvantage to others; indeed, that is their purpose. However, any disadvantage would have to be unfair to be contrary to the Code. I will say more about how I will go about testing ‘fairness’ at the relevant point in the determination.

Other Matters

20. The aspects of the arrangements which I identified as not or possibly not conforming with the requirements relating to admissions have been set out in detail towards the end of this determination.

21. In summary, I note here that I raised the following matters in respect of the arrangements: the use of out-of-date terminology; a number of issues concerning the way that the tie-breaker is expressed; the fact that the use of random allocation is not explained as required by the Code; an expectation that parents must request to be placed on the waiting list; statements contradicting others in different parts of the arrangements; the arrangements not containing an explanation as to what happens in respect of the waiting list beyond 31 December; there being a lack of a clear explanation for parents wishing to apply for a place for their child(ren) out of their chronological age group; the arrangements not meeting requirements in respect of ‘in-year admissions’ and appeals; and there being a lack of information on how an applicant’s home address is determined when a child lives for part of the week with different parents after the breakdown of their relationship, particularly when they cannot agree on which address should be designated the home address.

Background

22. According to GIAS, the school is a non-selective and co-educational secondary school without a religious character. It is a free school which opened in 2022. As such, there has not yet been an inspection by Ofsted. The published admission number (PAN) for Year 7 is 180.

23. The TTSAT includes 26 academies located in a wide geographical area, including:

- 23.1. 11 secondary academies: The Victory Academy (Chatham); The Rochester Grammar School; Plympton Academy (Plymouth); Holcombe Grammar

School (Chatham); Brixham College; Paignton Academy; The Portsmouth Academy; Goodwin Academy (Deal); Plymouth High School for Girls; and Colchester Royal Grammar School.

23.2. 14 primary academies: All Faiths Children's Academy (Rochester); Curledge Street Academy (Paignton); Kings Ash Academy (Paignton); New Horizons Children's Academy (Chatham); Gordon Children's Academy, Junior (Rochester); Gordon Children's Academy, Infant (Rochester); New Horizons Primary School (Portsmouth); Penbridge Junior School (Portsmouth); Cedar Children's Academy (Rochester); Meon Junior School (Portsmouth); Moorings Way Infant School (Southsea); Penbridge Infant School and Nursery (Portsmouth); Meon Infant School (Southsea); and Furzeham Primary School (Brixham).

23.3. One alternative provision: The Lodestar Academy in Torquay.

24. The arrangements set out that children with Education, Health and Care Plans (EHCPs) will be admitted first. Then, in times when oversubscribed, children will be prioritised according to the oversubscription criteria. These can be summarised as follows:

1. Looked after children and previously looked after children.
2. Children with siblings at the school at the time of admission.
3. Children who attend any of the following TTSAT primary schools: All Faiths Children's Academy; Cedar Children's Academy; Gordon Children's Academy; and New Horizons Children's Academy.
4. Children of staff employed to fill a vacant post for which there is a demonstrable skills shortage.
5. Children with medical need.
6. Distance from the school, with the children who live closest to the school being prioritised.

In the event of two or more applications that cannot otherwise be separated, the arrangements state that a random allocation process will be employed.

25. As part of the process for the opening of a free school, the school has been operating out of a primary school in Gillingham situated on Romany Road, ME8 6JH whilst the new school building was built in Strood. The school moved to its new site on Frindsbury Hill, ME2 4NU for the start of term in September 2024. According to Google Maps, the distance between the two sites is 3.94 miles (straight line distance) and 5.1 miles by road.

26. The trust provided me with the number of children in each year group in the school (as of June 2024). I have put that data into Table 1.

Table 1: Number of children in each year group (as of June 2024)

Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	TOTAL
165	169	0	0	0	0	0	334

27. The school has been building its roll year by year since it opened in 2022. It expects to have children in every year group from September 2028.

Consideration of Case

28. I now turn to consider the concern raised by the objector. About this concern, the objector said:

“Maritime Academy is a new school with 2 current year groups. They are temporarily being taught in a primary school in Gillingham, however the new school in Strood will be open from September 2024.

My child is due to start secondary education in September 2025.

Upon looking at their admissions policy, I noticed their 3rd priority in their over subscriptions criteria is as follows:

“Children who attend any of the following Thinking Schools Academy Trust’s primary schools: All Faiths Children’s Academy, Cedar Children’s Academy, The Gordon Children’s Academy and New Horizons Children’s Academy”

Distance to school is their 6th priority.

I believe this to be unfair [...]

There are at least 3 primary schools which are “on the doorstep” of the new school, Hilltop Primary being 0.4 miles away, Wainscott Primary being 0.5 miles away and English Martyrs being 0.4 miles away. Assuming children at these primary schools would not fulfil any of the other criteria, and they live close to their primary school, they will receive 6th place priority access to Maritime Academy when they will live the closest.

The schools listed on their 3rd priority are all further distance away from the new school, and assuming the children live locally to those schools, will all live further away also.

[...]

I do not believe it to be fair to discriminate against the children that live most locally to the school, based on the primary school they attend.

I do not see any fair justification to name these schools as “feeder schools” when they are all located between 1 to 4 miles away and there are other schools that are more local. New Horizons (named feeder for Maritime) in Chatham is 0.6 miles from

its most local Secondary school The Victory Academy and 1.1 miles to its second most local secondary, Greenacre.”

29. The objector raises a concern about the arrangements being discriminatory. I have not been able to find anything in the objection which qualifies the nature of the discrimination in respect of any groups with “protected characteristics” as defined in the Equality Act 2010 (the EqA). Taking into account the entirety of the information provided on the form of objection, I have interpreted that the meaning of the objection is that the arrangements are ‘unfair’ or ‘cause disadvantage’, as opposed to discriminating unlawfully contrary to the requirements of the EqA.

30. All admission authorities must have oversubscription criteria to decide who will be admitted if the school is oversubscribed. These must be in accordance with the Code, and the adoption of named feeder schools as a means of deciding which applicants should receive priority is perfectly lawful provided the reason for their adoption is transparent and made on reasonable grounds (as set out in paragraph 1.15 of the Code) and, of course, provided the adoption of the named feeder schools does not cause the arrangements to operate unfairly overall. Paragraph 14 of the Code requires, amongst other things, that arrangements must be clear and fair. In respect of paragraph 1.15, I determine that the arrangements are transparent as the schools are clearly identified under oversubscription criterion 3. This also meets the requirement under paragraph 14 for the arrangements to be clear.

31. Paragraph 1.15 of the Code does not require admission authorities to include the rationale for the naming of feeder schools in its arrangements, though it requires that the reason for their adoption must be made on reasonable grounds. Despite requesting the school provide the trust’s rationale for the inclusion of the four TTSAT feeder schools in oversubscription criterion 3, I have received no such explanation. As my function under section 88H of the Act is to determine whether or not to uphold the objection before me and the objector has not raised unreasonableness as a ground for objection, I have focussed specifically on the issue which has been objected to, namely that the arrangements are unfair. However, I will return to make a point about the question of reasonableness at the end of the determination.

32. The only response received by the school about the objection was:

“Will look to remove New Horizons Children’s Academy from our oversubscription criteria.”

33. No reason was given by the MA for wanting to remove this particular feeder school from the arrangements and no other information was provided in response to my request for further information, or in response to the objection itself. I will return to this response later in the determination.

34. Fairness is a concept, not unlike being ‘reasonable’, that is used in the Code but is not defined. Fairness can be described as a ‘protean concept’, in that it cannot be defined in universal terms, but its requirements will depend on the circumstances. Fairness is

focussed on the effect of the arrangements on any relevant group. I re-stress here that the purpose of oversubscription criteria is to prioritise some applicants over others, such that they create advantage for some applicants and disadvantage to others. In relation to admission arrangements, fairness is often best evaluated by undertaking a balancing exercise, weighing the advantage said to accrue to children who would be offered places (or afforded a high priority for places) at the school in consequence of the arrangements, against any disadvantage caused to any other relevant group of children who would not be offered places (or would not be afforded a high priority for places). Unfairness can be found when the disadvantage is considered to outweigh the advantage.

35. The objector asserts that those children who attend primary schools that are closer to the MA than the named trust feeder schools and which are not named feeder schools under oversubscription criterion 3 are treated unfairly. I have taken this to be the 'social group' that is disadvantaged unfairly as referred to in paragraph 1.8 of the Code. I will assess fairness in terms of the scale of the disadvantage to those applicants. This will include a consideration of:

- A. the practical operation of the arrangements 2022 to 2024;
- B. the effect of the move to the school's permanent site in September 2024;
- C. other options – in terms of other schools – available for parents of children from the area in which the school is now located; and
- D. whether the effect of the application of oversubscription criterion 3 affects the LA's ability to fulfil its duty to provide a sufficiency of school places in the area.

36. Before doing so, I highlight the following:

36.1. The objector has provided little by way of data or evidence for their assertions. The school did not provide any data in support of their responses to the points raised by the objector, despite the school being offered the opportunity to do so twice. After making a number of further requests, the LA provided data and information to assist my consideration of the case. I then had to seek further clarifications from the LA, given some of the data provided presented with internal inconsistencies and was therefore unreliable. This has since been rectified but has nevertheless caused unnecessary delay to my consideration of the matters raised by the objector.

36.2. My jurisdiction is for the 2025 arrangements only. As that is in the future, I would ordinarily consider data and information on current and past admissions in order to see how the arrangements have been implemented up to this point. However, the school has only been open since 2022. In 2022, the system of parents being able to express a preference for places at the school was different. From 2023, the process was as for all other schools in the LA area. This means that data on preferences expressed from 2023 cannot be compared with data from 2022.

36.3. The oversubscription criteria for 2023 and 2024 are the same as for 2025. However, in 2022 there were only five criteria as there was no sibling criterion (as there would have been no children in the school at that time). The data showing the breakdown of the numbers admitted under each of the criteria between 2022 and the following two years will therefore relate to slightly different criteria.

36.4. The fact that the school has moved to its permanent site in September 2024 will render any comparison (of some factors such as distance) between any datasets between 2023 and 2024 unreliable, if not impossible to draw meaningful conclusions from.

37. In its initial response to the objection, the LA told me that:

“The local authority prefers schools not to include criteria giving children attending a primary school in their own trust higher priority for a school place. Therefore, we agree with the premise of the objection.

[...]

Those who do not attend their trust primary schools can still adopt the ethos of the trust much in the same way that those in the trust primary schools did throughout their primary education.

Children in year 6 of the trust primary schools will not all necessarily live close to their primary school, for instance if they have moved home but not changed primary school. Therefore those who do live close to the school could miss out on places if those who attend a trust primary school but don't live locally apply for places at Maritime Academy.”

38. It is clear from its response that the LA prefers that schools do not prioritise by attendance at named feeder schools in their oversubscription criteria. However, the LA's preference does not mean an admission authority in its area cannot or should not adopt whatever arrangements it chooses, provided those arrangements comply with the Code and other relevant legal requirements. Indeed, Paragraph 1.10 of the Code explicitly permits an admission authority to, “decide which criteria would be most suitable to the school according to the local circumstances”.

A. The practical operation of the arrangements 2022 to 2024

39. The objector expressed the concern that the combination of the PANs of all four of the TTSAT primary schools (named as feeders under oversubscription criterion 3) result in the potential demand for 270 places at the MA (90 more than the school's PAN). I have checked this figure and find it to be devised from the following PANs for admission in 2025: All Faiths Children's Academy – 30; Cedar Children's Academy – 90; Gordon Children's Academy – 60; and New Horizons Children's Academy – 90.

40. I asked the LA to provide admission data since the school was opened and have put that data into Table 2.

Table 2: Admissions to the school of children with EHCPs and under each of the oversubscription criteria

Criteria	2022	2023	2024
EHCP	0	0	2
LAC / PLAC (oversubscription criterion 1)	3	2	2
Siblings (oversubscription criterion 2)	0	3	19
Feeder schools (oversubscription criterion 3)	60	51	43
Children of staff (oversubscription criterion 4)	0	0	0
Children with medical need (oversubscription criterion 5)	0	0	0
Distance from school (oversubscription criterion 6)	87	124	174
Total:	150¹	180	240²

Key:

¹ About this, the LA told me: “2022 was the first admission year for the academy and admissions work differently in the first year. Some families would have been offered a place at Maritime Academy through their admission process as well as another school through the co-ordinated admissions process for other schools. // 180 children were offered places at Maritime Academy on national offer day (6 LAC, 94 feeder school and 80 distance). Families who had two offers had to decide which one to accept which resulted in Maritime admitting 150 pupils. This eventually increased to 180 through in-year admissions but the LA does not have criteria data for in-year admissions that are managed by the academy.”

² About this the LA told me: “The PAN is 180 but the academy agreed, at the local authority’s request, to admit 240 pupils for 2024. Forecasts indicated there would be a shortage of places across Medway. With limited year groups (7-9) and a new school building, the local authority was aware there would be space at Maritime Academy to admit additional pupils to meet demand this year.”

41. At my request, the LA provided the number of children admitted from each of the named feeder primary schools in the three years since the school has been opened. I have put that data in Table 3.

Table 3: Number of children admitted from each of the four named feeder primary schools from 2022 to 2024

Named feeder schools	2022	2023	2024
All Faiths Children’s Academy	5	14	11
Cedar Children’s Academy	11	12	12
Gordon Children’s Academy	40	20	20
New Horizons Children’s Academy	4	5	0
Total	60	51	43

42. The data in Tables 2 and 3 show that the objector's concern that all places would be taken by children from the feeder schools has not been borne out in the three years the school has been open so far. In fact, the number admitted under oversubscription criterion 3 has fallen over the three-year period shown in Table 2. The data shows that the number admitted under oversubscription criterion 2 for siblings is likely to be the biggest area of growth in admission as the school roll increases over the next few years.

43. Table 3 shows that the admission of children from each of the feeder schools has followed its own pattern. The number admitted from Cedar Children's Academy has remained consistent. However, the number of children admitted from All Faiths Children's Academy has increased, the number admitted from Gordon Children's Academy halved and plateaued and the numbers admitted from the New Horizons Children's Academy have decreased such that no children were admitted from that school in 2024 (numbers were small in any event).

44. I also note here the preference data that the LA provided at my request. I have put that data into Table 4:

Table 4: Preferences expressed by parents for places for their children at the MA between 2022 and 2024

Year	PAN	P1⁴	P2	P3	P4	P5	P6	Other Ps	Total Ps
2022³	180	286	0	0	0	0	0	0	286
2023	180	119	109	84	46	28	18	0	438
2024	180	186	218	93	65	32	23	0	627

Key:

³ The way that preferences were dealt with for the opening of the MA was different in 2022. From admission in 2023, preferences were dealt with as normal.

⁴ 'P' refers to preference (P1 is the first preference to P6 which is the sixth preference). In this LA area, parents can express up to six preferences for school places for their child(ren).

45. It is clear that the school is oversubscribed and the number of preferences expressed for places at the school is increasing significantly. Clearly the proportion of those expressing a preference from the named TTSAT feeder schools has decreased since 2022.

46. Through looking at the practical operation of the arrangements between 2022 and 2024, I can see that the scale of the disadvantage caused in the last three years has not been as the objector asserts. In fact the number admitted under oversubscription criterion 6 (distance) – and under which the objector says those closer to the school would be prioritised under for admission – has more than doubled as the number admitted under oversubscription criterion 3 has decreased. Even though the school has significantly increased the number it has admitted in 2024, the number being admitted under oversubscription criterion 6 had been increasing in any event.

B. The effect of the move to the school’s permanent site in September 2024

47. The objector and LA provided calculations of the distances of primary schools, which were both different. The point from which they were calculated or whether they are straight line or road / walking distances was not specified. Therefore, I have looked at the distances for myself. Table 5 shows the results, including the distance from the previous temporary site and the distance the schools are now from the permanent site of the MA (to which the school moved in September 2024). I have included both straight line and shortest distances by road in the table.

Table 5: Distance of the TTSAT schools named as feeders under oversubscription criterion 3 from the MA’s previous temporary site and its new permanent site from September 2024

Name of TTSAT feeder school named under oversubscription criterion 3	Distance⁵ from the MA’s temporary site (ME8 6JH)	Distance⁶ from the MA’s temporary site (ME8 6JH)	Distance⁵ from the MA’s permanent site (ME2 4NU⁷)	Distance⁶ from the MA’s permanent site (ME2 4NU⁷)
All Faiths Children’s Academy	4.23	4.9	0.78	0.8
Cedar Children’s Academy	4.69	5.6	1.73	1.8
Gordon Children’s Academy	4.48	5.2	0.94	1.1
New Horizons Children’s Academy	2.64	3.7	2.9	3.8

Key:

⁵ Straight line distances from the DfE’s GIAS website.

⁶ Shortest distances by road from Google Maps.

⁷ Although this is the given postcode, the nearest postcode to the school is in fact ME2 4JS. I have used ME2 4JS to give a more accurate reflection of the distance).

48. It is clear to me from Table 5 that the move to the new permanent site in September 2024 will have brought the school much closer to three of the TTSAT primary schools named as feeders under oversubscription criterion 3. Although the school has not said anything about the rationale for these schools being named as feeder schools in its arrangements, it appears to me that the trust is likely to have had in mind the school’s permanent site on Frindsbury Hill in Strood. However, I note that the New Horizons Children’s Academy is now further from the MA now that the MA has moved to its permanent site.

49. From this point, I focus my consideration of the impact of oversubscription criterion 3 arising from the school being located at its permanent site in September 2024. According to the DfE’s GIAS website:

- 49.1. There are four primary schools closer to the MA’s new permanent site (with straight line distance in miles in brackets after each) than All Faiths Children’s Academy (which will be the closest of the named TTSAT feeder schools from

September 2024): Wainscott Primary School (0.25); Hilltop Primary School (0.26); English Martyrs' Catholic Primary School (0.43); and Temple Mill Primary School (0.51).

49.2. Then, after the Gordon Children's Academy, there are a further six primary schools which are closer than the Cedar Children's Academy: Rochester Riverside Church of England Primary School (0.99); St Nicholas CEVC Primary School (1); Chattenden Primary School (1.22); St Mary's Island Church of England (Aided) Primary School (1.35); St Margaret's at Troy Town CofE Voluntary Controlled Primary School (1.5); and Elaine Primary School (1.53).

49.3. There are then 28 primary schools (or all through schools incorporating primary aged-children) closer than the New Horizons Children's Academy: Brompton-Westbrook Primary School (1.84); St John's Church of England Infant School (1.96); St Peter's Infant School (2.01); St Michael's RC Primary School (2.01); Cliffe Woods Primary School (2.06); Burnt Oak Primary School (2.06); Bligh Primary School (Infants and Juniors) (2.06); Oasis Academy Skinner Street (2.06); New Road Primary School (2.16); The Hundred of Hoo Academy (2.17); St William of Perth Roman Catholic Primary School (2.24); Higham Primary School (2.25); Balfour Junior School (2.27); Hoo St Werburgh Primary School and the Marlborough (2.3); All Saints Church of England Primary School (2.32); Phoenix Primary School (2.39); Delce Academy (2.4); Crest Infant School (2.41); St Mary's Catholic Primary School (2.42); Saxon Way Primary School (2.49); The Pilgrim School (A Church of England Primary With Nursery) (2.51); Greenvale Primary School (2.55); Napier Community Primary and Nursery Academy (2.55); Byron Primary School (2.67); Barnsole Primary School (2.68); and Warren Wood Primary School (2.9).

49.4. I have not counted infant schools as they would not feed into secondary schools.

50. This means that there are four primary schools closer to the MA than the two closest of the four named TTSAT feeder schools (All Faiths Children's Academy and Gordon Children's Academy), 10 primary schools closer than the third closest of the four named TTSAT feeder schools (Cedar Children's Academy) and 38 primary schools closer than the furthest of the four named TTSAT feeder schools (New Horizons Children's Academy).

51. It is clear that, although three of the schools will be much closer to the MA at its permanent site, the New Horizons Children's Academy will be further away. Although this was not expressly stated by the school's only response to my request for information, that it "Will look to remove New Horizons Children's Academy from our oversubscription criteria", this appears to be an indication that the school has recognised this issue for itself.

52. About the move to its permanent site from September 2024, the objector provided more detail about their concerns:

“[...] until now, selection to this school has been based on a school that has not yet physically existed in Strood and has had a requirement of children using a school bus to travel 2/3 towns/nearly 5 miles away and be schooled in a temporary building within a primary school.

I do believe this would have impacted this being a school choice for many parents. I do believe that come September 2024, when parents will view the brand new, high tech school building, it will become choice to far more parents than the previous 2 years. [...]

Looking at Hilltop Primary, which is the most local primary to the new school.

Hilltop is a primary school as part of the Beyond Schools trust.

This trust has 4 mainstream secondary schools, The Robert Napier, The Thomas Aveling, Walderslade School for Girls and Greenacre School for boys. All 4 of these Secondary schools have previously had “Trust Primary” schools as part of their admissions policy. All 4 of these schools have either voluntarily removed this priority after challenge from Medway Council Admissions or have been forced to remove it by yourselves, the Schools Adjudicator following an upheld objection (I have been able to view these reports on your website).”

53. I make the following points in respect of this part of the objector’s concern:
- 53.1. According to the DfE’s GIAS website, Hilltop Primary School is not the most local primary school to the MA’s new permanent site (this will be Wainscott Primary School), although it is a close second.
 - 53.2. About the Walderslade and Greenacre schools (girls and boys respectively), I note that since the determinations were made by the adjudicator on the schools’ arrangements in 2021, these two schools have formed the Walderslade and Greenacre Schools Partnership (this appears to be a federation as both schools remain separate entities). A fifth secondary school is also a member of the Beyond Schools Trust; the Ford Pitt Grammar School.
 - 53.3. As the objector rightly points out, there have been previous determinations for all of these schools on matters similar to those raised by the objector about the MA’s arrangements. I set out the outcomes of those determinations earlier. I restate here that previous determinations do not set precedents but note that arrangements employing named feeder schools have not always been found to be unreasonable or unfair; it depends on the circumstances of the individual case. It is also not a relevant consideration that schools have subsequently removed an oversubscription criterion naming feeder schools despite the fact that a determination did not find those arrangements to be unreasonable or unfair. That was a matter for those schools and was not a result of a determination by the adjudicator.

54. I have used the DfE's GIAS website to work out the secondary school(s) that are within two miles of each of the primary schools that are located within two miles of the MA. I have put that information into Table 6.

Table 6: The secondary school(s) that are within two miles of each of the primary schools that are within two miles of the MA in order of distance

School name	Straight line distance from MA (miles)	Secondary school(s) within two miles of each primary school in order of distance
Wainscott Primary School	0.25	<ul style="list-style-type: none"> • MA • Waterfront UTC (1.77) • Fort Pitt Grammar School (1.92) • The Hundred of Hoo Academy (1.93)
Hilltop Primary School	0.26	<ul style="list-style-type: none"> • MA • Strood Academy (1.6) • Fort Pitt Grammar School (1.79)
English Martyrs' Catholic Primary School	0.43	<ul style="list-style-type: none"> • MA • Strood Academy (1.51) • Fort Pitt Grammar School (1.57) • St John Fisher Catholic Comprehensive School (1.8)
Temple Mill Primary School	0.51	<ul style="list-style-type: none"> • MA • Strood Academy (1.45) • Fort Pitt Grammar School (1.99)
All Faiths Children's Academy	0.78	<ul style="list-style-type: none"> • MA • Strood Academy (1.19) • Fort Pitt Grammar School (1.5) • St John Fisher Catholic Comprehensive School (1.73) • The Rochester Grammar School (1.85) • Sir Joseph Williamson's Mathematical School (1.92)
Gordon Children's Academy	0.94	<ul style="list-style-type: none"> • MA • Strood Academy (0.98) • Fort Pitt Grammar School (1.71) • St John Fisher Catholic Comprehensive School (1.94) • The Rochester Grammar School (1.99)
Rochester Riverside Church of England Primary School	0.99	<ul style="list-style-type: none"> • Fort Pitt Grammar School (0.87) • MA • St John Fisher Catholic Comprehensive School (1.1) • The Rochester Grammar School (1.39)

School name	Straight line distance from MA (miles)	Secondary school(s) within two miles of each primary school in order of distance
		<ul style="list-style-type: none"> • Sir Joseph Williamson's Mathematical School (1.49) • Brompton Academy (1.7) • Strood Academy (1.7) • Holcombe Grammar School (1.86) • The Thomas Aveling School (1.89) • Waterfront UTC (1.95) • The Victory Academy (1.96)
St Nicholas CEVC Primary School	1	<ul style="list-style-type: none"> • Strood Academy (1.01) • MA • Fort Pitt Grammar School (1.56) • St John Fisher Catholic Comprehensive School (1.79) • The Rochester Grammar School (1.82) • Sir Joseph Williamson's Mathematical School (1.88)
Chattenden Primary School	1.22	<ul style="list-style-type: none"> • The Hundred of Hoo Academy (1.04) • MA • Waterfront UTC (1.72)
St Mary's Island Church of England (Aided) Primary School	1.35	<ul style="list-style-type: none"> • Waterfront UTC (0.83) • The Hundred of Hoo Academy (1.12) • MA • Brompton Academy (1.72)
St Margaret's at Troy Town CofE Voluntary Controlled Primary School	1.5	<ul style="list-style-type: none"> • Fort Pitt Grammar School (0.47) • St John Fisher Catholic Comprehensive School (0.7) • The Rochester Grammar School (0.88) • Sir Joseph Williamson's Mathematical School (0.98) • The Thomas Aveling School (1.37) • Holcombe Grammar School (1.38) • MA • Brompton Academy (1.52) • The Victory Academy (1.57) • Strood Academy (1.88)
Elaine Primary School	1.53	<ul style="list-style-type: none"> • Strood Academy (0.53) • MA • Fort Pitt Grammar School (1.83) • The Rochester Grammar School (1.85)

School name	Straight line distance from MA (miles)	Secondary school(s) within two miles of each primary school in order of distance
		<ul style="list-style-type: none"> • Sir Joseph Williamson's Mathematical School (1.86)
Cedar Children's Academy	1.73	<ul style="list-style-type: none"> • Strood Academy (0.75) • The Rochester Grammar School (1.55) • Sir Joseph Williamson's Mathematical School (1.55) • Fort Pitt Grammar School (1.79) • MA • St John Fisher Catholic Comprehensive School (1.86)
Brompton-Westbrook Primary School	1.84	<ul style="list-style-type: none"> • Brompton Academy (0.3) • St John Fisher Catholic Comprehensive School (0.89) • Fort Pitt Grammar School (0.93) • Chatham Grammar (1.01) • Waterfront UTC (1.05) • The Victory Academy (1.11) • The Robert Napier School (1.28) • Holcombe Grammar School (1.72) • The Rochester Grammar School (1.72) • MA • Sir Joseph Williamson's Mathematical School (1.84) • The Thomas Aveling School (1.99)

55. The information in Table 6 shows me that:

- 55.1. Generally, the further away from the MA site a primary school is, the more options there are for parents of children at that school in terms of local secondary schools to which they have a reasonable chance of being admitted if their parents make an application.
- 55.2. Every school on the list has been graded 'Good' or 'Outstanding' except for the following: Brompton Academy ('Requires Improvement'); Walderslade School (not yet inspected); Greenacre School (not yet inspected); and MA (not yet inspected). Where Brompton Academy appears on any of the lists, there are at least three other schools for which parents can choose to express a preference that have higher Ofsted grades, and where there is a reasonable prospect that their children will be admitted.
- 55.3. The MA is the closest secondary school for two of the four TTSAT feeder schools named under oversubscription criterion 3 (All Faiths Children's

Academy and Gordon Children’s Academy). The MA is fifth closest for Cedar Children’s Academy.

55.4. With a primary school’s distance from the MA, it becomes less likely that parents will apply for places at the MA as there are a number of other, closer options. For Elaine Primary School, however, the MA is the second closest despite the distance and it could result in more applications from parents of children at this school than the distance would ordinarily indicate.

55.5. The four primary schools closest to the MA (closer than any named as feeders under oversubscription criterion 3) generally have less options to choose from in terms of secondary schools than those further away from the MA. However, they all have at least two options other than MA and all those options are schools that have been graded ‘Good’ or ‘Outstanding’ by Ofsted.

56. The PANs for 2025 for the four primary schools closest to the MA are: Wainscott Primary School (60); Hilltop Primary School (60); English Martyrs' Catholic Primary School (60); and Temple Mill Primary School (30). This means there are potentially parents of 210 children who may wish for places at the MA. Under the PAN of 180, the school could not admit them all in any event. It is not yet known how the move to Frindsbury Hill in Strood will affect the pattern of preferences from 2025 onwards, though it is clear from Tables 2 and 4 that there is evidence of considerable and increasing interest from parents for places for their children at the school. It could be argued that the increase in preferences, and the subsequent approach by the LA to the trust for the school to admit over its PAN, demonstrates that the permanent location has attracted more interest from parents. However, it could also be argued that a considerable increase in interest was shown for places in 2023 when the school was not located on its permanent site.

57. When looking specifically at the preferences expressed by those parents with children at the four TTSAT named feeder schools, the data shows that this is not increasing in number or preference, unlike preferences generally (as shown on Table 4). The preference data for the named feeder schools, provided by the LA, has been put into Table 7.

Table 7: Preferences expressed for places at the MA by parents of children from the named feeder primary schools

Year	P1⁴	P2	P3	P4	P5	P6	Other Ps	Total Ps
2022	60	0	0	0	0	0	0	60
2023	45	4	2	0	0	0	0	51
2024	38	2	2	1	0	0	0	43

Key:

⁴ (As for Table 4).

58. The data in Table 7 shows the number of preferences matches the number admitted under oversubscription criterion 3 in each year, as shown in Table 2. The pattern shows that, over the three-year period, the number of preferences has started to decline. It is also the case that for those children admitted to the school, the preferences expressed from 2023 are not all first preferences. In 2023, some parents expressed second and third preferences and in 2024 a fourth preference. However, all those expressing a preference of any sort, were admitted. The objector has argued, however, that should the number of preferences from named feeder schools increase then it would have the effect of reducing the number of places available at the school for those children who live closer to the school and who would acquire priority under oversubscription criterion 6. I do not see that pattern shown by the data. The objector asserts that the school being on its new permanent site will have the effect of increasing applications from the parents of those in the named feeder schools. I do not see that evidence from the 2024 data (which, if the objector’s assertion were to be true, would have seen some recognition of the school being on its new site by that time even if the new site was not completed at the time of the application). My view is that if the new site does have an effect on parents applying for places for their children from the four named feeder schools, the effect of that is likely to be much larger on those in closer proximity to the MA’s new site.

59. I asked the LA to provide me with data showing average distance (of home to school distance) of the children admitted under oversubscription criterion 6 in the last three years. I have put that data into Table 8, converting the measurements provided in metres to miles for consistency with other distance measurements used in this determination.

Table 8: Average distance (of home to school distance) of the children admitted under oversubscription criterion 6 from 2022 to 2024

Criteria / furthest distance	2022	2023	2024
Oversubscription criterion 6	1.49	1.99	2.6

60. This data shows that the average distance of the home address of children admitted to the school has increased over time. I note that the three closest of the four named TTSAT feeder schools are within the average distance figure for 2024. The fourth, New Horizons Children’s Academy is not.

C. Other options – in terms of other schools – available for parents of children from the area in which the school is now located

61. According to the DfE’s GIAS website, there are 11 schools within three miles walking distance of the postcode in which the MA is now permanently located that admit to Year 7 (this three mile distance is taken from the DfE’s “Travel to school for children of compulsory school age: Statutory guidance for local authorities” and is the statutory walking distance for children aged 8 or over). I have listed all of those schools, with their characteristics, in Table 9.

Table 9: Secondary schools within three miles of the school's postcode with relevant characteristics that admit to Year 7

School Name	Distance from the postcode of the MA (miles)	Gender of entry	Selection?	Religious character	Ofsted
Fort Pitt Grammar School	1.67	Girls	Yes	None	Outstanding
Strood Academy	1.74	Mixed	No	None	Good
St John Fisher Catholic Comprehensive School	1.89	Mixed	No	Roman Catholic	Good
Brompton Academy	2.11	Mixed	No	None	Requires improvement
The Rochester Grammar School	2.24	Girls	Yes	None	Good
Sir Joseph Williamson's Mathematical School	2.33	Boys	Yes	None	Outstanding
The Hundred of Hoo Academy	2.33	Mixed	No	None	Good
Holcombe Grammar School	2.68	Boys	Yes	None	Good
The Victory Academy	2.68	Mixed	No	None	Good
The Thomas Aveling School	2.74	Mixed	No	None	Good
Chatham Grammar	2.81	Girls	Yes	None	Good

62. Table 9 shows that five of the schools share the same characteristics as MA (mixed, non-selective and without a religious character). All bar one of those schools (Brompton Academy) have been rated as 'Good' by Ofsted. Of course, this does not mean that parents would not apply for places for their children at other schools on the list. Table 9 shows that there is a range of choices of secondary schools for parents within three miles walking distance.

63. I asked the LA to provide me with the current PANs and the forecast need for places in every secondary school in the area for the next three years. It provided me with the data which I have put into Table 10.

Table 10: Current PANs and the forecast need for places in every secondary school in the area

Secondary schools	Current PAN	2024	2025	2026
Brompton Academy	220	252	258	268
Chatham Grammar	150	145	149	155

Secondary schools	Current PAN	2024	2025	2026
Fort Pitt Grammar School	150	152	156	162
Greenacre School	160	172	176	183
Holcombe Grammar School	150	151	154	161
Leigh Academy Rainham	210 ⁸ (180)	211	216	225
MA	180	182	186	193
Rainham Mark Grammar School	235	243	248	259
Rainham School for Girls	270	267	273	284
Sir Joseph Williamson's Mathematical School	203	221	226	235
St John Fisher Catholic Comprehensive School	210 ⁸ (180)	198	203	211
Strood Academy	270 ⁸ (240)	254	260	271
The Howard School	250	252	258	269
The Robert Napier School	210	204	209	217
The Rochester Grammar School	205	207	212	220
The Hundred of Hoo Academy	300	306	313	326
The Thomas Aveling School	190	205	210	218
The Victory Academy	210	213	218	227
Walderslade School	160	158	162	169

Key

⁸ These schools were reported by the LA to have admitted above the PAN. The PAN is shown in brackets.

64. The data in Table 10 show that the LA is projecting that demand for places at every school in the area is increasing up to 2026. I note here that the LA has calculated these statistics for me in the context that it has found school-level projections to be unreliable. It refers to pupil place plan in wider geographical areas and provided me with the data in that regard which I have put into Tables 11 and 12.

Table 11: Projected need for places in the Medway area, broken down by selective and non-selective school places.

	Current sum of PANs	2024	2025	2026
Selective	1093	1125	1151	1197
Non-selective	2840 ⁸ (2750)	2836	2901	3017

Table 12: Non-selective places broken down by area

Area	Current sum of PANs	2024	2025	2026
Hoo / Strood	750 ⁸ (720)	688	704	732
Chatham / Rochester	930 ⁸ (900)	956	979	1018
Gillingham / Rainham	1160 ⁸ (1130)	1191	1218	1267

Key

⁸ (As Table 10).

65. The data in Table 11 show that there will be an increase in demand of 181 school places in the non-selective schools in the LA area between 2024 to 2026. This is 267 places above the capacity of such schools. However, the data in Table 12 show that when the projected demand for non-selective school places is broken down into the three areas the LA uses for school place planning, the Hoo / Strood area (in which the MA is located), only exceeds capacity in 2026 by 12 places. The projection shows the main demand being in the Chatham / Rochester (by 118 more than the capacity of the schools in that area) and Gillingham / Rainham areas (by 137 more than the capacity of the schools in that area). It is clear that whilst there is projected demand for school places in all three areas, the main demand will not be in the area in which the MA is located.

66. However, I note the 2024 intake for the MA from Table 2 (of 240 children) and the intake shown in the 'Current sum of PANs' column of Table 12 (which is 30 above the capacity in the Hoo / Strood area) shows that the demand for places in this area, and the school itself, is likely to be higher than the projections indicate. It is likely that the school will only be able to admit to PAN in future years as the number of year groups on site increases. Presuming the demand continues to increase or at least remains as high as it is now, a number of children will not be admitted. As I have found earlier in this determination, this demand has not been fuelled by an increase in the numbers applying from the TTSAT feeder schools named under oversubscription criterion 3. If the pattern of admission from those schools continues to show a decline, then that which the objector asserts will be even less likely to occur.

D. Whether the effect of the application of oversubscription criterion 3 affects the LA's ability to fulfil its duty to provide a sufficiency of school places in the area.

67. In response to my question about this, the LA, originally told me:

"Whilst the local authority ensures there are sufficient school places overall and in each planning area, we believe it is important for families to have access to a local school. The less school places are prioritised by location/distance, the greater the risk that children will have to travel further to get to their allocated school."

68. I subsequently asked for further clarification from the LA about this response, communicating my understanding that it was effectively saying that it could fulfil its statutory duty, and it told me:

"The adjudicator's understanding is correct, there are enough places overall to ensure each child residing in Medway can be offered a Medway school. However we prefer children to be able to access a school within a reasonable distance where possible."

69. The balancing exercise shows little evidence of there having been the scale of disadvantage asserted by the objector in respect of the inclusion of the named feeder schools in the school's arrangements. Any disadvantage that is indicated is that which would ordinarily be afforded by arrangements in the normal course of prioritising children for

admission, which is their purpose. The LA has clearly stated that it does not have an issue with fulfilling its statutory duty to provide a sufficiency of places in its area. At this time, any potential disadvantage to applicants which could be said to arise as a result of being unable to secure places for their children at the school is off-set by there being a number of other Ofsted-graded 'Good' schools with the same characteristics as the MA within three miles of its postcode.

70. What has become apparent through my analysis is that: the number of parental preferences expressed for places for children at the MA is increasing considerably year on year; the demand for places in all secondary schools in the area is projected to increase up to 2026; and the number admitted to the MA in September 2024 is considerably above PAN. I can see that there is increased interest in the school now that it is at its permanent location. In contrast, I can see from the data that the demand for places at the MA from the named TTSAT feeder schools is decreasing not only in number but also in terms of the level of preference, even when taking into account that parents applying for places for their children from September 2024 would have known that the school would be moved to its permanent site by that time and that some of the schools would be closer to that site. This demonstrates that the objector's concerns have to date proved to be unfounded.

71. In respect of admission in 2025 it is too early to evidence whether, having seen the new school building and facilities, there will be an increase in applications from parents of children currently at the named feeder schools for places such that it causes children living locally to 'lose out' on places at the school. The pattern of admission to the school so far, which indicates an increase in demand but not from named TTSAT feeder schools, does not indicate that will be the case. I do not find unfairness, on the scale asserted, will be caused to the social group identified by the objector because of the inclusion of the named feeder schools in the MA's arrangements. I, therefore, do not uphold the objection.

72. I said at the start of my consideration of this case that I would return to the issue of the rationale for the adoption of named feeder schools in the MA's arrangements. First, I will deal with a particular point made by the objector about this issue:

"[...] I [...] believe the only motivating factor to Maritime naming Trust schools in their admissions to be its financial benefits in ensuring this motivates parents to choose a trust primary school so it fills the PAN's [sic] in those schools. This feels hugely unethical, at the expense of local children to the secondary school."

73. The objector has not provided any evidence of this being the reason behind the naming of the TTSAT feeder schools and the LA has not expressed any such concerns. I have not found any evidence of this being the case whilst considering the case.

74. The school, despite being offered twice the opportunity to do so, did not provide me with the trust's reasons for their inclusion in its arrangements. The objector did not raise a concern about the reasonableness of the adoption of the four TTSAT feeder schools in the MA's arrangements. In accordance with my functions under section 88H of the Act, I have focussed upon unfairness, as opposed to unreasonableness as this was the basis of the objection. The school should be mindful, however, that it leaves itself open to the potential

of a future objection being made about the ‘reasonableness’ of its adoption of the named feeder schools where it fails to provide a rationale for so doing when requested to do so by the adjudicator.

75. There is nothing inherently unreasonable about a multi-academy trust naming its own primary schools as feeder schools for a secondary academy, and provided the trust gives a coherent explanation for doing so it is likely that the grounds for selection will be reasonable. They are also almost certainly objective. The only real issue that is likely to arise is that of fairness, which I have addressed at length in this determination.

76. It would not be open to an adjudicator to find that there was unfairness in the selection of a particular feeder school or schools unless the adjudicator can identify a convincing argument.

77. Simply not being able to obtain a place at your nearest school, particularly in an area where there are large numbers of schools in relatively close proximity, is not of itself unfair. There might be unfairness if it was demonstrated that there were no reasonable alternatives for children who would previously have gained a place at the school in question but would now be excluded from doing so. However, this is not the case here. It is inherent in the scheme of having oversubscription criteria which expressly may include feeder schools in preference to a distance criterion, and which does not preclude academy trusts from naming other schools in the trust as feeder schools, that children will not necessarily be able to attend their nearest school. The Code does not prescribe that feeder schools must be selected on grounds of their proximity to the ‘host’ school.

78. I have found on the basis of the available evidence that the inclusion of the four trust primary schools as an oversubscription criterion is unlikely to cause unfairness in the admissions to the school in September 2025. Nevertheless, should the trust determine to continue to name any (or all) of these four feeder schools in the MA’s arrangements for admissions in September 2026 (in particular the New Horizons Children’s Academy), it would be prudent to keep the impact of the admission of children from those schools in September 2025, and annually thereafter, under review to ensure that their inclusion does not begin to cause unfairness to the group of children identified by the objector. As I have said, there is currently no evidence to substantiate the objector’s argument of unfairness. However, as it appears the school is becoming increasingly popular, it is possible that such evidence may emerge in the future.

Other Matters

79. Having considered the arrangements as a whole it appeared to me that the following matters do not conform with the requirements of the Code and so I brought them to the attention of the trust. These matters are (paragraphs of the Code are indicated where relevant):

- 79.1. In the first paragraph under the title ‘Oversubscription criteria’, the phrase “a Statement of Special Educational Needs” is used. Statements no longer exist.

Reference to out-of-date terminology means that the arrangements will not be clear for parents. (Paragraph 14)

- 79.2. The 'Tie break' section states: "If within the above criteria the school reaches PAN and becomes oversubscribed, a random selection will be used as a tie-break to decide who will be admitted."

The tie-breaker is not clear for parents for the following reasons (paragraph 14):

79.2.1 If the school reaches PAN, then no more applicants are admitted. It is not clear from the arrangements how the tie-breaker will operate, in what situations it will need to be employed.

79.2.2 The way the tie-breaker is worded implies that the oversubscription criteria are always applied to the admissions process. Oversubscription criteria are only used when there are more applicants than there are places. The school therefore has to be oversubscribed before the oversubscription criteria are applied, not after.

79.2.3 The statement contradicts oversubscription criterion 6, which states: "Should there be two or more identical distances requiring prioritisation, places will be allocated to both students over PAN".

Also in respect of the tie-breaker:

79.2.4 The statement makes reference to the use of 'random selection'. It is assumed this is the same as 'random allocation', the requirements for which are set out in two paragraphs in the Code. Those paragraphs state:

- 1.34 (part): "Admission authorities that decide to use random allocation when schools are oversubscribed **must** set out clearly how this will operate, ensuring that arrangements are transparent, and that looked after children and previously looked after children are prioritised."
- 1.35: "The random allocation process **must** be supervised by someone independent of the school, and a fresh round of random allocation **must** be used each time a child is to be offered a place from a waiting list."

The arrangements do not meet the requirements as set out in the Code in this regard.

- 79.3. Under the 'Late applications' section, it is stated that: "If, following consideration of all applicants the school is oversubscribed, parents may

request that their child is placed on the school's waiting list". Parents are not expected to request to be placed on a school's waiting list. However, it is permissible for the school to ask parents to confirm if they wish their child(ren) to stay on the waiting list. (Paragraph 2.15)

Later in the arrangements, the 'Waiting lists' section states that parents can indicate if they wish their children to remain on the waiting list. This means that the statement about waiting lists under the 'Late applications' section is not only non-compliant, but also renders the arrangements contradictory when compared against the statement under the 'Waiting lists' section and is therefore not clear for parents. (Paragraph 14)

79.4. Also under the 'Waiting lists' section, it is stated that "Medway Council will be responsible for holding a waiting list for parents who request their child's name be added until 31 December". It is not clear for parents what the rest of this section is referring to in respect of 1 January onwards. (Paragraph 14)

79.5. Under the section entitled: "Admission of children outside their normal age group", the process that the school expects a parent to follow when the parent is applying for a place for their child(ren) out of their normal age group (paragraph 2.18) is not clear because the following information is not included:

- what form the application should take;
- to what body or person the application should be made;
- what body or person makes the decision; and
- how a parent knows what steps to follow. (Paragraph 14)

79.6. Under the section entitled 'Casual admissions - all year groups':

79.6.1 It is not clear for parents that this section covers the process in respect of 'in-year admissions'. (Paragraph 14)

79.6.2 This section mostly appears to cover the school's obligations under the Fair Access Protocol (FAP) and does not cover the 'in-year admissions' process. (Paragraphs 2.23 – 2.26 where relevant to admission authorities)

79.6.3 Paragraph 2.26 of the Code states (in part):

"If the admission authority is to be a part of the local authority's in-year co-ordination scheme, it must provide information on where parents can find details of the relevant scheme."

Although this can be found on the school's website, it is not clear in the arrangements that in-year applications are dealt with through the LA. (Paragraph 14)

79.6.4 Paragraph 2.26 of the Code also states (in part):

“An admission authority, governing body or local authority **must** provide a hard copy of the information about in-year applications on request for those who do not have access to the internet”.

Neither the arrangements nor the school's website make this option clear to parents.

79.6.5 It is also stated that:

“Parents/Carers whose application is turned down shall be entitled to appeal.”

This is not always the case as is set out in paragraph 2.20 of the Code in respect of those who might apply for a place out of their normal age group:

“Parents have a statutory right to appeal against the refusal of a place at a school for which they have applied. This right does not apply if they are offered a place at the school, but it is not in their preferred age group”. (Underlining is my emphasis).

79.7. In respect of determining the home address of a child whose parents live at different addresses, the section entitled ‘Notes’ states that: “If a child resides between split parents for different parts of the week the parents must agree and nominate one of their addresses to be used for the application.”

It may not always be possible for parents to agree which address is to be used (particularly in situations where there is an ongoing acrimonious divorce or custody battle, for example). Therefore, the arrangements are not clear for parents in that situation (paragraph 14) and it is not clear why the school have not set requirements that can be met by all parents. The arrangements are, therefore, also not meeting the requirement to: “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 1.13) in that regard.

80. The school has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. The Code requires that the arrangements be amended to address the points I have raised within the timescale set out in this determination.

Summary of Findings

81. The objector raised a concern about the fairness of oversubscription criteria 3 in the school's arrangements. In considering that concern, I found that there to be little evidence of that which the objector asserts. I find that the inclusion of the four TTSAT feeder schools has not caused unfairness. I, therefore, do not uphold the objection.

82. I have found other matters in respect of the school's arrangements which I have detailed in the 'Other Matters' section. The trust has said it will address them and it must do so in the timescale set out in this determination.

Determination

83. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2025 determined by The Thinking Schools Academy Trust for the Maritime Academy, Gillingham.

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

85. 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 decision unless an alternative timescale is specified by the Schools Adjudicator. In this case I specify that the arrangements must be revised by 15 October 2024. This will ensure that the changes will be implemented prior to the closing date for the current application round for entry in 2025.

Dated: 3 October 2024

Signed:

Schools Adjudicator: Dr Robert Cawley