

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

Richard Long – Cabinet Member for Education and Skills

DECISION NO:

20/00060

Unrestricted

Key decision: **YES**

Subject: Adjustments to the Kent Test and Secondary Co-ordinated Admissions scheme as a result of COVID-19 restrictions

Decision:

As Cabinet Member for Education and Skills, I agree to: delay the Kent Test assessment until 15 October (17 October for out-county applicants) to allow children additional time to settle once they return to school and to increase the number permitted school preferences as part of the Secondary Common Application process from four to six for this year only.

Reason(s) for decision:

1.1 The Education Act 2002 includes a duty on each LA to formulate a scheme to co-ordinate admission arrangements for all maintained schools in its area and to take action to secure the agreement of the scheme by all admission authorities. KCC consulted on a Secondary Scheme for the 2021/22 school year, including key dates for the Kent Test, with all schools between 25 October 2019 and 9 December 2019. Following agreement from all admission authorities, the scheme was determined by the Cabinet Member for Education and Skills on 22 January 2020.

1.2 Following the global Covid-19 outbreak, central government closed all schools for the majority of pupils from 20 March 2020. Most current Year 5 pupils, many of whom will anticipate taking part in the Kent Test assessment process at the beginning of the next school year, have remained out of school since that date. The Government aimed to get all pupils back into schools for at least a month before the summer break, but unfortunately this has not proved possible. It is expected that pupils will all return in September, but as Covid 19 remains within the community, there continues to be the possibility of further disruption to the return to school, most likely through localised lockdowns. KCC must consider what impact an extended interruption to classroom teaching will have on those learners, ensuring that the assessment process remains as fair as possible within current limitations.

1.3 Current Year 5 pupils will have received differing levels of education during lockdown as a result of many factors. It cannot be assumed that all children with a particular set of demographic characteristics will have received the same level of education during this time. The Kent Test process has always sought to identify children for whom a Grammar education is the most appropriate and this aim will remain unchanged this year.

1.4 The Kent Test procedure uses a threshold model where test scores are not the sole determining factor in identifying the selective cohort. The threshold model enables appropriate consideration to be given to cases where the test scores of a child are not considered to be representative of their aptitude, for example because of their SEND needs. This provides KCC an opportunity to accommodate the reduction in availability of standard education for most pupils. A proportion of students are assessed as eligible for Grammar school through a Head Teacher based assessment process, which will allow a further opportunity for individual variations in learning opportunities to be considered. KCC sets the proportion of cases identified via their assessment score once testing has been completed.

1.5 The Kent Test process is a fundamental part of KCC's co-ordinated admissions process and provides centralised assessment for eligibility to apply to one of Kent's Grammar schools. The Kent Test is defined within all Kent Grammar schools admission arrangements as the method for identifying eligible candidates. KCC therefore has a legal responsibility to:

- provide a selection method for the Kent Grammar schools for which it is the Admissions Authority

(Dover Grammar School for Girls, Simon Langton Girls' Grammar School and Tunbridge Wells Grammar School for Boys), and

- a wider responsibility to those own admission authority schools who also make use of the Kent Test.

1.6 The Department for Education has been interacting with selective LAs since early April and recognises the difficulties of implementing a selection process during the Covid-19 pandemic. While it is expected that the Department will advise that delaying testing is the preferred option, to date no formal guidance has been published. While awaiting clarity from Government is desirable, parents and children require assurances as to what process they can expect, and schools and officers require sufficient time to implement whatever selection mechanism is identified as necessary for thousands of children inside and outside the County's primary schools.

1.7 KCC's test provider, GL Assessment, has been impacted by Covid-19 restrictions like most businesses across the UK. Lockdown prevented standardisation sampling for Kent, and although a solution is under way, it will delay the delivery of this year's test scores. This means results may not be available by 31 October even if the Kent Test is held on 10 and 12 September as defined within KCC's 2021-22 Secondary Admissions Scheme (Appendix A). Delaying the test dates, whether to manage the testing environment or as a result of further delays in school reopening, is likely to mean that parents cannot be given their children's assessment results before 31 October 2020.

1.8 Delaying testing by around one month will allow primary schools and their pupils to settle into a new routine for the 2020-21 academic year, provide an opportunity for all students to take part in school based learning and still ensure that KCC can fulfil its wider responsibilities defined within the School Admissions Code (2014) to make school offers by Secondary National Offer Day (1 March 2021).

1.9 To account for the fact that, on this occasion, parents would not have their child's test result by the National Closing Date for admission applications, the proposed increase to the number of permitted school preferences will enable parents who are uncertain of their child's eligibility for a grammar school to name up to two without reducing the number of non-selective schools on their application. There will be no limit on the number of grammar schools that can be named on the application, however, parents will be advised to consider potential scenarios where their child does not receive a selective assessment and select school preferences accordingly. Parents who are not considering a grammar school for their child will also have six preferences to ensure fairness across the co-ordinated process.

Equality Implications

2.1 The Kent Test assessment process remains unchanged and so any consideration of equality implications should be limited to those that directly result from a potential change in delivery date. KCC has always worked to make the process as accessible and fair as possible, taking into account any reasonable adjustments that can be made.

2.2 An Equality Impact Assessment was completed on the proposal. Delaying the Kent Test by one month has an overall positive impact for learners with protected characteristics, with a small level of negative impact for some learners.

Financial Implications

3.1 It is expected that there will be an increased cost for the Kent Test due to need to provide social distancing within test centres for out-county pupils, which will reduce the number of students who can be tested within a session and increase the number of invigilators and administrative manuals required.

3.2 While there is no way to accurately estimate the potential funding implications, as this will be reliant on what social distancing requirements are in place, test centre costs for the Kent Test for 2020 school intake were in the region of £85k. It would not be unreasonable to expect these costs to at least double for this year's test arrangements. As these additional costs are directly related to Covid-19 restrictions, these will be coded against the pandemic budget line.

3.3 Increased costs to testing materials will be kept to a minimum.

Legal implications and Risks

4.1 The School Admissions Code requires selective admission authorities to take all reasonable steps to provide applicants with the result of any assessment before National Closing Date for Secondary Admissions applications (31 October 2020). KCC's original determined scheme provided applicants their results on 15 October 2020. Proposals will result in test outcomes being delayed until late November.

4.2 As noted above, selective LAs currently await updated guidance from the Department for Education on how to resolve the difficulty in meeting legal requirements while delivering a fair and timely test during the pandemic, however, a decision must be made to allow applicants, schools and KCC officers sufficient time to implement an assessment process.

4.3 A separate rationale document was produced during the investigation phase of this process to explain why it is necessary to make these exceptional changes despite these requirements and can be found in Appendix B. This document was finalised on 4 June 2020 and has not been updated to reference the more recent changes to government policy on a return to school for Year 5 pupils to ensure an accurate record of the decision-making process can be maintained, however, this extended absence strengthens the need to delay testing.

4.4 While the School Admissions Code provides a mechanism for Local Authorities to finalise an admission's scheme by 28 February each year, there is no clear method to adjust a scheme once it has been determined. In lieu of specific guidance from government on how selective LAs can overcome this lack of clarity, a consultation was held with all impacted Kent schools to ensure a consensus of support could be evidenced (see Section 5). This mirrors the mechanism within the Code for initial determination of an admissions scheme.

4.5 A formal request has also been made to Rt Hon Nick Gibb MP, Minister for State Schools, to make the necessary changes to regulations to remove the potential for selective authorities to be challenged for making these essential amendments (Appendix C). This letter highlights that that KCC faces an equal risk of challenge if changes are not made, as KCC is required by the Equality Act (2010) to ensure that children and young people are not directly or indirectly unlawfully discriminated against and to make reasonable adjustments for children and young people with disabilities in administering the Kent Test.

4.6 The General Counsel has expressed concerns about the lawfulness of any route without further clarification and guidance from Government. Before any decision is taken, careful consideration will need to be given to the legal advice and a detailed equalities impact assessment to manage the risk. In the view of the General Counsel, it is likely that the Council will face claims of unlawfulness irrespective of course of action chosen due to the competing statutory duties and obligations and further advice will be provided at point of decision.

Cabinet Committee recommendations and other consultation:

The report was shared with Members of the CYPE Cabinet Committee for comment, prior to a decision being taken.

Consultations on the proposed changes to the Kent Test and Secondary Co-ordinated scheme were held with the following groups:

- Kent Primary and Junior schools
- Kent Independent schools who facilitate testing (Linked Independents)
- Kent Grammar schools
- Kent non-selective Secondary Schools

90% of Kent Primary and Junior schools and 100% of Kent Grammar schools which responded supported the proposals.

Any alternatives considered and rejected:

KCC faces an equal risk of challenge if changes are not made, as KCC is required by the Equality Act (2010) to ensure that children and young people are not directly or indirectly unlawfully discriminated against and to make reasonable adjustments for children and young people with disabilities in administering the Kent Test.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None



.....
signed

22 July 2020
.....

date

