



## **DETERMINATION**

**Case reference:** ADA3323  
**Objector:** Telford and Wrekin Council  
**Admission Authority:** Madeley Academy Trust Limited  
**Date of decision:** 31 August 2017

### **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 2018 determined by the Governing Board of Madeley Academy.**

**I have also considered the admission 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) of the School Standards and Framework Act 1998 the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.**

### **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 Telford and Wrekin Council (the objector) which is the local authority for the area in which the school is located, about the admission arrangements (the arrangements) for Madeley Academy (the school), a mixed comprehensive secondary academy school for pupils aged 11 to 18 years. The objection is to the school's Year 7 admission arrangements for 2018 and arises from the change to the arrangements from catchment area based arrangements to arrangements based on banding.
2. The parties to the objection are the objector and the school.

## **Jurisdiction**

3. The school became an academy on 1 April 2007. The funding agreement between the Secretary of State and the academy trust was executed on 30 March 2007. Clause 17 of that agreement states that arrangements for admissions for pupils at the school are set out in Annex 2. In accordance with the normal practice at the time Annex 2 sets out those arrangements in full. It is not necessary to set out the arrangements in Annex 2 in full here.

4. The objector's email attaching the objection was received by the Office of the Schools Adjudicator (the OSA) on 15 May 2017. The objection is to the change from catchment area arrangements to banding arrangements. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

5. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

## **Procedure**

6. In considering this matter I have had regard to all relevant legislation and the Code.

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

- a. the objector's email dated 15 May 2017 and the attached form of objection.
- b. the admission authority's response to the objection and supporting documents;
- c. the LA's composite prospectus for parents seeking admission to schools in the area in September 2017;
- d. confirmation of when consultation on the arrangements last took place and the determination of the arrangements;
- e. a copy of the determined arrangements;
- f. correspondence between the Office of the Schools Adjudicator and each of the parties

8. I held a meeting with the parties' representatives at the school on 12 July 2017.

## **Background**

9. Prior to conversion to academy status the school was a community school maintained by the objector. The objector operated a system of catchment areas for a number of the maintained secondary schools for which it was the admission authority at that time. The most recent revision of the

arrangements by the objector took place in 2008. Over the years a number of those secondaries have become academies although largely the catchment area system has remained in the admission arrangements of those schools, as it did at the school until the changes considered here were determined.

10. Minor changes have been made to the admissions arrangements set out in Annex 2 to the school's funding agreement over the years, for example to reflect changes in the law and the School Admissions Code (the Code). In summary, the arrangements used by the school since it became an academy provide for the admission of children with a statement of special educational needs (SEN) or education, health and care plan (EHCP) naming the school and have the following oversubscription criteria which are summarised as:

- a. looked after and previously looked after children
- b. children who live in the school's catchment area in the following order
  - i. exceptional health reasons
  - ii. siblings
  - iii. other children
- c. children outside the school's catchment area in the same order
- d. home to school distance is used to rank applicants within any of the above categories.

11. In the various arrangements referred to in this determination different phrases such as "*defined attendance area*" are used to describe catchment areas. For consistency I will use the term catchment area throughout this determination.

12. At some point in 2016 the admission authority resolved to carry out a consultation on varying the funding agreement in order to introduce a change from a catchment area based arrangement to a banding arrangement. A variation to the funding agreement was required as the admission arrangements are set out in full in Annex 2 to the funding agreement. The admission authority consulted widely with local schools and admissions authorities and published adverts in two local papers. The consultation period ran for seven weeks from 29 November 2016 to 17 January 2017. This consultation formed part of the process for effecting changes to an existing funding agreement. On 14 March 2017 the admission authority received a letter from the Department for Education (DfE) stating that the change to the school's admission arrangements had been approved by the Regional Schools Commissioner on behalf of the Secretary of State.

13. The consultation carried out by the admission authority also met the requirements of the Code for consultation on changes to admission arrangements set out in paragraphs 1.42 to 1.45. On 28 November 2016 the

Governing Board resolved to commence the consultation and support for the changes was confirmed by email by all governors. The minutes of the Governing Board for 24 March 2017 confirm the approval from the DfE for the proposed changes. I am satisfied that the admission authority properly determined the admission arrangements for 2018 by, at the latest, 24 March 2017 (which is a little over three weeks after the deadline set by paragraph 1.46 of the Code). For the avoidance of doubt, the lateness of the determination does not affect the status of the determined arrangements or my jurisdiction to consider the objection to those determined arrangements.

14. The school's admission arrangements for 2018 have been revised since the objection was presented in response to a number of comments I have made which will be dealt with under the heading "*Other Matters*" below. I will set out below the relevant parts of the admission arrangements as originally determined by the admission authority and as originally published on the school's website and sent to the objector.

***"Madeley Academy Rules of Admissions***

*Admissions to the Academy will be made in accordance with the statutory School Admissions Code and the School Admissions Appeals Code.*

***Places Available***

*Applications are welcomed from children of all abilities and with physical disabilities. Please inform the Academy of any specific disability which may result in a prospective student requiring individual help during the Admissions procedure.*

*The published pupil admission number (PAN) in to Year 7 is 180 for admission September 2018. These places will be filled by allocating places from the full range of ability of applicants, in accordance with the criteria embodied in the Funding Agreement between the Academy and the Secretary of State for Education.*

***Admission: Banding***

*All children who apply for a place at the Academy will be invited to attend an assessment, namely the NFER (National Foundation of Education Research) Non-Verbal Reasoning Test. The assessment will last one hour and will be held at Madeley Academy. Children cannot "fail" the NFER assessment and therefore any request to re-sit will be refused.*

*Following the assessment, your child will be placed in one of five ability bands. The assessment results will be used to ensure that the Academy admits the full range of ability of applicants. Parents will be advised of the results of the NFER test and the Academy will take all reasonable steps to advise parents of the outcome in accordance with the Statutory Code.*

***Admission of Students***

*Children with a Statement of Special Educational Needs or an Education Health and Care Plan (EHCP) will be admitted where the Academy is named as the appropriate placement. The admission of children in this category is dealt with by a separate procedure in collaboration with the Local Authority.*

### **Admissions Oversubscription Criteria**

*If the Academy does not receive 180 applications, every applicant will be offered a place. When the number of applications for admission is greater than the published number (180 total), the Academy will be oversubscribed and all applications will be considered against the criteria set out below and places will be allocated in the following order:*

- 1. Looked After Children and Previously Looked After Children**  
*Children in Public Care (Looked after Children) will be given highest priority for admission within each band. Looked after Children are children who are in the care of a Local Authority or provided with accommodation by a Local Authority. This also includes looked after children who were previously looked after, but ceased to be so because they were adopted, became subject to a residence order or special guardianship order.*
- 2. Siblings**  
*These are children that who will have on the day of admission, a brother, sister, step brother, step sister, half-brother or half-sister living as a family at the same address who attend the Academy.*
- 3. Exceptional Health Reasons**  
*Those children that have exceptional health reasons where there is written medical evidence that admission to the Academy is essential for their well-being will also be given priority.*

### **Banding of Applicants**

*If the Academy is oversubscribed, applicants will be placed in one of five ability bands based upon their score in the NFER Non-Verbal Reasoning Test.*

*The first children to be placed in the ability bands will be EHCP, looked after or previously looked after, siblings and those with exceptional health reasons. All remaining places will then be filled by those who live closest to the Academy with up to 36 in each band.*

*The total number of applicants will be divided by five placing 20% of the applicants in each band... [table not included]*

*...Although there will initially be the same number of children in each band, there may be unequal numbers in bands if applications are withdrawn.*

*Where there are insufficient children in a particular band, the next*

*nearest child will be selected from the band below, then the band above until the band is full.*

### ***Distance from the Academy***

*Proximity to the Academy will be used combined with banding, to decide who will be offered places when we are oversubscribed. From within each of the bands, the applicants that live closest to the Academy (not their ranking within the band) will be given priority for admission. Distance is calculated in a straight line from the centre point of the home address to the centre point of the Academy. Home address is classified as the permanent residence where the applicant is living at the time of the offer and there must be evidence it is not temporary or for the purposes of gaining advantage to seek admission. The Academy may ask for proof in such cases where it may be suspected that unfair advantage is being sought by applicants on the issue of residence. Where parents have shared responsibility for a child, and the child lives with both parents for part of the week, the main residence will be determined as the address where the child spends the majority of the week. Documentary evidence may be required in such cases.*

### ***Tie Breaker***

*Where two applications cannot otherwise be separated, the place will be offered on the basis of random allocation by drawing lots.*

## **Parts of the Code referred to in this determination**

The following extracts from the relevant parts of the Code, referred to in this determination, are set out here for ease of reference:

15. Paragraph 14:

*“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”*

16. Paragraph 1.7:

*“All schools **must** have oversubscription criteria for each ‘relevant age group’ and the highest priority **must** be given, unless otherwise provided in this Code, to looked after children and all previously looked after children. Previously looked after children are children who were looked after, but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order.”*

17. Paragraph 1.8:

*“Oversubscription criteria **must** be reasonable, clear, objective, procedurally fair, and comply with all relevant legislation, including equalities legislation”*

18. Paragraph 1.10:

*“1.10 This Code does not give a definitive list of acceptable oversubscription criteria. It is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances...”*

19. The paragraphs dealing with banding:

*1.25 Pupil ability banding is a permitted form of selection used by some admission authorities to ensure that the intake for a school includes a proportionate spread of children of different abilities. Banding can be used to produce an intake that is representative of:*

- a) the full range of ability of applicants for the school(s);*
- b) the range of ability of children in the local area; or*
- c) the national ability range.*

*1.26 Admission authorities' entry requirements for banding must be fair, clear and objective. Banding arrangements which favour high ability children that have been continuously used since the 1997/98 school year may continue, but must not be introduced by any other school.*

*1.27 The admission authority must publish the admission requirements and the process for such banding and decisions, including details of any tests that will be used to band children according to ability.*

*1.28 Where the school is oversubscribed:*

- a) looked after children and previously looked after children must be given top priority in each band, and then any oversubscription criteria applied within each band, and*
- b) priority must not be given within bands according to the applicant's performance in the test.*

*1.29 Schools that operate admission arrangements which include both banding and selection of up to 10% of pupils with reference to aptitude shall set out clearly in their admission arrangements how those two methods of selection will be applied.*

*1.30 Children with statements of special educational needs or Education, Health and Care Plans may be included in banding tests and allocated places in the appropriate bands but, regardless of any banding arrangements, they must be allocated a place if their statement or Education, Health and Care Plan names the school.*

20. Paragraph 2.14 of the Code:

*“Each admission authority must maintain a clear, fair and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria. Priority must not be given to children based on the date their application was received or their name was added to the list. Looked after children, previously looked after children, and those allocated a place at the school in accordance with a Fair Access Protocol, must take precedence over those on a waiting list”.*

21. Paragraph 2.17 of the Code:

*“Admission authorities must make clear in their admission arrangements the process for requesting admission out of the normal age group.”*

## **Consideration of Case**

### **The Objection**

22. The objector considers that the new, banding based, arrangements are unfair, and in breach of the requirement for arrangements to be fair set out in paragraph 14 of the Code, in that the changes could disadvantage some potential applicants. I have summarised the objector’s reasons (as set out in the original objection and revised at the meeting and in subsequent correspondence) below. In doing so – and following the objector’s approach – I refer to “catchment area” a number of times. By this, I mean (and the objector must mean) the former catchment area in use for the school up to and including admission in 2017; the arrangements determined for 2018 do not feature a catchment area. The objection comprises the elements set out below:

- a. Some pupils living at the extreme edge of the catchment area would be disadvantaged by pupils from outside that catchment gaining places. This may lead to some pupils being unable to access a school within three miles of their address. The new arrangements will particularly affect pupils resident in areas of high disadvantage because:
  - i. a number of the in-catchment pupils are likely to be displaced by out-of-catchment pupils gaining admission are resident in areas of high disadvantage, and



- ii. some parents within the catchment area may not engage in the admissions process which may include attendance at the school to take the banding test.
- b. The removal of the Madeley catchment area could make admissions confusing for parents as every other secondary school within the objector's area operates a catchment system. Adjacent schools may also review their arrangements so destabilising the existing admissions system across the objector's area.
  - c. The risk that some local children would fall into oversubscribed bands and be unable to access a place in a local school.
  - d. If the school no longer follows the catchment area system then other schools may also change their arrangements leading to higher levels of diversity in admissions across the objector's area.

I will address each of these points below but it will be helpful firstly to set out the relevant background information.

### **The current admission arrangements in Telford and Wrekin**

23. For admission in September 2017 the objector's "Secondary School Information Booklet" shows a variety of admission arrangements for secondary schools within the objector's area. Community and Voluntary Controlled schools, the school and Abraham Darby Academy, Telford Park School, Telford Langley School and two other secondary academies in the area have the same or similar admission arrangements, each having a catchment area. Carlton School has a catchment area but also gives priority to children resident in a list of rural villages and Holy Trinity Academy has a mixture of foundation (faith based) and open places for which priority criteria include feeder primary schools and residence in the catchment area of listed primary schools. There are also two grammar schools in the area and Thomas Telford School, which has admission arrangements outside the objector's co-ordinated admission scheme. The catchment areas are intended to ensure that each child has a place available in a local school if their parent wants to send them there. The objector's area is divided into a number of adjacent catchment areas so that every address will fall within the catchment for a school. Inevitably, this does not mean that every child resides at an address within the catchment area for their nearest school. A fairly large proportion of the children within the school's catchment area live nearer other schools, and this is likely to be the case for every catchment area. Some children living within the school's catchment area whose parents expressed a higher preference for another school gained entry to that other school on distance as the arrangements give priority after catchment area children and out of catchment area siblings to those living closest to the school.

### **The Data on Admissions**

24. I am grateful to the school and to the objector for the information and commentary supplied, for their input at the meeting in 12 July 2017 and for

their prompt and helpful responses to questions I have raised in correspondence. I am particularly grateful to the objector's manager for School Organisation and Performance for supplying large amounts of requested data and answering my subsequent queries. In considering the data, I have focused on establishing whether any group of pupils would be disadvantaged by the 2018 arrangements. I have found that the relevant group to consider is those pupils who would be displaced by the new arrangements. By displaced I mean pupils whose parents would seek a place at the school, who would have gained a place under the 2017 arrangements, and who would not gain a place under the 2018 arrangements. Out of those pupils I have considered the numbers that live in areas of high disadvantage, defined by a score of 1 or 2 in the disadvantage data provided by the objector as this was a key focus of the objector's concern

25. The actual admissions data for 2017 shows that there were 630 preferences for the school. Each parent may express four preferences. About 300 parents made Madeley their first preference. The school has a Published Admission Number (PAN) of 180. A total of 108 preferences were from parents of pupils living within the catchment area, of which 80 made Madeley their first preference. 79 of those gained a place (presumably one dropped out) and a further 13 pupils living within catchment who expressed a preference for Madeley, but not as first preference, gained a place. Overall about 50 per cent of pupils gaining a place lived within catchment and 50 per cent lived outside. It is likely that some pupils in each category above had siblings at the school. 23 pupils living within the school's catchment area who expressed a second or lower preference for the school went to other schools, presumably a school for which they had expressed a higher preference. The objector has stated that no schools within its area are oversubscribed from catchment.

26. In response to my request the objector has produced a model, called Model B, which was attached to an email dated 3 August 2017. This model is based on the 2017 cohort and hypothetically predicts the admissions to the school based on the 2018 arrangements. Through no fault of the objector this model does not reflect an actual situation in which the 2018 arrangements would be applied. The following are the main reasons for this:

- a. No future cohort will be the same as the 2017 cohort. There will be different numbers of pupils with statements of SEN or EHCPs, different numbers of siblings and the pupils will live at different addresses.
- b. The 2018 arrangements will require all applicants to the school to sit the NFER non-verbal reasoning test. None of the 2017 cohort sat this test and in its model the objector has placed the children in bands according to their tested reading scores. As all parties acknowledge, this is a different test and even the same cohort would not end up in the same bands. However, it is the best fit available.

- c. At my request the order of preferences is incorporated into the model. Parents will express preferences according to their analysis of the admissions criteria, the likelihood of gaining a place at any given school and, above all perhaps, where they would most like their child to go to school. The objector points out that parents living near the school but not within catchment will be more likely to make the school their first preference if they perceive the 2018 arrangements as increasing their chance of a place. The objector also points out that there are two grammar schools and some catchment parents will put one of these as a first preference as a place at the school would be secure even as a second preference.
- d. Some parents may not engage with the testing regime and so their children will not sit the NFER test.

27. Given that the effect of these factors on the cohorts and preferences in future years is unknowable, I have treated the data with caution. The table below sets out those children who would be displaced under Model B. I have given my understanding of displaced above. It also shows those out of that group who live within the 20% most deprived areas within the catchment.

Band	Displaced pupils (Living in catchment & Madeley first choice & allocated Madeley in 2017)	Of which living within 20% most deprived area IDACI or IMD	Distance in miles to nearer of Telford Park School or Telford Langley School. Figures in brackets not within 20% most deprived	Number over 2.2 miles from the nearer of Telford Park School or Telford Langley School
A	0	0		0
B	1	1	2.8	1
C	2	1	(2.4), 2.4	2
D	3	3	2.4, 2.1, 2.1	1
E	9	8	(1.8),2.3, 2.7, 2.2,2.0, 2.0, 2.7, 2.1, 2.4	4

28. At my request the objector has supplied a table showing the distance of each pupil identified in the table in paragraph 27 from Abraham Darby Academy measured in a straight line. Abraham Darby Academy is oversubscribed but it is undersubscribed from within catchment so a proportion of its intake are admitted on distance from home to school.

Child Reference from local authority data	Distance To Abraham Darby (metres)
159 B	2165
281C	2066
285C	2313
402D	1932
403D	2151
404D	2251
523E	2140
524E	1808
525E	1650
526E	2040
527E	2210
528E	2270
529E	1650
530E	2216
531E	2113

## Analysis and Conclusions

29. Paragraph 1.25 of the Code, which is set in full above, states that “*Pupil ability banding is a permitted form of selection*”. Banding is permitted by section 101 of the School Standards and Framework Act 1998. Banding is used to ensure a proportionate spread of children of different abilities. Three types of banding are allowed, which are set out in paragraph 1.25. The 2018 arrangements apply 1.25 a) banding that is used to produce an intake that is representative of “*the full range of ability of applicants for the school*”. All pupils will be tested at the school (or possibly in their primary schools) and the full range of results will be divided so as to allocate each child to one of five bands of 20 per cent each. There will be 36 places allocated from each band and an equal number of applicants in each band (subject to some variation due to, for example, applications being withdrawn or pupils on the cusp between bands attaining an equal score). It follows that no band will be over or undersubscribed. If the school is oversubscribed then the places in each band will be allocated according to the oversubscription criteria which are set out above but in essence are; after children with statements of SEN or EHCPs have been allocated places, looked after and previously looked after children,

siblings, exceptional health reasons with distance applied where the number of pupils falling within a category exceeds the number of places remaining.

30. I find, subject to some issues of compliance dealt with under “Other Matters” below, that the 2018 arrangements comply with paragraph 1.25 and 1.28 of the Code and are clear and objective as required by paragraph 1.26. I now come on to consider whether they are “fair” as is also required by paragraph 1.26 and by paragraph 14

31. Paragraph 1.10 states that “*it is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances*”. The admission authority has given its rationale for the introduction of banding and I will set out and comment on those reasons below.

32. The school currently has a below average ability intake. This has been stated by the school and has not been contested by the objector. The school confirmed at the meeting on 12 July that it wishes to achieve a more proportionate spread of children of different abilities. Given that the school currently has an intake of below average ability the aim is to raise the ability level overall. I find that this is a legitimate aim in line with the provisions of paragraph 1.25 of the Code. I find that this is the primary reason for changing the admission arrangements.

33. The school also states that pupils living very near the school, in sight of the gates, are not within catchment. I accept that this may present some difficulty with those parents being unhappy not to be within the catchment area. However, since about 50 per cent of pupils come to the school from outside the catchment area pupils living close to the school will gain places under the distance criterion in any event. The school also states that the catchment area system is not suitable. I do not find it unsuitable and would anticipate finding it compliant with the Code were that an issue I was required to decide. However, the catchment area system is not strongly embedded in that only some 50 per cent of places are filled from catchment and I do not consider its retention a persuasive reason for avoiding a change to banding.

34. The school refers to demographic factors which will lead to an increased demand for school places within the objector’s area. I accept that this is the case but I am not persuaded that this position will be better served by banding than by catchments. The school also refers to the catchment area arrangements being confusing, particularly as the current position of the school is shown incorrectly on the map within the objector’s admissions information. I do not accept the objector’s reasons for saying this is not misleading but this is a point that can easily be rectified by the objector publishing information with an accurate map.

35. I find that the current arrangements for secondary admissions across the objector’s area already have a significant degree of variation. There are two grammar schools which admit by reference to academic ability, Thomas Telford School which uses banding, two catchment areas and ability in

technology, science and maths, and one school which admits some of its pupils on faith criteria and the remainder on criteria including named feeder primary schools and residence within the catchment area of certain named primary schools. There is a degree of consistency across those schools with catchment areas as a primary criterion but even within this group there is some variation. The current school system in England means that within the area of any local authority there will be a number of different admission authorities for secondary schools and with the increasing numbers of academies that number is increasing. Parents in many areas are faced with a variety of oversubscription criteria and the possibility of testing of one sort or another. I do not find that the introduction of banding arrangements is likely to lead to significant confusion for parents. I do not find that the introduction of non-verbal reasoning tests will lead to a significant number of children not sitting the tests nor a significant number of parents who would otherwise express a preference for the school not doing so. The school have explored the possibility of children taking tests at their primary schools and may wish to keep the question of uptake of tests under review. For its part the objector can consider taking steps to bring these tests to the attention of parents. I do not find that the introduction of banding is unfair in that it may lead to the admissions authorities for other schools considering changes to their arrangements as they are entitled to do so provided the revisions and the process comply with admissions law and the provisions of the Code.

36. The objector states that the arrangements may be unfair because some children, currently living within the catchment area, will be disadvantaged. The objector considers that all children living within the catchment area will be disadvantaged because they will no longer live within the catchment area of a school. Living within the catchment area for the school would have given them a high priority for a place under the current arrangements. While no arrangements “guarantee” a place to a child, it is true that in the case of Madeley school in recent years a child living in catchment whose first preference is for the school will be offered a place. It is also true that the new arrangements change this status quo and cause some measure of disadvantage to those children. However, across England, living within a catchment area for a school will often not guarantee a place. In many schools nationally it does not, for example because high numbers of siblings having a higher priority may reduce the number of places available to pupils living in catchment who do not have siblings already attending the school. Within the objector’s area, there has been a de facto guaranteed place because neither the school nor any of the other schools using catchments reach PAN from within catchment. For entry in 2017, only 108 pupils who lived in the catchment expressed a preference for the school of which only 80 put the school as a first preference. As set out above, overall only about 50 per cent of the school’s intake is from within catchment. I do not find that the connection between the catchment area and the school’s admissions is particularly strong. I do not find that the general disadvantage of not have a catchment school outweighs the legitimate reasons given by the admission authority for introducing banding.

37. The objector states that children living at the extreme edge of the

catchment area would be disadvantaged. According to information supplied by the objector the furthest point from the school in the school's catchment area is 3484 metres from the school. The furthest distance from home to school for any in catchment pupil within the 2017 intake is 2279 metres. It appears that for 2017 no pupils from the extreme of the catchment put the school as a first preference and any who put it as a lower preference gained a place in a higher preference school.

38. I have carefully considered the data set out in Model B, always keeping in mind the shortcomings in the model as set out above. The table set out in paragraph 27 above shows a total of 15 pupils who met my criteria for displacement. Of those, a total of eight live more than 2.2 miles (agreed by the parties as a reasonable walking distance to school in the context of this particular local authority area) from the nearer of the two local schools which are undersubscribed. Each of those schools was previously rated "inadequate" by Ofsted and each has recently received a rating of "requires improvement". This may lead to an increase in popularity and greater pressure on places but I find that each is likely to remain undersubscribed for some years and so places will remain available. The greatest distance to one of those alternative schools is 2.7 miles. Using the walking times provided by the objector the additional 0.3 miles would add approximately six additional minutes each way. On the data provided for Model B none of those children would have to cross a significant main road.

39. The table at paragraph 27 shows that more children are displaced from the lower bands. As the purpose of introducing banding is to create a more proportionate spread of children of different abilities, and, as I have set out above, the school currently has an intake below average ability, it is inevitable that fewer children will be admitted than previously, who fall within the lower bands.

40. Of the fifteen displaced children thirteen are resident within areas of high deprivation, approximately 86 per cent. The average (of all preferences for the school) is about 50 per cent living in most deprived areas and 50 per cent not. This may in part be a result of the introduction of banding tending to admit a greater proportion of higher ability pupils.

41. The table at paragraph 28 above gives the distance from home to Abraham Darby Academy for each of the 15 displaced pupils identified in the table in paragraph 27. In each case the distance to Abraham Darby is less than 2.2 miles, measured in a straight line. In some cases this may mean that a child will not gain a place at his or her nearest school. However, that is also true of catchment area based arrangements. The objector has confirmed that if Abraham Darby Academy was expressed as first preference it is likely that each of these children would gain a place at that school. For the most part the distance in a straight line to Abraham Darby Academy is only slightly further than the distance to Madeley Academy (less than 500 metres). In one instance it is about 880 metres further and in another Abraham Darby is the nearer school. I am satisfied that following the introduction of the school's 2018 arrangements every child living within the current catchment area for the

school is likely to gain a place at a school within a reasonable distance of their home address.

42. Even allowing for the shortcomings of the data in Model B I find that the overall number of children likely to be displaced is low. Those displaced will tend to be in the lower bands and will tend to live in the most deprived areas. All of those displaced would gain a place at either Telford Park school or Telford Langley school and only eight would have a journey slightly over 2.2 miles to the nearer of those schools. Most of the displaced children are likely to live within 2.2 miles of Abraham Darby Academy measured in a straight line. Very few children would be likely to have a journey by a safe walking route of over 2.2 miles to a suitable alternative school. The objector has confirmed that although Abraham Darby is oversubscribed all of those children shown as displaced in the table in paragraph 27 would be likely to gain a place there if that was put as a first preference. I find that the disadvantage likely to arise does not outweigh the legitimate reasons given by the school for introducing the 2018 arrangements.

43. I find that the admission arrangements for 2018 are fair. The banding arrangements proposed are clear and objective and the potential disadvantage to some applicants is insufficient to make the arrangements unfair.

44. For the reasons set out above I do not uphold the objection.

### **Other Matters**

45. These are matters which were not raised in the objection but which I have considered under section 88I of the Act as it appears that in these particulars the admission arrangements do not comply with the Code and the law on admissions.

46. Some children may achieve the same score in the National Foundation for Educational Research (NFER) non-verbal reasoning test. Although the school have consulted NFER and have been advised it is unlikely it is possible that, for example, the 36<sup>th</sup> and 37<sup>th</sup> children in a band may have the same score. The admission arrangements are not clear as required by paragraphs 14 and 1.8 as to what is to happen in this event. The school has said that the advice is that all children with an equal score should be placed within the same band and this should be specified in the arrangements. Should this occur it will lead to bands with slightly different numbers of children in each.

47. The second paragraph on page 1 of the arrangements published at the time of the objection refers to children with “physical disabilities”. On page 2 in the penultimate paragraph it is stated that the Academy welcomes applications from children with disabilities, unqualified by the word “physical”. This is unclear and does not comply with paragraph 14 of the Code. The school have amended this in the arrangements currently published so that the word “physical” is removed from the first reference to disabilities.



48. In the paragraph numbered 1 on page 1 there is a reference to a “residence order”. Residence orders have been replaced with child arrangement orders as is reflected in the definition in paragraph 1.7 of the Code. This is unclear and does not comply with the provisions of paragraph 14 of the Code. The school have made the necessary amendment.

49. On page 1, under the heading “*Admissions Oversubscription Criteria*” it is not stated that these criteria will be applied following the allocation of children to bands. On page 2 under the heading “*Distance from the Academy*” the wording suggests that only distance will be used as an oversubscription criterion for each band. The relationship between the oversubscription criteria first set out and banding is not clear and is in breach of paragraphs 14 and 1.8 of the Code. The school has amended its arrangements accordingly.

50. On page 2 the reference to a child who lives with “both parents for part of the week” is unclear and does not comply with paragraph 14 of the Code. The school have made the necessary amendment.

51. On page 3 it is not clear what is meant by “those not offered...a place on the waiting list” as just above it states “unsuccessful candidates will be placed on the waiting list”. Also it is not clear how waiting lists will be managed around banding, particularly when new applications are made by pupils who have not sat the test. In these respects the arrangements do not comply with paragraph 14 of the Code. The school have made the necessary amendments. The statement regarding ranking of waiting lists required by paragraph 2.14 of the Code is not included. This statement is not made explicitly in the amended arrangements which does not comply with the requirement of paragraph 2.14.

52. The requirement of paragraph 2.17 of the Code regarding admissions out of normal age group is not met in the 2018 arrangements. The school have made the necessary amendments.

### **Determination**

53. In accordance with section 88H(4) of the school Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by Madeley Academy Trust Limited.

54. 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.

55. By virtue of section 88K(2), the adjudicator's decision is binding on the admission authority. The school Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

Dated: 31 August 2017

Signed:

Schools Adjudicator: Tom Brooke