



## **DETERMINATION**

<b>Case reference:</b>	<b>ADA 2965, ADA 2970 and ADA 3036</b>
<b>Objectors:</b>	<b>Calderdale Metropolitan Borough Council, the headteacher of a primary school and the headteacher and governing body of an academy primary school</b>
<b>Admission Authority:</b>	<b>Trinity Academy Trust for Trinity Academy Halifax</b>
<b>Date of decision:</b>	<b>14 September 2015</b>

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objections to the admission arrangements determined by the Trinity Academy Trust for Trinity Academy in Halifax for admissions in September 2016.**

**I have also considered the arrangements in accordance with section 88I (5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.**

**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 unless an alternative timescale is specified by the adjudicator. In this case, I specify a timescale of one month from the date of this determination.**

### **The referral**

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), three objections have been referred to the adjudicator by Calderdale Metropolitan Borough Council (the local authority (LA)); the headteacher of St Mary's Catholic Primary School, Halifax and the headteacher and governing body of Whitehill Community Academy, Halifax, (the objectors), about the admission arrangements (the arrangements) for Trinity Academy (the school), a secondary academy school for 11 to 19 year olds for September 2016. The objection concerns the introduction of what the school describes as "fair banding assessment" (banding) and its implications for local children and families.

## **Jurisdiction**

2. 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 the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the Board of Trustees, which is the admission authority for the school, on that basis.
3. All the objectors submitted their objections to these determined arrangements on 25 June 2015. 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. I have also used my power under section 88I of the Act to consider the arrangements for admission to year 7 (Y7) and year 12 (Y12) as a whole.

## **Procedure**

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code). The documents I have considered in reaching my decision include:
  - a. the objectors' forms of objection, all of which are dated 29 June 2015, and subsequent correspondence;
  - b. the academy trust's response to the objections and subsequent correspondence;
  - c. the academy's funding agreement;
  - d. the response of the Diocese of West Yorkshire and the Dales (the diocese), which is the school's religious authority, to the objections and subsequent correspondence;
  - e. the LA's composite prospectus for parents seeking admission to schools in the area in September 2015;
  - f. confirmation of when consultation on the arrangements last took place and the responses to the consultation;
  - g. copies of the minutes of the meeting of the board of trustees on 30 March 2015 at which the arrangements were determined; and
  - h. a copy of the determined arrangements.
5. I have also taken account of information received at a meeting I convened on 26 August 2015 at the school and additional documentation sent to me after the meeting. The executive principal,

acting principal and the chair of governors from the school were at the meeting as was the director of education for the diocese.

Representatives from the LA, St Mary's Catholic Primary School (St Mary's) and Whitehill Community Academy (Whitehill) attended the meeting.

### The Objection

6. Three objections were received all of which concern the introduction of banding. The objectors are the LA, St Mary's which is a voluntary aided primary school and is not in the catchment area of the school and Whitehill, a primary academy school within the school's catchment area and one of the school's partner schools.
7. The objections cover three aspects of the arrangements and their implications. The objectors cite the following concerns:
  1. the process of consultation prior to the determination of the arrangements was insufficiently thorough (paragraphs 1.42 to 1.45 of the Code); (all three objectors)
  2. the introduction of banding will:
    - a. breach paragraph 1.26 of the Code which states that *"Admission authorities' entry requirements for banding **must** be fair, clear and objective. Banding arrangements which favour high ability children that have been continuously in use since the 1997/98 school year may continue, but **must not** be introduced by any other school"*; (all three objectors);
    - b. give priority to children living outside the catchment area at the expense of those in the catchment area (paragraph 14 of the Code); (LA and Whitehill);
    - c. disadvantage a particular social group (paragraph 1.8 of the Code); (LA and St Mary's); and
  3. the arrangements are not easily understood and not clear as required by paragraph 14 of the Code (all three objectors).
8. Other issues included in the objections are outside my jurisdiction and this was explained to the parties at the meeting on 26 August 2015. These issues included meetings held at other schools during the consultation process which were not part of the school's consultation, an independent on-line survey instigated by another school, communication between schools and the LA concerning political intervention in the consultation process, financial implications for the LA if the arrangements are implemented and travel arrangements for pupils.

## Other Matters

9. At the meeting I raised the following matters concerning conformity with the Code:
  - the date of admission as stated on the arrangements;
  - over-subscription criteria 5 and 6 which refer to schools within the recently established multi-academy trust (MAT);
  - the absence of a tie-breaker in the over-subscription criteria; and
  - sixth form arrangements.

## Background

10. Trinity Academy opened in September 2010 as a sponsor-led academy. It is designated as having a Church of England religious character and one of its sponsors was the Diocese of Wakefield which, following the amalgamation of three dioceses in April 2014 has now become the Diocese of West Yorkshire and the Dales. The school has recently been approved to be the lead school in a multi-academy trust; there are currently no other schools formally within the trust. The school, which caters for 11 to 19 year olds is oversubscribed. Currently there are 1666 pupils on roll and the school has a capacity of 1200. The published admission number (PAN) for admission to Y7 is 300.
11. Admission arrangements have remained broadly the same each year since the academy opened. At the governing body meeting on 17 July 2014 a new draft admissions policy was presented. This policy introduced the process of assessing all applicants prior to the allocation of places and placing all applicants in one of four ability bands. The assessments are cognitive ability tests comprising verbal, non-verbal and quantitative aspects. The assessments are provided by a well-known company and are widely used across the country. The company publishes the normal distribution graph of results and indicates the scores achieved across the distribution, standardised to take into account the age of the pupils. The average score is represented by the number 100. 50 per cent of all pupils who take the tests achieve scores between 90 and 110. The school has chosen to form four equal bands each of which represents 25 per cent of the national distribution of ability. The school's four bands will be band A (scores of above 110), band B (100-110), band C (90-99) and band D (below 90). With a PAN of 300, 75 pupils (one quarter) will be allocated to each band using the oversubscription criteria; the school refers to this process as "fair banding assessment". The assessments will be administered at the ten primary schools in the catchment area and, for other applicants who have registered to be assessed, at the school on a Saturday morning. Other changes to the arrangements included the introduction of criteria relating to children attending schools within the MAT and the children of staff employed at schools within the MAT. The policy also included moving forward the start of

the academic year for Y7 pupils to June.

12. The governing body consulted on the new proposed arrangements between 2 January and 28 February 2015. The outcome of the consultation was presented to governors on 23 March 2015 and minor amendments were made. The arrangements were then referred to the board of trustees who determined the admissions arrangements for September 2016 on 30 March 2015 and published them on the school's website.
13. The oversubscription criteria which are to applied to each band are as follows:
  - 1) Looked after and previously looked after children
  - 2) Siblings of children attending the academy
  - 3) Children living in the defined catchment area who regularly attend a Church of England parish church
  - 4) Children living in the defined catchment area
  - 5) Children already educated within the same MAT
  - 6) Children of staff employed within the same MAT
  - 7) Children, or children of parents, who are regular attenders at a church within the rural deanery of Halifax
  - 8) Children, or children of parents, who are regular attenders at a church in the rural deaneries of Calder Valley and Brighouse and Elland
  - 9) Children, or children of parents, who are regular attenders at other Christian churches in the Calderdale Metropolitan District.
  - 10) Other children (by distance).

## **Consideration of Factors**

### Consultation

14. All three objectors express concerns about the consultation process. In its objection, the LA says that the consultation process may have complied with the literal requirements of the Code, but suggested that more could have been done to meet with and explain the potential impact of the changes to the local community. The headteacher of St Mary's did not receive the consultation documents and was not invited to any meetings about the changes. The headteacher of Whitehill did receive the documentation but suggested in the objection that there was an expressed lack of support from local schools during the process which had not been taken into account.

15. In its response to the objections the school outlined the consultation process and indicated the dates of meetings and who was invited to them. The consultation document was published on the school's website, sent to the school's partner primary schools, all LA secondary schools, the LA and the diocese.
16. In the diocesan response the director of education acknowledges that they were consulted, but did not respond to the consultation document at the time. He goes on to say that as the diocese is represented on the trust's board of trustees, these people will have provided bespoke advice to the school.
17. The Code sets out in paragraphs 1.42 to 1.45 the process required for consultation. Specifically, paragraph 1.44 lists the six groups who must be consulted during the process. These are;
- a) *parents of children between the ages of two and eighteen;*
  - b) *other persons in the relevant areas who in the opinion of the admission authority have an interest in the proposed admissions;*
  - c) *all other admission authorities within the relevant area;*
  - d) *whichever of the governing body and the local authority who 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 schools designated with a religious character, the body or person representing the religion or religious denomination.*
18. At the meeting I held, the school's representatives agreed that they had not considered how to share the consultation document with parents of children between the ages of two and eighteen. The process relied on parents accessing the school's website, but other than a letter to the ten schools within the catchment area the community was not informed of the consultation. By only sending the consultation document to the ten schools, other primary schools in the area including some whose pupils apply to the school were not consulted. The school is geographically very close to Bradford Council's area but the process did not include this LA in the consultation. I am of the view that there were relevant people in the local community who were not invited to be part of the process.
19. The school reports that it received 21 formal responses to the consultation; 11 were broadly against one or more proposal, nine were broadly in favour and one made a suggestion for clarity. As a result of the responses the criterion relating to children already attending schools within the MAT was moved from above to below the criterion relating to children living in the catchment area.
20. I was provided with the responses to the consultation at the meeting on

26 August. I can confirm that the numbers in favour and against the proposals are as reported by the school. Looking in more detail at the 21 responses, 17 make specific reference to banding. Of these, eight are supportive of its introduction and were from five local parents or residents and three representatives of primary schools. Nine responses oppose the introduction of banding and of these five were from representatives of primary schools, two from secondary schools and two from the local community. The main negative views expressed are summed up in the response from Whitehill which states that: *“The governing body have a concern that banding children in Year 7 is not inclusive and in some scenarios will not be fair. It is our belief that the majority of North Halifax children will fall within the bands below band A, primarily band C. If this is the case then the competition for places within band C is highest. As Trinity is already significantly oversubscribed and only 75 places will be allocated to band C then potentially many North Halifax children who live the furthest away within the defined catchment area will be greatest at risk of not getting a place. However, children beyond the catchment, within band A will gain North Halifax children’s places.”*

21. The Code does not prescribe how views expressed during a consultation process should be responded to but paragraph 1.45 states that *“Failure to consult effectively may be grounds for subsequent complaints and appeals.”* The negative responses, particularly those from local schools, indicate some common concerns relating to the ability profile of local children and the possibility that the banding system will favour high ability pupils from outside the local area which have not been taken into account.
22. I uphold this element of the objection because the school has not complied with the Code in terms of all those people who **must** be consulted, specifically those groups from paragraph 1.44 a, c and e of the Code.

#### The introduction of banding

23. The Code at paragraph 1.25 indicates that *“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”*. The Code says that banding can produce an intake which is representative of a) the full range of abilities of the applicants; b) the range of abilities of children in the local area; or c) the national ability range. The school confirmed at the meeting that it has chosen to introduce a banding process to produce an intake representative of the national ability range.
24. As noted above, paragraph 1.26 of the Code states that *“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”*. All the objectors say that the introduction of banding as proposed by the

school would not be fair and would be contrary to paragraph 1.26 of the Code. The objectors are of the view that the profile of ability of the children in the school's catchment area is not consistent with the national profile. The LA stressed that, historically, the levels of attainment of pupils applying to the school is skewed downwards due to two main factors; the presence of a local grammar school and the level of deprivation in the area. The LA explains that average incomes in the area are below the Calderdale and national averages as is life expectancy; there are a comparatively high number of lone parents, social housing numbers are high, unemployment is high and the number of people on benefits and children who qualify for free school meals is also high. The LA suggests that the largest proportion of children living in the school's catchment area would fall into bands B and C and that the number of these pupils would exceed the 75 which will be allocated to each band. The introduction of banding would provide places for 75 pupils to be allocated to band A who would be disproportionately drawn from outside the school's catchment area. This, in turn, would lead to unsuccessful applications for many pupils allocated to bands B and C.

25. The LA supports the objection with figures from the school. Currently the school administers the assessments after the pupils have been admitted. If the assessment results from intakes in 2013 and 2014 were banded in line with the proposed banding procedure the figures would be as follows;

Admission September 2013

Band A	14%	42 pupils
Band B	30%	90 pupils
Band C	32%	96 pupils
Band D	24%	72 pupils

Admission September 2014

Band A	19%	57 pupils
Band B	27%	81 pupils
Band C	29%	87 pupils
Band D	24%	72 pupils

26. These figures indicate that the current profile of ability does not match the profile of the four equal bands which are to be used in the banding arrangements. In both years there is a higher proportion of pupils in bands B and C than the 25 per cent allocated to each band. Looking specifically at Band A; if banding had been in place then an additional 33 pupils in 2013 and an additional 18 pupils in 2014 would have been allocated to band A. Corresponding numbers in bands B and C would



have been reduced.

27. The school acknowledges these figures and argues that as the numbers of applications for admission is increasing each year then it is reasonable to assume that there will be sufficient local applications to 'fill' each of the ability bands with 75 pupils. The acting principal said at the meeting that the school would benefit from being able to predict the ability profile of its intake in future years. He said that a full range of abilities would benefit all pupils as they work together, would make the distribution of resources more efficient and would allow effective planning.
28. In its response the diocese suggests that any attempt to model what the outcome for children in North Halifax will be should banding be used as the process for admissions is difficult to quantify, but goes on to say that it could be argued that banding is about delivering a genuinely comprehensive intake.
29. The figures indicate that the academic profile of the pupils who have entered the school in recent years does not mirror the national distribution but has a smaller proportion of higher and lower ability pupils. In order to achieve a national profile, more band A pupils would gain places at the school than has previously been the case and the proportions in band B and C would have to be reduced. I am of the view that the introduction of the form of banding proposed by the school would mean that high ability pupils, from wherever they live, would have a higher chance of being allocated a place than local children who are assessed as being in bands B and C. The data demonstrate clearly that this would have been the effect of banding had it been used for admissions in the last two years.
30. The Code refers to banding arrangements that favour high ability children, but the banding arrangements themselves with 25 per cent of children in each band do not of themselves mean that the school has favoured high ability children over others as would be the case if the bands were, for example, band A 40 per cent, B 35 per cent and band C 25 per cent. However, paragraph 1.26 requires that the admission authority's entry requirements for banding **must** be fair, clear and objective. I have therefore considered the banding arrangements according to this requirement and the objector's view that the arrangements do not comply with paragraph 14 of the Code which says, "*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.*"
31. The LA and Whitehill are of the view that the arrangements are not fair as the introduction of banding would advantage out of area applicants over those living within the catchment area of the school.
32. Using the statistics quoted above, the LA reports that the additional pupils, who would be admitted to band A in order to produce the 25 per cent proportion, are likely to come from outside the catchment area.

The objectors go on to say that should this be the case then siblings of these children, regardless of which band they are allocated to, will be prioritised in the future under oversubscription criterion 2. Data supplied by the LA show that all catchment area applications for intake in September 2013 and 2014 were allocated a place at the school. The LA argues that, as all catchment area children were admitted in these years, had banding been in place then the allocation of 33 children in 2013 and 18 children in 2014 to band A would have been children from out of the catchment area.

33. The school agreed with the LA's analysis but maintained that this would not be the case in the future. It argued that as the number of applicants to the school has increased over the past few years and continues to increase then there will be sufficient numbers of applicants from within the catchment area to 'fill' band A. The school refers to the number of first preference applications for its 300 places; 261 for admission in September 2013, 301 for admission in September 2014 and 428 for admission in September 2015.
34. The diocese reports that the original rationale for the establishment of the school was to serve the local children of North Halifax where local options are limited due to the selective nature of one school. It goes on to say that *"it might be argued that children from local primary schools might not fill the 75 places in Band A and that these places go to children further away from the school and hence disadvantage a local child."*
35. If a greater proportion of out of area applications are admitted to the school this would be to the detriment of children living in the catchment area and this would be contrary to the rationale for establishing the school aims and would not support the statement on the school's website under "About Us and Our Vision" which says, "We are here to make a difference to the North Halifax community". The objectors believe it would be unfair for local children to have a reduced chance of a place at the school because children from further away were given places. If banding had been in place for admission in 2013 and 2014 this would have been the case. The school argues that it has deliberately not proposed the introduction of banding for those years so that the catchment area pupils are protected.
36. The school says that the level of oversubscription will continue to increase in future years and suggests this will be a major factor in the proportion of catchment children being admitted. The LA said that circumstances in other LA schools are changing and that the oversubscription level is likely to decrease over the next few years. The level of oversubscription may affect the proportion of children being admitted from within the catchment area, but there is no clear evidence of the future levels of oversubscription. I have not considered this factor in this part of the determination as I am considering the 2016 arrangements.
37. Historically the school has admitted between 10 and 20 per cent of out

of area pupils and in its submission the school says that this figure is *“something that we intend to maintain and preserve with the new admissions policy”*. The allocation of pupils by oversubscription criteria to the school for September 2015 shows that not all catchment area applications were successful (oversubscription criterion 4). The figures show that of the 428 first preference applications, six pupils were admitted with statements of educational need and two looked after children, 93 siblings, 2 church attending catchment pupils and 197 living within the catchment were admitted. As not all catchment applicants were admitted, it follows that the out of catchment area pupils in this intake were children with special educational needs, looked after and previously looked after children or siblings. If the school were to retain its 2015 arrangements and if oversubscription levels are maintained in the future as the school predicts and no out of area pupils gain admission through the distance criteria the number of out of catchment siblings admitted would decrease naturally over time. The result would be that the proportion of out of catchment area pupils would also be likely to decrease if banding were not introduced.

38. It is clear that had banding been introduced for admission in 2013 and 2014 then out of area pupils would have been prioritised to ‘fill’ band A and this in time would potentially increase the number of out of catchment children as their siblings would have priority for admission in all bands. It is also clear that, if oversubscription levels continue as they are at present and banding is not introduced then the proportion of out of area pupils in the school will reduce over time. The school’s intention to *“maintain and preserve”* a proportion of 10 to 20 per cent of intake from out of the area with the new admissions policy suggests that the introduction of banding would not only lead to a spread of ability reflecting the national ability range, but also lead to the admission of more out of area pupils. This was not given as a reason for introducing banding and contradicts the rationale for the establishment of the school to serve the local area.
39. I consider that the likely effect of banding in maintaining places for out of catchment area children at the expense of in catchment children is unfair for children living in the catchment area and I uphold this aspect of the objection.
40. The LA and St Mary’s say that the arrangements would disadvantage groups of families within the socially deprived areas. They maintain that this is contrary to paragraph 1.8 of the Code which states that *“....Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group....”*
41. The LA reports that *“a significant number of late secondary school applications are received by the authority each year possibly indicating a lack of understanding of admission arrangements, an element of the community who perhaps do not fully engage with education or combination of both”* and they go on to say that the introduction of the arrangements which would require some parents to apply through a

supplementary process for their children to be able to sit an assessment is a further cause for concern. The headteacher of St Mary's said that many of the socially disadvantaged families of children in his school would find it very difficult to apply on line to register for the assessment and may find it difficult to attend the school on the required day for the assessments.

42. The school's plans are to assess pupils during normal school hours at the ten partner primary schools and to follow up any absentees. They plan to allow some vulnerable children to sit the assessments in smaller groups and/or to allow them to attend the school at a later date to sit the assessments. The executive principal reminded the meeting that the arrangements make specific provision for children with special educational needs and looked after and previously looked after children who are not required to undertake the assessment in the same way as others. The diocese did not comment on this element of the objection in its response.
43. The arrangements make it clear that *"Applicants who sit the Fair Banding Assessment are considered for admission first"*. Therefore any child who does not sit the assessment is highly unlikely to be admitted to the school. The exceptions to this are children with a statement of special educational needs which names the school and looked after and previously looked after children who have not taken the assessment and, according to the arrangements *"will be allocated to the appropriate band on the basis of an alternative appropriate assessment."* The supplemental guidance on banding indicates that there are three assessment 'windows'. The guidance explains window 1 is for children attending the partner primary schools where the assessments will take place on a normal school day during the first week in October 2015. Window 2 is for parents of pupils who do not attend one the partner primary schools. These parents must complete an assessment registration form between 13 April 2015 and 18 September 2015. The assessments for these pupils will take place on Saturday 10 October 2015. The guidance says that there will be a third assessment window for pupils who miss either of the other two assessment windows.
44. The assessment registration form may be obtained either as a downloaded version or as a hard copy from the school. However, in order to access the details of these arrangements parents of pupils who do not attend the partner primary schools require access to the school's website. It is clear from the objectors' submissions that there is a small number of families, particularly those who are dysfunctional and/or who live in socially deprived areas, who find the completion of the LA's common application form (CAF) difficult and who therefore do not submit it on time or at all. The additional requirement to complete a registration form and arrange for attendance at the school for the assessments will further impact on this group of families. I am of the view that there is the potential for these families to be disadvantaged if their children do not attend one of the schools, or are absent on the given day, at which the school intends the tests to be taken during the

normal school day. This may lead to the child not sitting the assessment and therefore not being admitted to the school. The introduction of banding has the potential to disadvantage this particular social group.

45. All three objectors are of the view that the arrangements are too complicated and are not easily understood. They say that this is contrary to paragraph 14 of the Code. The LA and Whitehill state that *“Trinity’s 2016 arrangements are complicated and difficult to understand”* and St Mary’s say that *“the policy is not clear enough for parents with limited reading abilities to understand”*. Paragraphs 14 and 1.8 of the Code require admission arrangements to be clear.
46. In its response to the objections the school did not directly address this issue; it explains the process of banding, the alternatives of how it might be implemented and the decisions which the school came to in terms of how the banding would be applied. It sets out to explain the aims and expectations of the process and cites an example of a school in London which uses banding and which serves a socio-economically deprived area. It does not address the issue of the arrangements being complex and difficult to understand. The diocese agrees that the description of the banding process is not easy to understand. It goes on to say that the arrangements describe banding as well as they possibly can, but by its very nature banding is not an easy process to describe or explain.
47. The arrangements are set out in one document with an attachment of supplemental guidance. Parents of prospective pupils are reminded that the applications should be made in accordance with the LA’s co-ordinated admission arrangements. The documents make it clear that admissions will be *“fair banded”*. It then goes on to explain the supplementary information form (SIF) for those parents who wish their application to be considered in relation to church attendance. There is a timeline of the process of application which distinguishes between children at the partner primary schools who will take the assessments at their own schools and those who do not attend the partner primary schools who need to register prior to taking assessments at the school. The arrangements make it clear that applicants who sit the assessment will be considered for admission first. The arrangements then go on to describe the assessments and how the applicants will be placed into four ability bands including complex details of how any vacant places in the bands will be filled. Specific arrangements for children with statements of educational need and looked after and previously looked after children, who are not required to undertake the assessment, are then described followed by a list of the oversubscription criteria which will be applied to each band.
48. Parents are encouraged to read the supplemental guidance on fair banding assessment and it is in this document that the completion of the Common Application Form (CAF) for the LA is explained. Details of the banding process are provided and the three *“Fair banding Assessment Windows”* are outlined.

49. Parents must access the arrangements on the school's website. These arrangements explain the process of application including the completion of the LA's CAF. If the family are church attenders they must also complete a SIF and return it to the school. If the child does not attend a named primary school they then have to complete a registration form for the assessment. This can be collected from the school or downloaded but it is required to be returned to the school by post by 18 September 2015. The arrangements explain that this form will generate more information about attendance at the school on a Saturday morning in October for the child to take the assessments.
50. Parents are provided with details of the assessments and how pupils are allocated to bands, in addition there is an explanation of how any vacant places in the bands will be filled.
51. The arrangements are undeniably complex as they are different for different groups of children depending on their religious affiliations and the primary schools which they attend. Parents who are not familiar with banding arrangements may well perceive any form of assessment as a method by which schools will choose higher ability pupils for admission over those who do not perform as well even though this is not the case. This is particularly relevant in North Halifax where there is a local grammar school. This grammar school requires children to be registered to sit an assessment which is of a similar nature to that used for banding and within very similar timeframes.
52. I believe that many parents would struggle to understand how places for the school will be allocated when looking at the arrangements because they are complex and are not clear and I therefore uphold this element of the objection because the arrangements are not clear and contravene paragraphs 14 and 1.8 of the Code.

#### Other matters

53. The school intends to start teaching Y7 pupils before the summer holidays in 2016 and the arrangements state that "*Trinity Academy Halifax will admit 300 pupils into Y7 in June 2016*". The determined arrangements cover the admission of pupils for September 2016 as stated in paragraph 2 of the Code. ("*This Code comes into force on 19 December 2014 and, unless otherwise stated, applies with immediate effect. It will apply to admission arrangements determined in 2015 for admission in school year 2016/17 and any future years*"). The school may agree with parents and schools to have introductory meetings or activities as part of the pupils' transition to secondary school, but the arrangements relate to admissions in September 2016 and the school year begins on 1 September. Admission is for September 2016 and not June 2016. The date on the arrangements therefore requires amendment.
54. Oversubscription criterion 5 applies to "*Children already educated within the same multi-academy trust*". Paragraph 1.9b of the Code states that "*admission authorities **must not** take into account any*

*previous schools attended, unless it is a named feeder school*". The school does not operate a feeder school system and therefore there are no named schools in its oversubscription criteria. The inclusion of a criterion giving priority for admission for attending unnamed schools is not permitted. Also, if the school were to have feeder schools then those schools must be chosen so that the requirements of paragraph 1.15 of the Code are met. Oversubscription criterion 5 does not comply with the Code.

55. Oversubscription criterion 6 gives priority to *"Children of staff employed within the same MAT for a period of at least two years"*. Paragraph 1.39 of the Code permits the inclusion of oversubscription criteria which give priority to the children of staff employed at the school. I was assured at the meeting that staff are employed on a school specific basis within the MAT. The criterion as drafted does not comply with the Code.
56. The final oversubscription criterion for Y7 admissions concerns the distance that pupils live from the school. It does not include provision for the circumstance when two pupils live equi-distant from the school and the arrangements therefore require the addition of a final tie breaker in order to comply with paragraph 1.8 of the Code which states that *"Admission arrangements **must** include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated"*.
57. The school admits external pupils into Y12. There is no PAN and there are no published arrangements for admission to Y12 of pupils new to the academy. Paragraph 2.6 of the Code states that *"School sixth form admission arrangements for external applicants **must** be consulted upon, determined and published in accordance with the same timetable as for admission arrangements for the other entry points."*
58. The sixth form application form states that *"Places at Trinity 6<sup>th</sup> form will be offered based upon the following important criteria; attendance, punctuality, attitude to work, behaviour and academic achievement"*. The form requires information on the applicant's current school and the name of the form tutor. It also asks if the application is the pupil's first choice for post 16 provision and requires a personal statement which includes any future plans the pupil may have and whether he or she is hoping to apply for university or join the world of work. Paragraph 1.9 of the Code states that *"It is for admission authorities to formulate their admission arrangements, but they **must not**: a) place any conditions on the consideration of any application other than those in the oversubscription criteria published in their admission arrangements; b) take into account any previous schools attended, unless it is a named feeder school; c) give extra priority to children whose parents rank preferred schools in a particular order, including 'first preference first' arrangements; g) take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement; i) prioritise children on the basis of their own or their parents' past or current hobbies or activities.* The application process does not comply

with the Code.

59. After the application form has been submitted the academy conducts individual interviews. This is contrary to paragraph 1.9 of the Code which states that *“It is for admission authorities to formulate their admission arrangements, but they **must not:** m) interview children or parents. In the case of sixth form applications, a meeting may be held to discuss options and academic entry requirements for particular courses, but this meeting cannot form part of the decision making process on whether or not to offer a place.”* The trust needs urgently to determine arrangements for admission to Y12 that comply with the Code.

### **Conclusion**

60. There are three elements in these three objections and I uphold each of them. The school did not consult in line with the Code at paragraph 1.44 and therefore did not effectively consult on the changes to the arrangements. It failed to involve important groups in the process including local schools that are not partner schools, the neighbouring LA and the parents of younger children.
61. Information concerning the ability range of the school's intake indicates that it does not mirror the national ability profile but has a smaller proportion of high and low ability pupils. By introducing banding which allocates four equal bands this means that more pupils will be allocated to the high ability and low ability band. This would reduce the current proportions in the middle bands. Current statistics show that the higher ability band in the school does not make up 25 per cent of the cohorts. In order to meet this proportion the school would admit children from outside the catchment area while not being able to admit all those living in its catchment area who would like a place there. I consider this unfair and contrary to paragraph 14 of the Code.
62. The arrangements are complex and require some families to access the website, download a registration form and return it to the school along with a SIF (if relevant); complete a CAF and submit it to the LA and arrange for the children to attend the school for assessment on a particular Saturday. The LA has demonstrated that there are a significant number of families, particularly those who live in socially deprived areas, who find it difficult to complete the relatively straightforward CAF and return it as required. I am of the view that these complex arrangements would exacerbate this situation. As the arrangements make it clear that those applicants who have undertaken the assessment will be considered for admission first then it follows that those who do not will miss out on a place at the school. Those families who are likely to come from particular social groups who fail to complete the processes required will be disadvantaged and this is contrary to paragraph 1.8 of the Code.
63. The arrangements are not clear and many families would struggle to understand them fully without significant help. This is contrary to



paragraph 14 of the Code.

64. I have identified a number of other areas of non-compliance with the Code. Paragraph 3.6 of the Code permits the school to revise its arrangements to give effect to mandatory requirements. The school has already amended the date of admission and the two oversubscription criteria which relate to pupils from and children of staff employed at schools in the MAT. The arrangements require the addition of a tie breaker. The school has said that it is currently working on sixth form arrangements which will be compliant with the Code.

### **Determination**

65. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I uphold the objections to the admission arrangements determined by the Trinity Academy Trust for Trinity Academy in Halifax for admissions in September 2016.

66. I have also considered the arrangements in accordance with section 88I (5). I determine that the arrangements do not conform with the requirements relating to admission arrangements.

67. 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 unless an alternative timescale is specified by the adjudicator. In this case, I specify a timescale of one month from the date of this determination.

Dated: 14 September 2015

Signed:

Schools Adjudicator: Mrs Ann Talboys