



DETERMINATION

Case references:	ADA 2616, 2617, 2644-2650, 2668, 2669, 2673-5, 2678-2683, 2685-7, 2695, 2702, 2704-9
Objectors:	parents, the governing bodies of Beths Grammar School and of Chislehurst and Sidcup Grammar School, Bexley
Admission Authorities:	the governing body of Dartford Grammar School for Girls and the Academy Trust of Dartford Grammar School
Date of decision:	1 September 2014

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold objections which have been made to the admission arrangements determined by the governing body of Dartford Grammar School for Girls and by the Academy Trust of Dartford Grammar School.

I have also considered the arrangements of both schools in accordance with section 88I(5). I determine that they 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 authorities. The School Admissions Code requires the admission authorities to revise their admission arrangements as quickly as possible.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), a number of objections have been referred to the Adjudicator by parents and by other local grammar schools (the objectors) about the admission arrangements (the arrangements) for September 2015 for Dartford Grammar School for Girls, which is a foundation grammar school for girls aged 11 to 18, and for Dartford Grammar School, which is an academy grammar school for boys aged 11 to 18.

2. The objections result from changes made by both schools to their admission arrangements for September 2015 from those which applied for September 2014. The objectors say these changes will have the effect of reducing unfairly the number of places at the two schools which will be available to local children, making the new arrangements themselves unfair.

Most of the objectors also complain about the processes of consultation followed by the schools prior to the determination of their arrangements, and individual objectors have also objected in the case of the girls' school to further specific aspects of the arrangements.

Jurisdiction

3. The arrangements for Dartford Grammar School for Girls were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing body, which is the admission authority for the school.

4. The terms of the academy agreement between the academy trust and the Secretary of State for Education require that the admissions policy and arrangements for Dartford Grammar School are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the academy trust, which is the admission authority for the school, on that basis.

5. The objectors submitted their objections to these determined arrangements in the period between 4 May 2014 and 30 June 2014. I am satisfied the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

6. When I looked at the admission arrangements, I was concerned that those for both schools for both September 2015 and September 2014, contained matters which may constitute breaches of the requirements of the Code and I decided to use my powers under section 88I(5) of the Act to consider these matters further.

Procedure

7. In considering these objections I have had regard to all relevant legislation and the School Admissions Code (the Code).

8. The documents I have considered in reaching my decision include:

- a. the objectors' emails and forms of objection dated from 4 May 2104 to 30 June 2014;
- b. the responses made by the school and by Kent County Council, the local authority (the LA), to the objections and supporting documents;
- c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2014;
- d. maps of the area identifying relevant schools;
- e. confirmation of when consultation on the arrangements last took place for both schools;
- f. copies of the minutes of the meetings at which the governing body of Dartford Grammar School for Girls and the academy trust of Dartford Academy determined the arrangements; and

g. copies of the determined arrangements for both schools for September 2014 and for September 2015.

9. I have also taken account of information received during a meeting which I convened on 2 July 2014 at Dartford Grammar School and also of information provided to me subsequently in response to requests which I made at that time. It was not possible to secure the agreement of all parties that a single meeting concerning both schools be held, and so this meeting took place in two parts, with the LA represented in both parts and each school represented only in the part of the meeting relevant to it. Although all objectors were given the chance to attend, only two did so for that part of the meeting concerning the girls' school, one of whom also attended that part concerning the boys' school.

The Objections

10. A total of 31 objections have been made, many of which follow a common format. Seventeen objections concern Dartford Grammar School for Girls and 14 are to the admission arrangements of Dartford Grammar School. Eleven objectors have complained about the arrangements of both schools.

11. Almost all the objectors say, firstly, that the arrangements for the schools are either unreasonable, unfair or discriminatory, and that they therefore fail to meet the requirements of paragraph 1.8 of the Code, which says:

*“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group.....”*

12. Secondly, objectors say that the consultations carried out by the schools prior to determining their arrangements failed to meet the requirements of paragraphs 1.44 and 1.45 of the Code, but most do not explain their reasons. Paragraph 1.44 lists those who must be consulted when an admission authority proposes to change its admission arrangements, and paragraph 1.45 requires the proposed arrangements to be posted on the school's website for the duration of the consultation period, and that a copy of them be sent to any of these statutory consultees who request it.

13. Where objectors give reasons, these have been that:

(i) the schools failed to consult the admission authorities for the four grammar schools in neighbouring Bexley;

(ii) the schools did not attempt to engage the local community as a whole;

(iii) no attempt was made to consult parents of pre-school children, and

(iv) that the local councillor for the ward in which the schools are situated was not consulted.

14. In addition, objectors make the following complaints concerning Dartford

Grammar School for Girls:

(i) that the school did not meet the requirement of paragraph 1.47 of the Code that, once determined, arrangements must be notified to the relevant bodies set out in regulations;

(ii) that the removal of the priority previously given to siblings of girls attending the school was unfair to families of current pupils who have a younger daughter, and

(iii) that the removal of a reasonable catchment area from the oversubscription criteria used by the school breaches paragraph 1.14 of the Code, which states that:

*“Catchment areas **must** be designed so that they are reasonable and clearly defined”.*

Other Matters

15. Having looked at the admission arrangements for both schools for September 2015 and those which have applied for September 2014, I was concerned that they may both contain further aspects which did not meet the requirements concerning admission arrangements set out in the Code. I therefore wrote to the schools in letters dated 26 May 2014 and 3 June 2014, seeking their comments on the following matters concerning the arrangements for September 2015:

A. Dartford Grammar School for Girls

16. The school's admission policy for its sixth form:

a. contained no statement concerning the admission of girls whose statement of special educational need names the school. Paragraph 1.6 of the Code requires admission authorities to state clearly how places will be allocated, and that such children will be admitted;

b. failed to state an admission number defining the number of students to be admitted from other schools, as required by paragraph 1.2 of the Code, but gave a total number of places in the sixth form;

c. stated as part of the entry qualification for students that “the school must be able to provide a viable sixth form programme” which I considered may not conform to the requirement of paragraph 14 of the Code that “parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated” since it was a statement whose effect those outside the school would not be able to understand.

17. All the issues listed above concerning the arrangements for September 2015 for Dartford Grammar School for Girls were also raised with the school as possible matters of non-compliance concerning the arrangements for September 2014.

B. Dartford Grammar School

18. The school's arrangements for admission to Year 7 contained no statement that the waiting list for admissions will be re-ordered according to the school's oversubscription criteria each time a boy is added to the list, as is required by paragraph 2.14 of the Code.

19. The school's admission arrangements for its sixth form:

a. contained no statement concerning the admission of students whose statement of special educational need names the school. Paragraph 1.6 of the Code requires admission authorities to state clearly how places will be allocated, and that such children will be admitted, although the school's academy agreement makes such admissions subject to an appeal to the Secretary of State;

b. included application forms which allow students to list extra-curricular activities and career aspirations. Paragraph 2.4 of the Code forbids the use of forms which seek information which is not directly relevant to the application of an oversubscription criterion or to selection by aptitude or ability. Paragraph 1.31 states that tests for all forms of selection must be clear and objective. Paragraph 1.9i forbids schools giving priority on the basis of children's hobbies or activities;

c. contained a statement that places are conditional on "the availability of courses" which may not conform to the requirement of paragraph 14 of the Code which states that "parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated", since this is not a matter which can be discerned other than by the school.

20. Dartford Grammar School's arrangements for September 2014 do contain appropriately worded statements concerning the waiting list for places in Year 7 and concerning the admission of students with a statement of special educational needs to the school's sixth form.

Background

21. Both schools are successful and very heavily oversubscribed grammar schools located very close to each other in Dartford in the northwest of Kent, close to its border with the London Borough of Bexley (Bexley). Both are within relatively easy reach of large parts of London. Dartford Grammar School for Girls was last inspected by Ofsted in November 2011 when it was judged to be good. Dartford Grammar School became an academy school in December 2010. Its predecessor school was inspected by Ofsted in May 2008, when it was considered outstanding. Ofsted's assessment in 2011 was that it had maintained this standard.

22. There are two other grammar schools in Dartford and two more in Gravesend, which is about eight miles away to the east. Together, the six schools provide three grammar schools for girls and three for boys in northwest Kent. Bexley also has four grammar schools, one each for boys and

girls and two mixed grammar schools. Each of these is within a very few miles of the two Dartford grammar schools. Two of these schools, Beths Grammar School, the grammar school for boys, and one of the mixed grammar schools, Chiselhurst and Sidcup Grammar School, have objected to the admission arrangements of both Dartford grammar schools.

23. A determination in 2005 by the schools adjudicator which involved the grammar schools in the area considered objections from the London Borough of Bromley Council and Kent County Council concerning the use by the six northwest Kent grammar schools, which at the time formed a consortium, of “first preference first” oversubscription criteria. More recently, in 2009, an objection to the feeder schools which Dartford Grammar School for Girls named in its arrangements led to it adopting oversubscription criteria employing instead a catchment area and named parishes to give priority within the group of qualified girls. Both of these previous determinations were made in the context of an earlier version of the Code, the present version having come into force in February 2012. Dartford Grammar School for Girls has now determined arrangements for September 2015 which use different oversubscription criteria, and it is as a result of this change that objections have been made to its arrangements.

24. Parents living in Kent who wish to apply for a place at a grammar school enter their child for the LA’s assessment tests, which are taken over two days. Children who live outside Kent or who attend schools out of the county are commonly called to testing centres and take the tests in a single day. As a result of the testing each child is assessed as being of “selective” ability, or not. Although the LA is the admission authority for only some of Kent’s grammar schools, all of them adopt this criterion as the minimum standard for a child being offered a place. However, some of the county’s grammar schools are very heavily oversubscribed with “selective” applicants, and different grammar schools have adopted different means for further regulating admissions. The objections in this case arise because the two Dartford grammar schools have made changes in the way that they will do this for admissions in September 2015.

a. The arrangements for Dartford Grammar School for Girls

24. As determined on 25 March 2014, the school’s admission arrangements for admissions to Year 7 in September 2015:

- (i) set a published admission number (PAN) of 160;
- (ii) give first priority to looked after and previously looked after children;
- (iii) say that the next 100 places are reserved for girls living in Dartford or in 18 named parishes;
- (iv) provide for the admission of remaining eligible girls.

If any of these groups are oversubscribed, applications are ranked in descending order according to girls’ aggregate scores in the Kent assessment tests, and then using distance between the school and the girls’ homes if

scores are the same.

25. The arrangements for September 2014;

- (i) set a PAN of 160;
- (ii) give first priority to looked after and previously looked after children;
- (iii) give second priority to siblings of girls who will still be attending the school at the time the student would be admitted;
- (iv) give third priority to girls living within one mile of the school;
- (v) give fourth priority to girls living in Dartford or in 18 named parishes;
- (vi) provide for the admission of remaining eligible girls;

If any of these groups are oversubscribed, applications are ranked according to girls' aggregate scores in the Kent assessment tests, and then using distance between the school and the girls' homes if scores are the same.

b. The arrangements for Dartford Grammar School

26. As determined on 10 March 2014, the school's admission arrangements for Year 7 in September 2015:

- (i) set a PAN of 180;
- (ii) give first priority to looked after and previously looked after children;
- (iii) say that the next 90 places are reserved for boys who live in 17 named electoral wards in Dartford, an area referred to by the school as "Zone A";
- (iv) provide for the admission of other (qualified) boys.

Descending order of aggregate test scores in the assessment tests and then distance in the event of scores being the same are used to provide an order of priority if any of these groups are oversubscribed.

27. The arrangements for September 2014:

- (i) set a PAN of 150;
- (ii) give first priority to looked after and previously looked after children;
- (iii) give next priority to those living in 14 named electoral wards in Dartford, an area referred to as "Zone A";
- (iv) provide for the admission of other (qualified) boys.

Descending order of aggregate test scores in the assessment tests and then distance in the event of scores being the same are used to provide an order of priority if any of these groups are oversubscribed.

Consideration of Factors

28. I shall set out my consideration of all the matters detailed above, where possible dealing with issues which are common to both schools together, but making clear when I am referring to each of the schools.

1. The fairness and reasonableness of the arrangements

29. Both schools have determined arrangements for September 2015 which, compared to those for 2014, appear to be likely to result in fewer local children gaining places. Both have placed a cap on the number of places for which priority will be given to those living within a defined zone around the school, leaving remaining places to be allocated on the basis of highest test scores irrespective of where the child lives.

30. Objectors say that this approach renders the new arrangements of both schools variously “unfair”, or “unreasonable” or that they cause unfair disadvantage to certain children. I have considered all of the points which have been made by objectors either in correspondence or during the meeting which I convened. In doing so in relation to the question of the fairness of the arrangements, I have needed to distinguish between comments which refer to a change which an objector says will adversely affect local girls, and which the objector therefore considers “unfair”, and those which speak to what I believe the Code means when using the word unfair, which is unfair in the sense of inequitable or unjust. The Code uses the phrase “procedurally fair” in paragraph 1.8 and it is to this paragraph of the Code that I am referred by objectors. That is, “fair” in paragraph 1.8 of the Code does not necessarily mean “equal to somebody else” but rather “fair and reasonable to the individual concerned”. Since I have considered the arrangements as a whole, I have also borne in mind that paragraph 14 of the Introduction to the Code also uses the term “fair” when it says that:

*“...admission authorities **must** ensure that the practices and the criteria used to decide the allocation of places are fair, clear and objective.”*

This unqualified use of the word does imply a more general sense of fairness, but refers also to practices and criteria and so in my view has the sense of “not inequitable” or “not unjust”. A circumstance, or the change which brought it about, may be unwelcome but it need not necessarily also be unfair, in this sense. The points which have been made which address the fairness, in the sense of the Code, or the reasonableness of the arrangements, or allege that they unfairly disadvantage some children, and which are therefore relevant to my consideration, are the following in respect of both schools:

- (i) that the arrangements mean that some qualified children living within the area to which priority is given will in future fail to be allocated a place;
- (ii) that the higher score needed in future to secure a place for those living within this area will mean that the “coaching culture” will be given further impetus, disadvantaging those unable to afford such coaching;
- (iii) that children living in this area will not know the mark on the tests needed

to secure a place in future;

(iv) that some local children will in future need to travel further than to one of the two Dartford grammar schools to access grammar school education;

(v) that it is unfair to remove a child's right to attend their nearest appropriate school;

(vi) that since lower scoring local children will live in more deprived areas than higher scoring local children, the higher score required to gain admission disadvantages a particular social group, and

(vii) that the Code does not permit the use of a capped number of places to be associated with a given oversubscription criterion, meaning that this practice is unfair.

31. Each of the schools has defended its actions. The girls' school does so by saying that its previous use of a catchment area within one mile of the school both disadvantaged children whose parents could not afford to move there and at the same time caused anomalous and apparently unfair effects for some children who live just outside it. It also says that there was a perceived unfairness on the part of some parents of better qualified girls living outside the one mile catchment area or the 18 named parishes (the areas given priority). Because a higher score in tests has been required for such children to secure a place, many living there have not applied for a place at the school. The school says that the governors felt that this position did "not adhere to the Greenwich ruling and provide equality of opportunity and choice". Having changed its oversubscription criteria for 2015, the school believes that since these ensure that at least 100 out of 160 places will go to local girls it will maintain its traditional links with the communities concerned.

32. The boys' school says that the uniqueness of the curriculum which it provides (the International Baccalaureate Middle Years Programme as the framework for the curriculum in Years 7 to 11, and the IB Diploma programme in the sixth form) means that its desire to offer broad access to it makes its arrangements fairer, not less so. It says that in excess of 80 per cent of current applicants for places live outside the school's local area and that the ability to provide this large number of applicants in future with definite information about the number of available places makes its new arrangements more transparent and therefore fairer. It believes that the removal of the certainty that they will secure a place for qualified candidates living in "zone A" will reduce what it calls "postcode gaming" under the previous arrangements. It does acknowledge that the new arrangements may mean that "a number of Dartford applicants in some years" may not be admitted when previously they would have gained a place, but believes that ensuring that half of the places go to the approximately 25 per cent of qualified applicants who live locally is to maintain a very significant advantage in their favour compared to those who do not live in the area.

33. The LA had expressed concerns to the girls' school during its consultation on its proposed 2015 arrangements since these constituted a radical change from the school's historical position of having arrangements which were

designed to serve the Dartford locality. As a result of the changed nature of the arrangements the LA believed its ability to plan and commission appropriate local school places could be undermined, and was pleased that following the consultation response the school had increase from the proposed 80 to 100 the number of places for which priority was given to girls living locally in the determined arrangements for 2015. It would have preferred arrangements which meant that places were not available to girls living outside the school's traditional area if qualified girls from within were still seeking a place, but also recognised that the school could have determined arrangements which would have given much less certainty of local girls obtaining places.

34. The LA's view concerning the boy's school is exactly comparable. It says the school's arrangements for 2015 give it concerns about its ability to provide enough places for boys in the Dartford locality who qualify for a grammar school place. However, it had recognised when it discussed with the school what it was proposing during its consultation on its arrangements for 2015 that the school could have been proposing what is known in Kent as "super selection". This approach, in which priority is based on test scores alone, is used by some other grammar school in the county. The LA regards the determined arrangements of the school, which provide priority to boys living locally for a capped number of places, as an unhappy compromise. As with the girls' school, the LA would prefer the school to give priority to all local qualified boys over those living at a greater distance.

35. I am asked by the objectors to agree with their view that the extent to which the limitations which both schools have introduced on the number of Dartford children who they are likely to admit is such that their arrangements are rendered unreasonable and unfair to local children for the reasons they have given me and which are set out above. I shall start by considering the last of those mentioned.

(i) the unfair use of capped numbers of places

36. The objector who raised this point asks me to agree with his view that since paragraph 1.7 of the Code says that, after the admission of looked after and previously looked after children,

*"Oversubscription criteria **must** then be applied to all other applicants in the order set out in the arrangements"*

that any given oversubscription criterion must be applied, in its position within the list of oversubscription criteria, until there are no more places left to be allocated. On this reading, only if places remain does the next oversubscription criterion become active and the school's oversubscription criteria which limit the number of places available under particular oversubscription criteria are, in the objector's view therefore unfair and unreasonable.

37. I agree that there must be a single number of available places (the PAN) and that the Code requires oversubscription criteria to be applied sequentially if there are more applicants than this number. However, there is nothing in the

Code which forbids a given oversubscription criterion from being drawn up so that it relates to a smaller number of places than those remaining at that point in the sequential application of the oversubscription criteria as a whole. The Code refers in fact to such an approach in the context of schools which have partially selective intakes (paragraphs 1.21 to 1.23), to those permitted to select by aptitude (paragraph 1.24) and concerning faith schools which give some priority to children not of the faith (paragraph 1.37). I am therefore unable to agree with the objector that the schools' admission arrangements for September 2015 are for this reason in breach of what the Code permits, and I do not uphold this objection to them.

(ii) the unfair disadvantage caused

38. A different objector has pointed to the fact that the arrangements for both schools mean that it is probable that in order to secure a place at either of the schools in the future children living in Dartford will need to have scored more than the minimum used to define those of selective ability. He says that this means that those at risk of not securing a place will be the lower scoring qualified candidates, who are likely to be those living in the more deprived local wards. The objector provides no evidence for this assertion, however. It is potentially the case nevertheless that the scores of children from more deprived areas will be lower than those of children of comparable ability in the general population. There will be lower scoring qualified children living in all areas, but it may be the case that some of these children who are from more socially disadvantaged backgrounds might otherwise have scored well enough to achieve what is in future likely to be a higher minimum score required to secure a place at one of the two schools. The absence of any clear evidence at this point means that I cannot be sure that the arrangements of the schools unfairly disadvantage those of a particular social class, and that the requirements of paragraph 1.8 of the Code in this regard are being breached. I therefore do not uphold the objection which has been made on these grounds. However, I do not rule out the possibility that the arrangements of one or of both of the schools may be vulnerable in future to an objection which might be made on these grounds, and each will need to keep the impact of the changes they have made under review with this in mind.

(iii) the unfair removal of the right to attend a local school

39. The objection made by a third complainant, that the arrangements are unfair in removing children's right to be admitted to their nearest appropriate school assumes the existence of such a right. The objector may believe that there is a moral right of this sort, but there is certainly no such legal right. Children have a right to be admitted if seeking a place at a school which has one available, and local authorities plan the availability of such places to enable children to go to schools locally, but they cannot guarantee a local place for every child. Oversubscription criteria are needed to decide which children do, and which children do not, secure places when too few are available for all those who would like them. I do not uphold the objection made on these grounds that the schools' oversubscription criteria are unfair.

(iv) the unfair effect on access to school places

40. The remaining points of objection concern further consequences, as seen by objectors, of the limitations placed on the number of places for which priority is given to local children in the arrangements of the two schools. These envisaged consequences are that a higher points score in selection tests, which will be an unknown score for candidates, will result in some local children not gaining places and so having to travel to another grammar school. It is not difficult to accept that these are likely consequences of the changes which have been made by the two schools to their admission arrangements, nor that these are all unwelcome changes for those who will be affected by them. They are inevitable facets of circumstances which the boys' school accepts are likely to occur "in some years". I have noted that both schools have pointed me towards the existence of spare capacity in other local grammar schools, which implies that they both accept the likelihood that their arrangements mean that some local qualified children are likely to need these other places as a result of the changes they have made. I shall return to a consideration of this position below.

41. First however, I believe it is helpful to consider a specific point of perceived unfairness which was raised by an objector in the meeting which I convened on 2 July 2014. This was that for the boys' school, the arrangements could mean that if there were in a particular year a large number of applicants living in "zone A", there could be a higher cut-off score required for local boys to be admitted than that required for the remaining places, which would be seen as particularly unfair. This same issue does not arise for the girls' school which has refuted in its written response to some of the objections their suggestion that the places remaining after priority has been given to girls living locally would be "reserved" for children "who do not live in Kent". It has stated that the meaning of its oversubscription criterion is that "any student" irrespective of their address is eligible for consideration following the allocation of the first 100 places. This means that the minimum score required for entry cannot be different for girls living locally and those from further afield. However, the wording of the arrangements does not currently make this intention plain, and so the girls' school will need to address this in order to ensure that its admission arrangements are clear. The boys' school wrote to me following the meeting at which this point had been raised saying that it was willing to adopt the same approach as the girls' school in order to remove a potential source of unfairness from its own arrangements. I believe that this would be a welcome change to its admission arrangements.

42. As I have pointed out above, both schools have invited me to accept that their arrangements address unfairness for those children not living locally who wish to secure places at their schools. By reducing certainty for local children, more certainty can be given to more children in that the number of places available to those not living locally can be defined, they say. At the same time, they argue, the current perceived unfairness of the differences in test scores needed to secure a place for local children compared to that required for others can be reduced, as can the perceived unfairness to those with lower

financial resources who cannot afford to acquire addresses in the local area. The schools invite me, in essence, to accept that there is a balance to be struck between all these matters for two different groups of applicants for places and that they have not tipped the scales so far that their arrangements have become unfair or unreasonable as a whole. Again, I accept that the issues drawn into the argument by the schools for those living outside the areas given priority for places are real for those affected, and I shall consider this further below.

43. However, before doing so, I will turn my attention to an argument which has been expressed by the girls' school as a justification for the changes which it has made. It has said that it has taken into account the view that it was previously at risk of failing to comply with the Greenwich Judgement of 1989. The implication of this is that it was necessary for the school to provide better access for those living further away than it has done previously. The Greenwich Judgement refers specifically to circumstances in which residence within a local authority itself is used as the basis for giving priority to some children for school places. This has not been the case concerning the school's arrangements up to the present time, and I am clear that the Greenwich Judgement was not relevant to the school's considerations.

44. Nevertheless the schools have changed their arrangements and I have been invited by the objectors to agree with them that these new arrangements are unfair. In order to come to a view on this issue, I shall consider the arrangements themselves and their likely effect, and whether they create unfairness in the sense meant in the Code. I have asked the LA to provide me with information drawn from recent admission processes in order that I can assess for myself the evidence which exists concerning the likely effect of the arrangements in coming years. I have drawn the following summaries from the information which the LA has provided:

Dartford Grammar School for Girls

Information	2014	2013	2012
Grammar assessed girls living in northwest Kent	325	310	340
Eligible preferences for a place from Kent residents	241	248	255
Offers made to Kent residents	143	138	142
Offers that would have been made to residents in area given priority in 2015 for 100 places	142	137	142
Grammar places in Dartford	280	280	280

Grammar places northwest Kent	425	425	425
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Dartford Grammar School

Information	2014	2013	2012
Grammar assessed boys living in northwest Kent	388	352	368
Eligible preferences for a place from Kent residents	305	277	278
Offers made to Kent residents	122	102	90
Offers that would have been made to residents in area given priority in 2015 for 90 places	116	89	75
Grammar places in Dartford	270	270	270
Grammar places northwest Kent	420	420	420

45. I had asked the LA to provide me with any available forecasts of Year 7 pupil numbers for northwest Kent in coming years. Its response was given orally during the meeting which I held, and was that Kent was expecting an approximate 20 per cent increase in the population of the county under the age of 18 in coming years, and that all primary schools in Dartford are already admitting children in excess of their PAN, or have been asked to do so. It provided me with no further details.

46. The information set out above does indicate that some children of selective ability living in the priority areas for the two schools as defined in their arrangements for 2015 are likely in future years to be unable to secure places there. The anticipated increased in the size of the population also makes it likely that there will be more rather than fewer such children in this position in coming years, and the LA has said so. However, there are also other potentially available grammar school places nearby and I am mindful that the LA, part of whose role is to secure the availability of appropriate provision for the children of the county, has itself not raised an objection to the arrangements of the two schools.

47. I have considered whether the changes which the two schools have made

in their arrangements for September 2015 will affect the parents of children living locally in comparable ways, or whether these effects are likely to be so different that I should also view the objections which have been made differently. The arrangements for the girls' school give priority to 100 local girls from the 140 places which it is providing. Those for the boys' school do so for 90 of its 180 places, which is a significantly lower proportion. However, these figures need to be understood within a complex context which makes any straightforward comparison problematic. Firstly, as the LA has taken some trouble to point out to me, the relationship of the boy's school to the Dartford locality has for a number of years been different to that of the girl's school because of the curriculum which it offers. This is seen by both the school and the LA as not necessarily being suited to all qualified boys, and for this reason the school has "...attracted pupils from a wider reaching catchment area, as a result of this niche which they have created in the education market", to quote the LA. Comparison is further complicated by the different proportion of boys and girls achieving selective status as assessed by Kent's testing system and by the fact that the local areas given priority in the arrangements of the two schools are not the same geographical locations and are of different sizes, with the area for the girls' school being the larger. I have therefore sought to determine, given that some of the children living in the areas locally to which the two schools give priority are likely to be unable to secure places there in future, whether there is likely to be a significant difference in the extent to which this is true for boys and girls.

48. The boys' school has told me that the six year average for the number of grammar assessed applicants from its current "zone A" is 106, and that there has been an average of a further 20 applicants from the three wards which have been added for 2015 admissions. So it seems probable that something like 36 of 126 local qualified boys seeking places may not be successful, given the 90 places for which they will have priority. The information in the table above concerning the girl's school indicates that the comparable figure for local girls is that about 40 of 140 local qualified girls seeking places may not be successful under the school's new arrangements. These two proportions of satisfied to unsatisfied qualified local applicants are so similar that I cannot say, given that both are in any case only informed estimates, that there is evidence of a different effect between the two schools. I do not say that this or any other particular degree of local dissatisfaction amounts to evidence of fairness or unfairness in itself. What it does indicate to me however is that the effects which the changes which the two schools have made seem, as far as can be judged from the evidence which is available, to be similar.

49. I have also considered the admission arrangements of Dartford Grammar School for September 2015 in the light of the requirement placed on any academy school in section 1A(1)(d) of the Academies Act 2011 "to provide education for pupils who are wholly or mainly drawn from the area in which it is situated". I understand this to mean that an academy school must as a minimum provide through its admission arrangements for more than half its available places to be available to local children. The school gives priority for exactly half of its available places to qualified boys living in "zone A", where it is itself located. I have seen evidence of the locations of the homes of all the boys admitted to the school in 2012, 2013 and 2014, and in many cases those

not admitted from within “zone A” have been living in close proximity to it. I can see no reason for this not to continue to be the case under the school’s new arrangements. My view is therefore that these arrangements will make available more than half the school’s places to boys who can be said to be living in the area in which the school is situated, and that they conform to what is required.

50. The four grammar schools in Dartford are all within a distance of no more than 1.5 miles of each other. Wilmington Grammar School for Girls and Wilmington Grammar School for Boys give priority for the majority of their places either on the basis of distance from the school or to children living in named local parishes, prioritised by distance. That is, both schools draw from very much the same areas and the same population as Dartford Grammar School for Girls and Dartford Grammar School. I am aware that parents in Kent are warned that that being deemed “selective” does not carry with it the guarantee of a place at a grammar school, and that more able children can and do receive appropriate education at other secondary schools. Although a place in another secondary school may well not be thought acceptable to many parents of qualified children, it is nevertheless likely to constitute the provision of appropriate education.

51. The evidence set out above also indicates that, at least for the immediate future, all children of selective ability in Dartford are very likely to continue to be able to secure a place at a grammar school in the area. In saying this, I accept the objectors’ view that some local children are likely to be affected by the increased uncertainty in securing a place, since the arrangements of the two schools no longer give total priority in favour of local children to the extent that all those living in their defined areas of priority and who are of selective ability are guaranteed a place.

52. However, I find it difficult to come to the view that the arrangements of the two schools themselves are, at least in the short term, likely to have the effect that they cause unfairness. The increased score needed to secure a place at the schools for local children may increase uncertainty, but I do not see this as a source of unfairness especially if the schools both adopt, as they say they will, arrangements which mean that local children are at no disadvantage to others in this respect. I also accept that an increased minimum test score may provide an impetus to the coaching culture which I am told exists, but have been encouraged that the LA has gone to considerable lengths to commission tests which will minimise the effect of this, although whether this has been achieved or not is disputed by the parties. Nevertheless I am not persuaded that this effect of the school’s arrangements can be said to be a source of unfairness given the LA’s efforts to reduce the effects of coaching at the present time. Finally, while unfairness would be evident if the arrangements of the schools could be seen to result in children being denied fair access to education, that issue does not in my view arise here. I do not uphold the objections which have been made on these grounds.

2. Consultation

53. A total of 11 objectors have complained that the girls’ school did not meet the requirements set out in the Code concerning the consultation which

admission authorities are required to carry out prior to determining their admission arrangements when any changes to them are proposed. The same complaint has been made by nine objectors concerning the procedure followed by the boys' school.

54. The relevant requirements are laid down in paragraphs 1.42 to 1.45 of the Code. Paragraph 1.44 list those who **must** be consulted and these are:

- “ a. parents of children between the ages of two and eighteen;*
- b. other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
- c. all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
- d. whichever of the governing body and the local authority are not the admission authority;*
- e. any adjoining neighbouring local authorities where the admission authority is the local authority; and*
- f. in the case of faith schools, the body or person representing the religion or religious denomination.”*

The relevant area for this purpose is the area of the local authority in which the schools are situated, which is the county of Kent. Paragraph 1.45 states that:

“For the duration of the consultation period, the admission authority must publish a copy of their full proposed admission arrangements (including the proposed PAN) on their website...”

55. Two of the objectors are the governing bodies of grammar schools which are situated in neighbouring Bexley and which are themselves academy schools and therefore their own admission authorities. Both complain that they were not consulted by either of the Dartford grammar schools prior to these schools determining their arrangements for September 2015.

56. The LA has stated that each school had consulted it during the appropriate period and that it assisted the schools by displaying the proposed arrangements on its website, which each of the schools had also done.

57. I have asked the schools to provide me with evidence that they met the requirements set out in the Code, and having examined what each has provided, I am unable to satisfy myself that either school consulted the admission authorities of other secondary schools in Kent. The girls' school has provided a printout of the list of e-mails it sent to "local schools" which does not allow the relevant details to be seen, and the boys' school has told me that it consulted "all Dartford primary schools". The LA told me at the meeting on 2 July 2014 that all other Kent grammar schools were made aware of the proposals of the two schools through its e-bulletin, but it is clearly the responsibility of the admission authority to assure itself that the requirements

concerning consultation have been met in full, not that of the LA. I have also seen no evidence of any meaningful attempt to engage the parents of pre-school children by either school, and so am of the view that their consultation procedures were deficient in these two respects. I therefore uphold the objections which have been made concerning the adequacy of the consultation carried out by both schools.

58. I have considered the specific objections made by the two grammar schools in Bexley that they were not consulted. I have seen clear evidence that the London Borough of Bexley was consulted by each of the schools, as required by paragraph 1.44e. There is no further requirement placed on an admission authority which is situated in Kent concerning schools which are in Bexley by paragraph 1.44, since paragraph 1.44b leaves the issue of other interested parties to their discretion. The schools did not consult either of the Bexley grammar schools concerning their intended admission arrangements, but they were not required to. I do not uphold these objections.

59. Neither did the schools engage with the local community at large, or consult the local councillor for the ward in which they are situated. Again, paragraph 1.44 places no requirement upon them to do either of these things, so failure to do so does not place the schools in breach of the Code. I do not uphold the objections which have been made on these grounds.

60. Although the consultations which were carried out were flawed in the ways stated above, a small number of responses were received by each school. It was a result of these in the case of the girls' school that its original consultation proposal that priority be given to local girls for 80 of the available places was changed. This priority is in respect of 100 places in the arrangements which were determined by the school on 25 March 2014.

3. Other objections concerning Dartford Grammar School for Girls

61. Individual objectors have also complained of the following concerning Dartford Grammar School for Girls:

(i) that the school did not meet the requirement of paragraph 1.47 of the Code that, once determined, arrangements must be notified to the relevant bodies set out in regulations;

(ii) that the removal of the priority previously given to siblings of girls attending the school was unfair to families of current pupils who have a younger daughter, and

(iii) that the removal of a reasonable catchment area from the oversubscription criteria used by the school breaches paragraph 1.14 of the Code, which states that:

*“Catchment areas **must** be designed so that they are reasonable and clearly defined”.*

62. The objector who raised the first issue, that they had not been notified of the determination of the school's arrangements, is a parent who had responded to the consultation and so believed that made her an interested

party who should be informed of the determined arrangements. Paragraph 1.47 of the Code says that “the appropriate bodies” must be informed, and a footnote defines these as those listed in paragraph 1.44 c, d and f, which I have quoted above, together with any governing bodies of community and voluntary controlled school in the relevant area not so covered. This means that an admission authority is under no obligation to inform other categories of consultee, including the objector, of the determined arrangements. I do not uphold this objection.

63. Secondly, two objectors say that the decision of the school to no longer give priority to the siblings of older girls is unfair to the families of current pupils who may have chosen to send an elder daughter to the school in the belief that a younger daughter, if deemed “selective”, would have a reasonable chance of also going to the same school. The school has given its reasoning for removing the priority, which is the perceived unfairness that results from some girls not obtaining places because the sibling of a student already in the school is admitted, possibly with a lower pass mark. The Code makes no requirement that admission authorities should give priority to siblings if oversubscribed, and so an admission authority is entitled to determine arrangements which do not contain such a provision. Every admission authority must determine its arrangements every year, and so it can never be taken for granted that they will remain unaltered from one year to another. However, the objection here is not to the removal of the priority for siblings as such, but to its removal for the siblings of girls who were admitted to the school when this priority formed part of the school’s arrangements. Since the small number of such admissions in any one year would reduce year on year and eventually become zero, and since the effect for the families concerned has the unfairness associated with any change whose effect is retrospective, it does seem to me that in the context of the unfairness which the school seeks to eliminate, it is not reasonable that the arrangements do not make this limited provision to avoid unfairness to the families of some girls who are already at the school. I therefore uphold the objection which has been made on these grounds.

64. Thirdly, an objection has been made that the removal of the priority previously given to those living within one mile of the school means that there is no longer a reasonable catchment area for admissions. The objector believes that this breaches paragraph 1.14 of the Code which states that:

*“Catchment areas **must** be designed so that they are reasonable and clearly defined.”*

This statement needs however to be read in the context provided by paragraph 1.10 of the Code which states that;

“It is for admission authorities to decide which criteria would be most suitable to the school according to local circumstances.”

Taken together, what this means is that an admission authority may choose whether or not to employ a catchment area in its arrangements, but that if it does it must define it on reasonable grounds and define it clearly. It is not a breach of what the Code requires no longer to employ a catchment area, and I

therefore do not agree with the objector. I do not uphold the objection which has been made on these grounds.

4. Other matters

a. Dartford Grammar School for Girls

65. The school replied on 10 June 2014 to my concerns regarding the possible areas of non-compliance in its arrangements which I had raised, and which are set out above, providing draft revised admission arrangements for September 2015 which contained wording which, if adopted as the school's determined arrangements, would remove these concerns.

66. However, these are not the school's determined arrangements which remain those which were determined on 25 March 2014 and which are deficient in each of the respects listed above. The Code requires the school to revise its determined arrangements as quickly as possible.

67. The arrangements for September 2014 contain the same deficiencies and the school should also revise these as quickly as possible as these arrangements continue to apply to the waiting list held in accordance with paragraph 2.14 of the Code.

b. Dartford Grammar School

68. The school responded on 11 June 2014 to the concerns which I had expressed about its arrangements, stating that an additional statement had been added to the wording concerning the waiting list for Year 7 places. At the time of writing this had been included in the wording of the school's arrangements to be found on its website. The school may revise its arrangements to give effect to a mandatory requirement of the Code using the provisions of section 88E of the Act and paragraphs 3.6 and 3.7 of the Code, and it may have done so in this case, although I have not seen evidence to this effect. If the school has not determined its arrangements again, these remain those which it determined on 10 March 2014 which are deficient in respect of the wording relating to waiting lists.

69. The school expressed itself content to remedy the remaining matters which I had raised with it concerning the admission arrangements for the school's sixth form. I am of the view that the arrangements for September 2015 are not compliant with what the Code requires in respect of the matters listed above. The Code requires the school to revise its determined arrangements as quickly as possible.

70. The arrangements for admission to the school's sixth form in September 2014 also contain references to the listing of extra-curricular activities and career aspirations, and again refer to "the availability of courses", and therefore also fail to comply with what the Code requires. The school should also revise these arrangements as quickly as possible.

Conclusion

71. I have set out above the view that I have formed concerning the objections which have been made concerning each of the school's arrangements for September 2015 and the matters of potential non-compliance which I have raised with the schools concerning their admission arrangements for September 2014 and September 2015.

72. For the reasons given above, I am of the view that both schools have failed to meet the requirements concerning consultation with parents of children of pre-school age and with local secondary schools prior to determining their admission arrangements for September 2015.

73. I have explained why I have concluded that the arrangements determined by Dartford Grammar School for Girls for September 2015 are in breach of what the Code requires:

(i) in paragraph 1.8 concerning the reasonableness of the arrangements in providing no priority to siblings of girls admitted to the school prior to September 2015;

(ii) in paragraphs 1.4, 1.2 and 1.6 concerning the admission of students to the school's sixth form. The school's arrangements for September 2014 are also deficient in this respect.

74. I have also explained my reasoning for coming to the view that the admission arrangements of Dartford Grammar School do not conform to the requirements of the Code in paragraphs 1.4, 1.9i, 1.6, 1.31 and 2.4 concerning the admission of students to the school's sixth form.

75. I have considered very carefully all of the arguments made by objectors that the arrangements of both schools breach the requirements of paragraph 1.8 of the Code in being unfair, unreasonable or in causing disadvantage to a particular social group. I have also considered objections which have been made concerning further aspects of the consultations carried out by the schools prior to their determination of their arrangements. For the reasons set out in the determination, I have not upheld these objections.

76. For the reasons given in the determination I have also concluded that Dartford Grammar School for Girls has not breached the requirements of the Code in paragraph 1.47 concerning the notification of relevant bodies of its determined arrangements, or of paragraph 1.14 concerning catchment areas.

Determination

77. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold objections which have been made to the admission arrangements determined by the governing body of Dartford Grammar School for Girls and by the Academy Trust of Dartford Grammar School.

78. I have also considered the arrangements of both schools in accordance with section 88I(5). I determine that they do not conform with the requirements

relating to admission arrangements in the ways set out in this determination.

79. By virtue of section 88K(2), the adjudicator's decision is binding on the admission authorities. The School Admissions Code requires the admission authorities to revise their admission arrangements as quickly as possible.

Dated: 1 September 2014

Signed:

Schools Adjudicator: Dr Bryan Slater