



Office of
the Schools
Adjudicator

Determination

Case reference:	ADA4386
Objector:	The local authority
Admission authority:	The Trinity Multi-Academy Trust for the Trinity Academy Halifax
Date of decision:	20 September 2024

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Trinity Multi-Academy Trust for the Trinity Academy Halifax.

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

By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 30 September 2024.

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 the local authority (the objector), about the admission arrangements (the arrangements) for September 2025 for the Trinity Academy Halifax (TAH or the school).**
- 2. The school is a secondary academy for 11 to 16 year olds. The school is part of a multi-academy trust called The Trinity Multi-Academy Trust (TTMAT or the trust), the**

governing body of which acts as the admission authority for the school. The trust is a diocesan MAT.

3. The local authority (LA) for the area in which the school is located is Calderdale Council.

4. The parties to the objection are the objector, the trust (and, by default, the Diocese of Leeds) and the school.

5. The objection raises concerns about unfair discrimination caused by the banding arrangements in respect of children living locally to the school, and the lack of information about making an application in-year. In respect of the former being ‘discriminatory’, I asked the objector to qualify the nature of the discrimination. They confirmed that they could not identify any discrimination in respect of any groups with “protected characteristics”, as defined in the Equality Act 2010 (the EqA), and confirmed my interpretation that the meaning of the objection is that the arrangements are ‘unfair’ or ‘cause disadvantage’ to an identifiable group who are disadvantaged. This is distinct from a complaint of unlawful discrimination in contravention of the requirements in the EqA. In light of the objector’s confirmation, I have not considered whether there is any breach of the EqA and have made clear to the objector that I would not do so. My function under section 88H of the Act is to determine whether or not to uphold the objection which has been made.

6. The school refers to its banding arrangements as ‘fair banding’. I will use the term ‘banding’ throughout this determination, as it is referred to in the Code, unless material from parties using the term ‘fair banding’, is quoted.

Jurisdiction

7. The terms of the funding agreement between the trust and the Secretary of State for Education state:

“The Academy Trust will act in accordance with, and will ensure that the Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admissions Appeals Code published by the [DfE] [...] as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or law to “admission authorities” shall be deemed to be references to the governing body of the Academy Trust.”

8. The arrangements were determined on 5 February 2024 by the trust, which is the admission authority for the school, on that basis.

9. The objector submitted the objection to these determined arrangements on 15 May 2024. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction.

10. I have also used my power under section 88I of the Act to consider the arrangements as a whole and to determine whether or not they conform with the requirements relating to admissions and, if not, in what ways they do not so conform. I will refer to these as 'Other Matters' and they are covered in the sections of the determination under that name.

Procedure

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

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

- a. a copy of the minutes of the meeting of the trust's governing body at which the arrangements were determined;
- b. a copy of the determined arrangements, supplemental guidance (which provides information for parents on the use of banding) and the supplementary information form (SIF);
- c. the objector's form of objection along with supporting documents;
- d. the responses of the trust and school to the objection, along with supporting documents;
- e. a copy of the supplementary funding agreement for the school;
- f. the LA's online composite prospectus for admissions to secondary schools;
- g. Google Maps;
- h. IoD 2019 (indices of deprivation in 2019) data from the former Ministry of Housing, Communities and Local Government;
- i. the Map Developers' draw a circle tool website;
- j. information available on the websites of the school, trust, LA, the Department for Education (DfE) – (particularly the 'Get Information About Schools' (GIAS) site and the "Travel to school for children of compulsory school age: Statutory guidance for local authorities"), Ofsted and GL Assessment (the company administering the banding test);
- k. a literature review commissioned by the Office of the Schools Adjudicator (OSA) from the DfE on the performance of disadvantaged pupils in the 11 plus test; and
- l. a previous determination for the school (covering case reference numbers ADA2965, ADA2970 and ADA3036 (2015)) and one for Trinity Academy Grammar (when previously called Trinity Academy Sowerby Bridge) (case reference number ADA3570 (2019)), referred to by the objector. I have also looked at the determination for case reference number REF4199 (for Trinity Academy St. Edwards in Barnsley (2023)).

13. I note here, in respect of me having had sight of previous determinations for the school and two other schools in the trust, that those determinations do not set precedents. I have considered the arrangements on their merits against the requirements set out in legislation and the Code and in the light of the facts and circumstances as they are now.

The Objection

14. The objector raises two concerns about the arrangements:

- A. Prioritisation of admission is based upon banding. The arrangements in this regard lead to local children being unfairly disadvantaged in favour of the admission of higher attaining pupils from further afield.
- B. There is a lack of information in the arrangements in respect of in-year admissions.

15. The objector identified the following areas of the Code which it is of the view applies to their objection:

- 1.8 (part): “Oversubscription criteria **must** be reasonable, clear, objective, [...]. Admission authorities **must** ensure that their arrangements will not disadvantage unfairly, either directly or indirectly, a child from a particular social or racial group, or a child with a disability or special educational needs, [...]”
- 2.26 (part): “In 2021, own admission authorities and governing bodies **must** set out on the school’s website by 31 October 2021 how in-year applications will be dealt with from the 1 November 2021 until 31 August 2022. In all subsequent years, they **must** set out by 31 August at the latest each year, on the school’s website how in-year applications will be dealt with from the 1 September until the following 31 August.”

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

- 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 [and] clear [...]. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”
- 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.”
- 1.30: “Children with Education, Health and Care Plans [EHCPs] 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 Education, Health and Care Plan names the school.”

17. About concern A. I note here that all admission arrangements create advantage for some applicants and disadvantage to others; indeed, that is their purpose. However, any disadvantage would have to be unfair to be contrary to the Code. To test the fairness of the use of banding, I will first consider whether its adoption was reasonable. Only if found to be reasonable will I then consider whether the arrangements operate fairly. I will say more about how I will go about testing ‘reasonableness’ and ‘fairness’ at the relevant point in the determination.

18. Putting aside the issue of disadvantage, the objection is broadly concerned with the fact that the school does not, in the objector’s view, serve those living ‘locally’. There is no definition that I am aware of in statute as to what constitutes a ‘local school’; indeed that would vary based on the situation and location of each school. However, I note it is the school’s duty, as an academy, under section 1A(1)(d) of the Academies Act 2010 that it “provides education for pupils who are wholly or mainly drawn from the area in which it is situated”. In the context of this requirement, I will consider anything within three miles of the school’s location as ‘local’; this distance is taken from the DfE’s “Travel to school for children of compulsory school age: Statutory guidance for local authorities” and is the statutory walking distance for children aged 8 or over.

Other Matters

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

20. In summary, I note here that I raised the following matters in respect of the arrangements: one of the items of information requested on the SIF being non-compliant; the named feeder school under oversubscription criterion 2 does not appear to be the name of the school concerned; no explanation is provided for the random allocation process implemented in the event of a tie; there being no explanation as to how the home address of a child is determined in the event that the child lives at two or more different addresses; and not including information about the process for applying for a place outside of a child's normal age group.

Background

21. The objector provided the following background to the situation in respect of its secondary schools:

“In 2007, Secondary school provision within North Halifax comprised 4 schools: The Ridings, St Catherine's Catholic High School, Holy Trinity C of E Senior School and North Halifax Grammar School.

The Grammar School with selective admission arrangements and both Faith Schools prioritising admission to those with religious affiliation and in church attendance; the only 'open community' provision in the area was The Ridings School and standards had not been raised or sustained at this school over any significant period in the previous 10 years.

In 2007 The Ridings was placed in Special Measures for a second time. The Authority carried out a review of provision in the area inviting both Catholic and Anglican Diocesan bodies to work with the Authority on the development of an expression of interest bid for a multi-faith academy provision to serve the pupils of North Halifax.

The process of formally closing The Ridings commenced. Agreement was secured with the Diocese of Wakefield (C of E) (now Diocese of Leeds - Anglican) to develop a bid whilst the Diocese of Leeds (Catholic) opted to develop its own plans for educational provision in the area.

An Expression of Interest was developed for an Academy naming Holy Trinity Senior as the predecessor school. The bid was formally approved, and funding awarded by Lord Adonis in April 2008. At the time of submission around 35% of local pupils were travelling out of the area for education as there were insufficient open access local pupil places available in good schools.

Admission arrangements that were developed by the original sponsors of the new Academy (Lead Sponsor: C of E Diocese of Wakefield, Co-Sponsors- The University of Huddersfield, Calderdale College and Calderdale Metropolitan Borough Council) addressed this situation and gave priority to local pupils.

Late during the construction period of the new Academy building, the neighbouring school, St Catherine's Catholic High School was placed into Special measures. The Catholic Diocese of Leeds served notice of closure upon the Secretary of State. Calderdale MBC entered negotiations with Trinity Academy to find a solution to the difficult position they had been placed in by the notice to close. Subsequently the Authority invested £5 million to expand the size of the new Trinity buildings to ensure that there was sufficient provision in order to accommodate local pupil numbers.

There are two remaining Secondary Schools located in North Halifax (one of which is selective and accommodates very few local pupils), the other is Trinity Academy."

22. According to GIAS, TAH is a non-selective and co-educational secondary school with a Church of England religious character. It is an academy which opened in 2010. The published admission number (PAN) for Year 7 for 2025 is 330.

23. TTMAT runs 11 academies:

23.1. Excluding TAH, there are five other secondary academies: Trinity Academy Grammar (Sowerby Bridge); Trinity Academy Cathedral (Wakefield); Trinity Academy Bradford; Trinity Academy Leeds; and Trinity Academy St. Edwards (Barnsley).

23.2. Four primary academies: Whitehill Community Academy (Illingworth, Halifax); Trinity Academy Akroydon (Boothtown, Halifax); Trinity Academy St Chad's (Brighouse); and Trinity Academy St Peter's (Sowerby Bridge).

23.3. One sixth form provision: Trinity Sixth Form Academy (Halifax).

24. Admission to the school is prioritised through a banding test. The test assesses applicants prior to the allocation of places; they are then allocated to one of four ability bands. Then, in the event of oversubscription, after the admission of children with EHCPs which name the school, places will be prioritised according to the school's oversubscription criteria within each band, summarised as follows:

- 1 Looked after and previously looked after children.
- 2 Children who attend a named feeder primary school within the trust.
- 3 Children who have siblings who currently attend and will still attend the school on the date of admission.
- 4 Children of staff employed at the school.

- 5 Children who are resident in the catchment area and who regularly attend, or whose parents / guardians regularly attend, a Church of England parish church.
- 6 Children who are resident in the catchment area.
- 7 Children who regularly attend, or whose parents / guardians regularly attend, one of the Church of England parish churches in the rural Deanery of Halifax.
- 8 Children who regularly attend, or whose parents / guardians regularly attend, one of the Church of England parish churches in the rural Deaneries of Calder Valley and Brighouse and Elland.
- 9 Children who regularly attend, or whose parents / guardians regularly attend, another Christian Church within the area of the Calderdale Metropolitan District (affiliated to Churches Together in England).
- 10 Other children.

Parents are expected to complete the SIF if they wish their child(ren) to be considered in relation to their church attendance (relevant to criteria 5, 7, 8 and 9).

Children are prioritised within each criterion by order of proximity to TAH. If there is a tie, random allocation will be used to break it.

25. In respect of the use of banding, the arrangements and the supplementary guidance provided for parents about the use of banding set out the following:

- 25.1. The school employs a form of banding designed to produce an intake which matches the ability profile of the children applying. Children taking the test are admitted under four bands (where Band 4 is the highest ability and Band 1 is the lowest). Applicants can only sit the banding assessment once. At the request of a primary school or parent / carer, the school will take steps to ensure reasonable adjustments are made for children with identified special educational needs or disabilities (SEND), either to the banding test or to identify an alternative (and more appropriate) assessment of the child's ability. Those children who do not sit the test, and who are not assessed in an alternative way, are referred to as 'non-banded' or 'unbanded' in different parts of the arrangements (I will use 'unbanded' in this determination where I am referring to such) and are prioritised for admission after all those who are banded.
- 25.2. Once the tests are sat, applicants are banded using their resulting scores. Each band has a score range, the boundaries of which are said by the school to reflect national benchmarks. The arrangements state that the school will admit the required number from each band based on the spread of ability of those applying.

25.3. If there are insufficient applicants in any one band, then places are filled from the other bands as specified in the arrangements:

“Band 4 – if no Band 4 children are available, children from Band 3 will be offered places; if no Band 3 children are available, children from Band 2 will be offered places; if no Band 2 children are available, children from Band 1 will be offered places; if no Band 1 children are available, places will be offered to non-banded children.

Band 3 – if no Band 3 children are available, children from Band 4 will be offered places; if no Band 4 children are available, children from Band 2 will be offered places; if no Band 2 children are available, children from Band 1 will be offered places; if no Band 1 children are available, places will be offered to non-banded children.

Band 2 – if no Band 2 children are available, children from Band 3 will be offered places; if no Band 3 children are available, children from Band 1 will be offered places; if no Band 1 children are available, children from Band 4 will be offered places; if no Band 4 children are available, places will be offered to non-banded children.

Band 1 - if no Band 1 children are available, children from Band 2 will be offered places; if no Band 2 children are available, children from Band 3 will be offered places; if no Band 3 children are available, children from Band 4 will be offered places; if no Band 4 children are available, places will be offered to non-banded children.”

25.4. Any child with an EHCP naming the school or who is (previously) looked after and who has not taken the banding test (and is therefore unbanded) will be allocated to the most appropriate band on the basis of an alternative appropriate assessment, such as a moderated teacher assessment.

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

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

Year 7	Year 8	Year 9	Year 10	Year 11	TOTAL
330	326	329	308	322	1615

27. GIAS shows that the school has capacity for 1650 children. Later on in this determination, Table 3 provides data showing that, although not full in every year group, the school has been oversubscribed in the year of entry since 2021.

Consideration of Case

A. Prioritisation of admission by banding causes disadvantage to local children

28. The objector asserts that the school's use of banding has resulted in higher ability children from further afield being prioritised for places over children living locally to the school who are more disadvantaged, and that this is unfair.

29. When considering the disadvantage that the objector asserts is caused by the use of banding, I will consider the reasonableness and fairness of this aspect of the school's arrangements. I will adopt a two-stage approach: first, I will assess whether the use of banding is reasonable. If I find that it is unreasonable, this use would be non-compliant with the Code and I would not need to proceed to the second stage. If the use of banding is found to be reasonable, I will go on to the second stage, which is to look at whether the effect of the use of banding on admissions is fair.

30. The Code uses the term 'reasonable' but does not define it. An everyday definition is of having sound judgement; being sensible and rational. It is the requirement of public bodies, including admission authorities, that they must act reasonably in adopting any policy or making any decision. The test I will apply to reach a conclusion on this aspect of the objection, therefore, is whether the decision to use banding is one which a reasonable admission authority acting rationally and taking into account all relevant factors and no irrelevant factors could make (the 'reasonableness test'). This is an objective test with two parts. It will be necessary to consider the rationale for adopting banding (Part 1 of the test) and the effect of its practical operation (Part 2). Part 1 follows.

31. About its use of banding, the school provided the following background and rationale:

"Before Trinity Academy Halifax's inception in 2010, there were four schools operating in the north Halifax area. One was, and still is, the selective North Halifax Grammar School. The other three were Holy Trinity Senior School (the predecessor school for TAH), St Catherine's Catholic High School and The Ridings. Both of the latter two were significantly undersubscribed and, by the local authority's own admission, "at the time of submission (of the application to open TAH) around 35% of local pupils were travelling out of the area for education as there were insufficient open access local pupil places available in good schools."

When TAH opened, it did so with a PAN of 180 (the same as the predecessor school.) The new building it was fortunate to move into two years later allowed it to expand its PAN to 240. Since then, with some LA funding, the strategic closure of its post-16 offering, as well as significant funding from its own budget, TAH has managed to increase its PAN to 300 and then to 330. That is, to be exact, 330 more open access pupil places available at an outstanding school than were available before it opened.

Upon the introduction of our Admission Policy in 2021, we stated our intention to ensure that it did not fundamentally change the nature and make-up of our intake because we strongly believe that Trinity Academy Halifax (TAH) was created to serve the local community, providing an outstanding education to 1650 young

people. This principle is still endorsed by the Trust's Board of Directors and the governors of TAH."

32. The school's arrangements set out clearly that banding will be used and how the banding process works:

"The assessment is not a traditional entrance exam which children either pass or fail. It is done to ensure that our intake exactly matches the ability profile of the children applying. To achieve this, all applicants (by the deadline) are invited to take a non-verbal reasoning assessment to divide them into 4 ability bands. We will admit the required number from each band based on the spread of ability of those applying.

The assessment is externally set by a well-established educational assessment agency and the papers are collected and marked. The academy is then provided with a list of each child's assessment mark, similar to an IQ score, with 100 being the average. The marks are divided into four bands, and we are instructed how many children to take from each band e.g. if 40% of those applying are identified in Band 2, then 40% of our intake has to be from this band. This ensures that the 330 places we offer reflect the ability range of our applicants.

Parents/carers of children who sit the Fair Banding Assessment in October will be informed of the band their child has been allocated to, prior to the national deadline for secondary school applications. Parents/carers of children who sit the later Fair Banding Assessment will also be informed of their child's band."

33. As will be shown in Table 3, in 2024 there were 773 applicants for places at the school. The school has a PAN of 330; this provided places only for 42.7 per cent of those applying in that year. In the circumstance of oversubscription, the arrangements include criteria to prioritise admission. This has the effect of creating advantage for some applicants over others. The trust has chosen to use banding to prioritise children (over unbanded children) as well as using its oversubscription criteria to prioritise admission within each band.

34. Banding is a form of selection permitted by section 101 of the Act as set out in paragraph 1.25 of the Code. The school employs a form of banding designed to produce an intake which "exactly matches the ability profile of the children applying". This is expressly permitted in both the Act and in paragraph 1.25 a) of the Code. I can see from the arrangements, and the supplementary guidance provided to parents about the use of banding, that the trust has met the requirements of paragraphs 1.27, 1.29 a) and b), and 1.30 of the Code, in that the arrangements (including on the school's website) and supplementary guidance:

34.1. explain how the banding process will work, including details of the test used;

34.2. include information about how the test results determine the band an applicant is allocated to;

34.3. set out how those children with EHCPs which name the school, or who are looked after and previously looked after are to be prioritised for admission; and

34.4. state clearly that the listed oversubscription criteria are used to prioritise admission (and therefore the test results are not used for this purpose) within each band.

35. In considering Part 1 of the ‘reasonableness test’, I have taken into account that although permitted by the Act and the Code, admission authorities do not have to use banding to prioritise admission. The trust has set out a credible and rational, and therefore reasonable, justification for the use of banding in the school’s arrangements. The Code sets out requirements which must be met when banding is used. The arrangements set out that which is required by the relevant paragraphs in the Code. I therefore determine that Part 1 of the test is met.

36. Turning now to Part 2 of the test of reasonableness, I intend to look at the effect of the practical operation of the arrangements in respect of concern A. and in the context of my findings in Part 1 of the test.

37. The trust confirmed that the banding test is administered by GL Assessment. On the company’s website, it states that it is the “largest provider of fair banding assessments in England” and that its “tests are constructed to ensure validity for the purpose required”. The website also states that:

“We work with partners, including King’s College London and the University of York, to ensure that our assessments are the most rigorous, academically sound and in line with current best practice in education. Our assessments are also widely used by the Education Endowment Foundation (EEF) to measure the impact of their intervention research, and they are also used by schools and Governments in over 100 countries worldwide.”

38. I asked the trust to provide me with data which demonstrates how banding has worked in the process of prioritising admission since it was first introduced into the school’s arrangements in 2021. The trust provided me with the band thresholds for 2021 to 2024, and I have put that data into Table 2.

Table 2: Band thresholds 2021 to 2024

Bands	2021	2022	2023	2024
1	<90	<94	<94	<94
2	90 to 99	94 to 103	94 to 103	94 to 103
3	100 to 110	104 to 115	104 to 115	104 to 115
4	111+	116+	116+	116+

39. I can see that from 2022 the band thresholds changed and have remained consistent since then. About this the trust told me that:

“For the 2022 cohort onwards, there was a change in the thresholds used. This was the result of TAH raising a query with GL Assessment after the 2021 cohort results did not seem to fully reflect the expected distribution of results (looking at the correlation with CAT scores, given the absence of KS2 data). Given the potential impact this could have had on the allocation of places in Band 4, TAH were proactive in approaching GL Assessment to request the expert guidance of their team in recommending the best course of action. Following in-depth conversations, the Fair Banding leads at GL Assessment recommended altering the thresholds used for future years to those detailed above [...].

As you will appreciate, this has narrowed Band 4 and expanded Band 1, meaning that fewer students fall into Band 4 and the proportion of students admitted by the local authority in Band 4 is therefore lower than would have been the case if the thresholds had not been adjusted in line with GL Assessment’s recommendations.”

40. The objector provided data showing how many children sat and did not sit the banding test and the resulting admission number in each band between 2021 and 2024. I have put this data into Table 3.

Table 3: Number of children who sat the banding test and did not (unbanded (U)) and the resulting admission number (shown in brackets) in each band between 2021 and 2024

Year / Band	1	2	3	4	U	Totals
2021	90 (59)	101 (66)	134 (89)	176 (116)	263	764 (330)
2022	103 (69)	126 (86)	126 (86)	132 (89)	230	717 (330)
2023	117 (66)	140 (79)	181 (102)	144 (83)	211	793 (330)
2024	146 (79)	132 (71)	159 (86)	174 (94)	162	773 (330)

41. Using the data from Table 3, I calculated the percentage of each of the banded applications and the number admitted under each band. This allowed me to compare the two figures for each band in each year to see if the percentage of children admitted under each of Bands 1 to 4 corresponded with the number who had sat the banding test (and were subsequently allocated to each band). For the purposes of this exercise, the number of unbanded children did not need to be taken into account (total banded applications for each year were: 501 in 2021; 487 in 2022; 582 in 2023; and 611 in 2024). I have put this data into Table 4.

Table 4: Percentage of applications allocated to each band compared with percentage admitted (shown in brackets) under each of Band 1 to 4 between 2021 and 2024

Year / Band	1	2	3	4
2021	18.0 (17.9)	20.2 (20.0)	26.7 (27.0)	35.1 (35.2)
2022	21.1 (20.9)	25.9 (26.1)	25.9 (26.1)	27.1 (27.0)
2023	20.1 (20.0)	24.1 (23.9)	31.1 (30.9)	24.7 (25.2)
2024	23.9 (23.9)	21.6 (21.5)	26.0 (26.1)	28.5 (28.5)

42. I can conclude the following from the data in Table 4:
- 42.1. There have been increases and decreases in the proportion of children allocated to each band over the 4-year period. This is not unusual as different cohorts of children do not necessarily follow the same ability pattern.
 - 42.2. Save for a number of slight differences between the two sets of data (of no more than 0.3 per cent and which I do not consider statistically significant), the proportion of children admitted under each band between 2021 and 2024 is the same or almost the same as the proportion allocated to each band according to their test results. This demonstrates that the application of the banding process has led to the admission of the “full range of ability of applicants for the school” as is the trust’s stated aim of using banding.
 - 42.3. Since 2021, the number of applicants admitted under Band 1 has increased. This supports the trust’s view that its intervention with GL Assessment in respect of changing the banding range boundaries from 2022 onwards has had the desired effect on increasing the number of children admitted from the lowest ability range.
 - 42.4. Prior to 2024, the number of children admitted under Band 4 decreased each year, supporting the trust’s view that its intervention with GL Assessment in respect of changing the banding range boundaries from 2022 has had the desired effect on decreasing the number of children admitted from the highest ability range. Although the number increased in 2024, this remained 6.6 percentage points less than in 2021. Applying a linear trendline to the data for admissions under Band 4 shows a decreasing trend over time.
 - 42.5. Although those admitted under Band 4 have been the largest group admitted in each of the four years covered by the data in Table 3, the difference between the percentage admitted under Band 4 and Band 1 has decreased from 17.1 percentage points in 2021 to 4.6 percentage points in 2024.
43. Although the number of children admitted under Bands 2 and 3 were not included in the concern raised by the objector, I have looked at the patterns shown by the data for those bands in Tables 3 and 4 in the event that this may illustrate anything further about the admission to the school of children of low and high abilities since the introduction of banding. I can see that there has been an increase over time (as shown by applying a linear trendline to the data) in the number of children admitted under Band 2. I found the same for Band 3, though the spike in admissions under this band in 2023 gives a steeper upward trend than would have been evident otherwise.
44. I have put data into Table 5 which shows the number of children admitted under the two lowest ability bands (Bands 1 and 2) and the highest ability bands (Bands 3 and 4) between 2021 and 2024. This has allowed me to compare how the use of banding has affected the admission of the lowest and highest ability children over that period.

Table 5: Number of children admitted under the two lowest ability bands (Bands 1 and 2) compared to the highest ability bands (Bands 3 and 4) between 2021 and 2024.

Year / Band Groups	Lowest ability (Bands 1 and 2)	Highest ability (Bands 3 and 4)	Difference between band groups
2021	125	205	80
2022	155	175	20
2023	145	185	40
2024	150	180	30

45. Over the period covered by the data, the difference between the numbers of children admitted under the two lowest and two highest ability bands shows a decrease of 50 percentage points (a reduction of 62.5 per cent). The largest decrease in the difference between the two band groups was in 2022, after the school and GL Assessment altered the band thresholds. Although the difference has been higher since, it remains at least 50 per cent lower than it was in 2021.

46. I pause here to consider two matters that the objector has raised in respect of unbanded applicants. About this, the objector stated:

“Significant numbers of late applications are received by the Authority each year (26 for Trinity this year), potentially indicating a lack of understanding of admission arrangements. This emphasizes the need for clear arrangements. There are also those that miss the entrance assessments, and in both instances, pupils are highly unlikely to be able to secure a place within this school. (Late applications are considered after all on time applications and un-banded allocations will only take place when all banded pupils have been accommodated).”

47. From the data in Table 3, I can see that the number of children who have been classified as ‘unbanded’ has reduced by 101 between 2021 and 2024. Although there remained 162 unbanded children in 2024, the reduction in the number of children classified as such and the overall increase in the number of those banded over that period (an increase of 110 children) indicates clearly that more parents are aware that their children need to sit the banding test and more children are doing so. This, along with the considerable number who are sitting the test (611 for entry in 2024), appears to show that the school’s arrangements are clear enough for parents. I agree with the objector that unbanded children are unlikely to gain a place at the school. If the school has more banded applicants than there are places then no unbanded applicants will be admitted. However, the prioritisation of banded children is the nature of the use of banding; it seems to me that the objector has not fully appreciated the provisions regarding banding as set out in the relevant paragraphs of the Code.

48. In response to the objector’s concerns about the admission of higher ability children from a further distance, the trust provided me with data showing the decrease in the average distance and the furthest distance admitted, and the percentage of children living

in closer proximity to the school from 2019 and 2023 (data for 2024 was not available at the time I made my enquiries). I have put that data into Tables 6 and 7.

Table 6: Data showing the average and furthest distance admitted between 2019 and 2023

Year of entry	Current year group ¹	Average distance from the school (miles)	Furthest distance from the school (miles)
2019	11	1.37	17.05
2020	10	1.29	23.00
2021²	9	1.21	9.07
2022	8	1.19	7.47
2023	7	1.16	5.36

Table 7: Percentage of children living in closer proximity to the school from 2019 to 2023

Year of entry	Current year group ¹	% <1 mile ³	% 1-2 miles ³	% 2-3 miles ³	% 3-4 miles ³	% 4+ miles ³
2019	Y11	44.8	42.0	8.0	1.5	3.7
2020	Y10	49.4	41.6	3.4	2.8	2.8
2021^{2 4}	Y9	48.2	44.7	3.0	1.8	2.4
2022	Y8	52.1	39.5	4.5	2.4	1.5
2023	Y7	51.4	40.5	6.0	0.9	1.2

Key

¹ As of July 2024.

² The year the use of banding was introduced into the school's arrangements

³ Distance from the school.

⁴ There is an error of +0.1 per cent in the data provided by the trust. This is likely to be a rounding error and is not statistically significant.

49. About this data, the trust told me:

"The cohorts admitted to TAH since the introduction of the current Admissions Policy actually live nearer to the school on average. This closer proximity to the school not only happened in the first year of the policy (compared to the former policy) but has continued year-on-year since.

The measure of 'furthest distance from the school' has decreased significantly. Like the above, this not only happened in the first year of the policy (compared to the former policy), but has continued year-on-year since.

The percentage of pupils living in closer proximity to the school has risen since the introduction of the current Admissions Policy. A direct comparison between 2019 and 2023 shows that 6.6% more pupils lived within 1 mile of the school (51.4% compared to 44.8%).

The same comparison shows that the percentage of pupils living ‘further away’ i.e. 1-2 miles, 2-3 miles, 3-4 miles and 4+ miles, decreased by 1.5%, 2.0%, 0.6% and 2.5% respectively.”

50. I said at the start of this determination that I would use the statutory walking distance of three miles for children over 8 years old, as set out in the relevant DfE guidance, as an indicator of what I would consider ‘local’ to the school. The data in Table 7 show that the school has been (increasingly) reducing the distance from which children are being admitted:

- 50.1. The percentage of children admitted in 2023 living within three miles of the school was 97.9 per cent and has increased from 94.8 per cent in 2019.
- 50.2. In terms of the furthest children admitted, the distance dropped considerably (by 13.93 miles) in 2021 when banding was first introduced into the arrangements and it has continued to reduce since then.
- 50.3. In 2023, since the introduction of banding in 2021, only 1.2 per cent of the intake lived more than four miles from the school and the furthest distance from which a child was admitted was at its lowest in the period covered by the data in Table 7.

51. The trust provided two other tables of data which I consider pertinent to the assessment of reasonableness. These can be found in Tables 8 and 9.

Table 8: Data presented by the trust to show the proportion of the children on roll who are considered ‘disadvantaged’

Year of entry	Current year group¹	Percentage of disadvantaged children	Percentage of (previously) looked after children⁵	Percentage with EHCPs
2019	Y11	35	1.6	6
2020	Y10	41	1.3	12
2021 ²	Y9	37	2.4	9
2022	Y8	41	1.2	10
2023	Y7	44	0.9	7

Key:

^{1 2} (As for Table 7).

⁵ Despite what the trust told me about the number of looked after children admitted, I am not convinced that the fluctuation in numbers can be attributed to the use of banding. Looked after and previously looked after children are prioritised first in the oversubscription criteria within a band in any event, in accordance with paragraph 1.7 of the Code. Therefore, these figures are likely to be the result of the number of such children applying in that year.

52. About the data in Table 8, the trust said:

“The percentage of disadvantaged pupils is now 9% higher than in 2019.

The percentage of Looked After Children nearly double after the introduction of the current Admissions Policy and, whilst it has dropped in the intervening two years, it is clear that the policy is not having a detrimental impact on this cohort.

The percentage of children in receipt of an EHCP has remained broadly similar, although it is worth noting that more EHCPs are secured by TAH as the pupils move through school (and the number in the younger year groups are expected to increase, as they have done for the older year groups during their time with us e.g. 0% of the 7 EHCPs in the current Y7 have been implemented since the pupils arrived at TAH, whereas 25% and 33% of the current Y10 and Y11 EHCPs have been secured since the pupils arrived at TAH.”

53. I note here that there are various ways a child can be considered ‘disadvantaged’, but a reasonable definition is likely to include any child aged 5-16, who:

- is claiming free school meals;
- has been recorded as claiming free school meals at any point in the past six years;
- is looked after by a local authority;
- is recorded by their school as having left care through adoption or another court order; and / or
- is eligible for the Pupil Premium or the Service Pupil Premium grants.

Table 9: The number of applications between 2015 and 2024 (not 2019) where no offer has been made and the number / percentage of those that were first preferences

Year of entry	Number of applications where no offer could be made	Number of those that were first preferences	Percentage of those that were first preferences⁶
2015	197	149	75.6
2016	180	106	58.9
2017	155	99	63.9
2018	143	91	63.6
2019	No data available	No data available	-
2020	171	112	65.5
2021 ²	178	112	62.9
2022	116	92	79.3
2023	135	98	72.6
2024	136	98	72.1

Key:

² (As for Table 7).

⁶ The data in this column was calculated by me and not by the trust.

54. About this data, the trust told me:

“[...] the LA tries to illustrate that the current Admissions Policy has resulted in fewer places available in the catchment area. It offers data from 2021 (the implementation of the current policy) to September 2024 allocations. The main data is how many pupils have been allocated into each band, as well as how many applications there have been where no offer could be made (and how many of those were in catchment etc.)

We receive a detailed email from the LA regarding this each year (this year's one arrived on 24/02/24, just prior to national allocation day. In that email the LA state:

“Allocated 330, with 136 applications where no offer could be made (98 of which were 1st preference)”

It is clear to see from the above that the position has not worsened as a result of the current Admissions Policy. Indeed, compared to some previous years the situation has improved significantly.”

55. I can see from the data in Table 9 that:

55.1. The number of applications where no offer could be made has decreased by 61 percentage points (or 31 per cent) between 2015 and 2024 (not including 2019).

55.2. The proportion of applications that are first preferences increased over the same period and most sharply between 2016 and 2022.

55.3. The largest proportion of first preference applicants not receiving an offer was in 2022, a year after the introduction of the use of banding in the school's arrangements.

56. In my consideration, I have been cautious about placing too much weight on the statistics related to first preferences. That is not the focus of the concern and is not presented in a form that might have indicated how many first preferences did not get in from each band (from 2021 onwards). In any event, later in this determination, I will deal with the issue of all preferences (no matter how ranked) being equal and the trust did not provide data for other ranked preferences. It is also the case that, as I stress throughout this determination, the school is oversubscribed and cannot admit every child that applies, no matter what level of preference is expressed. However, it is worthy of note that since 2022, through conscious effort on the part of the school or not, the proportion of those expressing a first preference who were not offered a place has slowly decreased.

57. In concluding the 'reasonableness test', I do not see evidence in the data presented above that the concern raised has affected or will affect the practical operation of the arrangements in the way that the objector asserts. Paragraph 1.10 of the Code allows an admission authority to, “decide which criteria would be most suitable to the school according to the local circumstances”. The use of banding, as a means of selecting children

over those who are unbanded, is permitted in the Act and by provisions in the Code. The data show that since the introduction of banding, the school has, after an early intervention with the company administering the assessment to adjust the band thresholds, increasingly admitted fewer children from the higher ability bands (Bands 3 and 4) and more from the lower ability bands (Bands 1 and 2). Data also shows that children are being admitted from ever decreasing distances and therefore live closer to the school. It appears to me that the data show that the trust is meeting its responsibility for the school (as an academy) to provide education for children who are 'wholly or mainly drawn from the area in which it is situated', as required under the Academies Act 2010. I have also found there to be evidence that: the arrangements are clear for parents; there are an increasing number of parents ensuring that their children are sitting the banding test; and that the contents of the arrangements, in respect of banding, meet the requirements of paragraph 1.27 of the Code. I conclude that the use of banding meets the reasonableness test and therefore conforms to those parts of paragraphs 14 and 1.8 of the Code which require the oversubscription criteria in the arrangements to be reasonable and clear.

58. I have found the arrangements, by way of the use of banding, to be reasonable, and therefore now go on to consider the second stage – the fairness of this part of the arrangements. Fairness is a concept, not unlike being 'reasonable', that is used in the Code but is not defined. Fairness can be described as a 'protean concept', in that it cannot be defined in universal terms, but its requirements will depend on the circumstances. Fairness is focussed on the effect of the arrangements upon any relevant group. I re-stress here that the use of banding creates advantage for some applicants and disadvantage to others. In relation to admission arrangements, fairness is often best evaluated by undertaking a balancing exercise, weighing the advantage said to accrue to children who would be offered places (or afforded a high priority for places) at the school in consequence of the arrangements, against any disadvantage caused to any other relevant group of children who would not be offered places (or would not be afforded a high priority for places). Unfairness can be found when the disadvantage is considered to outweigh the advantage.

59. In this context, according to the objector, the disadvantage to assess is to those applicants who live closest to the school in areas of deprivation and who are disadvantaged by a larger proportion of higher ability children from further afield being admitted and reducing the number of places available. I have taken this area to be the 'social group' that the objector identifies is disadvantaged unfairly under paragraph 1.8 of the Code. For the avoidance of doubt, the objector did not identify any disadvantaged racial group on the form of objection.

60. I will assess fairness in terms of the scale of the disadvantage to those applicants in the following ways:

- 1 the proportion allocated to each of the four bands is not representative of the local community's need, as the number allocated to Band 4 is over-inflated by the number of parents who are also applying for grammar school places for their children;

- 2 whether there is evidence that the use of banding disadvantages those from lower socio-economic groups who live closer to the school;
- 3 the options – in terms of other schools – available for parents of children from that area; and
- 4 whether the use of banding in the arrangements at TAH affects the LA's ability to fulfil its duty to provide a sufficiency of school places in the area.

1 The proportion allocated to each of the four bands is not representative of the local community's need, as the number allocated to Band 4 is over-inflated by the number of parents who are also applying for grammar school places for their children

61. About this, the objector stated:

“Whilst the school publishes an overall PAN for admissions, the share of places allocated to each band is not published or determined until after the fair banding assessments have taken place. The stated intention is that the share of places allocated to each of the 4 ability bands is a proportional representation of the cohort of pupils that have sat the fair banding assessment. The Local Authority would challenge this as it is unrepresentative of the local community's need due to a number of reasons.

1) The nature of the assessment favours those who have been coached. The assessment includes non-verbal reasoning which does not form part of the primary national curriculum.

2) The presence of Grammar Schools within Calderdale (who also currently use non-verbal reasoning as part of their entrance assessment). Many, more affluent families, pay for private tuition / coaching to advantage their children in the entrance exam for Grammar school. Coached pupils that narrowly miss out on a grammar school place subsequently are well placed to secure admission to Trinity as their arrangements favour the brightest and higher attaining pupils

3) Coordinated arrangements i.e. the Equal ranked preference scheme, enables those that sit the grammar test to do so without risk. If they miss out on their first or second preference, their third preference is in effect elevated to their first. Those grammar school pupils that successfully secure a place that have also sat the assessment for Trinity have inflated the perceived need for places in Trinity's highest attaining band. The result is that more places are consistently allocated to the highest attaining pupils each year and the fewer places are allocated to the lower attaining pupils each year. The need for places for local children shows that the highest demand is for places in the lower bands and the lowest demand is in the higher bands. A complete contrast to how places are actually awarded.”

62. Taking the last of the three points raised above first, I determine the following:

62.1. The school's use of banding is to produce an intake that is representative of "the full range of ability of applicants for the school". The emphasis of the banding is to admit the number of children from each band which is representative of the number of applicants with the appropriate test score for each band. As indicated in Table 3, the data show that the school's intake in each band matches the proportion who have applied. There is no evidence to substantiate the objector's argument that the application of the type of banding that forms part of the school's arrangements is designed to "favour the brightest and higher attaining pupils".

62.2. The banding process does not take into account where the applicants live; location is prioritised through a number of the oversubscription criteria that are applied to each band, but only after each band has been determined. Again, it seems to me that the objector has not understood how banding, as permitted under the Code, operates.

62.3. Applications for secondary places in Calderdale allow parents to express preferences for five schools. I asked the objector why this is the case. The objector told me:

"The LA wanted to allow more than the minimum number of preferences required by the School Admissions Code to allow all pupils the opportunity to express a preference for a grammar school and not be disadvantaged should they not meet the academic benchmark (i.e. be left with only one preference in the event that their grammar school preferences could not be considered due to not attaining the required entry level)."

This demonstrates a lack of insight on the part of the objector, in that it is self-evident that allowing parents to express two preferences more than the statutory minimum causes there to be a larger number of preferences expressed for schools, by parents. This includes parents of higher ability children who, for the reason set out by the objector, can express three further preferences (other than the two grammar schools) rather than just one.

62.4. The trust told me:

"We note that the LA includes a '2024 Preference Breakdown' that shows the percentage of TAH first preferences is greater in Band 1 than it is in Band 4. Whilst we do not refute this, we do not believe that it is relevant in an 'equal ranked preference scheme' like the one the LA operate[s]."

Paragraph 1.9 c) of the Code prohibits admission authorities giving priority to applications on the basis of the ranking of the preferences expressed. Admission authorities are, therefore, required to apply an equal preference system for admissions. This means that admission authorities must consider all of the preferences expressed on the application form without taking into consideration the rank order of the preference. If any of the five preferences

expressed by parents is for a place for their child at TAH, it is taken into account in when determining the bands for that intake.

63. In respect of considering the issue of 'coaching' for the grammar school test affecting the outcome of the banding test at TAH, I turned to the findings of a literature review commissioned by the OSA which looked at the performance of disadvantaged children in the 11 plus test. (The full review, including references to the literature and links to the studies and excerpts from a relevant Education Select Committee report, has been shared with all parties in this case). The conclusions of this review are as follows:

"At all ages there is a gap in test performance between economically disadvantaged pupils and their more affluent peers. Results of KS2 tests in 2018 show that there is a 20 percentage point difference in the proportion of pupils reaching the expected standard in all of reading, writing and maths, and a gap of 8 percentage points for pupils reaching the higher standard. It is therefore reasonable to expect a gap in pupils passing the 11-plus test as well. However, there is a consistent finding that even for pupils with comparable attainment in standardised national tests (KS2), disadvantaged pupils are less likely to attend grammar schools."

64. About the issue of tutoring for the 11 plus test, the review goes on to say:

"There is limited evidence available to explain why this is the case, although pupils' access to tutoring is an important factor. Pupils that have been tutored are more likely to access a grammar school, and children in households with larger incomes are more likely to have access to tutoring. Tutoring is found to be effective at supporting pupils to pass the 11-plus. Similarly, preparation for the components of the 11-plus test appears to be important. Evidence from Kent suggests that disadvantaged pupils perform worse in the relatively unfamiliar 'reasoning' component of the Kent Test, than in the more knowledge-based, and familiar, Maths and English components.

However, disadvantaged pupils performing worse than their more affluent peers, and the effect of tutoring, is not an issue unique to the 11-plus test, and it would be difficult to argue that the 11-plus is unfair because of the use of tutors."

65. I also note that in its response, the trust told me:

"We would point out that non-verbal reasoning is part of our FB assessment, but only forms a very small part of the grammar school tests (from the NHGS [The North Halifax Grammar School] website: The admissions test will consist of: a) a test in English and Verbal Reasoning (VR) b) a test in Mathematics and non-VR. We therefore believe that the LA's link to this is overstated and potentially misleading."

66. Consequently, I do not find the objector's concern about tutoring to hold weight in my assessment of the scale of disadvantage in this case for the following reasons: there are a number of complex reasons why disadvantaged children perform poorly in ability testing and it is too simplistic to attribute it solely to being less likely to be tutored; outcomes of the

‘reasoning’ component of ability testing are affected even for those who are tutored, because it is less familiar than the knowledge-based aspects of the ability test; and consequently, as the type of test employed to determine the bands on entry to TAH is based on assessing ‘reasoning’, tutoring is less likely to benefit children with access to it. It is also the case that, unlike applications to grammar schools, doing well in the tests does not make it more likely that an applicant will be offered a place.

2 Whether there is evidence that the use of banding disadvantages those from lower socio-economic groups who live closer to the school

67. The objector is of the view that the school’s arrangements lead to local children being unfairly disadvantaged in favour of the admission of higher attaining pupils from further afield. In order to assist my consideration of this aspect of the assessment of the scale of disadvantage I have used IoD 2019 data. This data uses Lower-Layer Super Output Areas (LSOAs – standard statistical geographical areas of England designed to be of a similar population size, with an average of approximately 1,500 residents or 650 households), organised by deciles (deciles are calculated by ranking the 32,844 LSOAs in England from most deprived to least deprived and dividing them into 10 equal groups, where ‘1’ is the 10 per cent most deprived and ‘10’ is the 10 per cent least deprived).

68. For context, I looked at the IoD 2019 local deprivation profiles for Calderdale and Bradford (the two areas from which TAH predominantly admits children) provided by the former Ministry of Housing, Communities and Local Government. I have put that data into Table 10:

Table 10: Local deprivation profile (IoD 2019)

Decile	1	2	3	4	5	6	7	8	9	10
Bradford⁷	33.5	13.5	14.2	7.1	5.8	6.1	5.8	5.2	3.5	5.2
Calderdale⁷	15.6	14.8	10.2	11.7	7.8	14.1	14.1	5.5	3.1	3.1

Key:

⁷ Percentages of households classified under each of decile.

69. The data in Table 9 show that of households in Bradford and Calderdale 74.1 and 60.1 per cent (respectively) are in the ‘lower decile range’ (1 to 5) and 25.8 and 39.9 per cent (respectively) are in the ‘upper decile range’ (6 to 10) . Of course, although useful context, the school could does not draw from the whole of Calderdale and Bradford. Therefore, I looked at the specific location of the school in relation to areas of deprivation and affluence. I noted first that the school is located in the southernmost part of LSOA Calderdale 001A which is decile 6 (in the upper decile range) and is not itself in an area of deprivation.

70. The Map Developers’ draw a circle website tool allows a user to input a postcode and a distance from it. The tool then draws a circle, the radius of which is the distance input, onto a Google map. Using this tool, with the school as the centre point, I drew circles in

intervals of one mile (from one to five miles) on a map (as such creating a series of concentric rings around the school at one-mile intervals); I chose five miles as the maximum as the furthest distance from which a child was admitted to the school in 2023 was 5.36 miles. I then overlaid a map of LSOAs, colour-coded by decile, to analyse which areas of deprivation (in the lower decile range) and / or affluence (in the upper decile range) are evident in the various circular zones radiating from the school. I have put the data into Table 11. I have named each concentric ring as: Zone 1 (0 to 1 miles from the school); Zone 2 (1 to 2 miles from the school); Zone 3 (2 to 3 miles from the school); Zone 4 (3 to 4 miles from the school); and Zone 5 (4 to 5 miles from the school).

Table 11: Proportion of LSOAs in the lower and upper decile ranges within each zone

Zones	1	2	3	4	5
Number of LSOAs in the area from which children could be admitted⁸	16	29	54	71	103
Number (and percentage) of LSOAs in the lower decile range⁹	10 (62.5)	10 (34.5)	22 (40.7)	50 (70.4)	77 (74.8)
Number (and percentage) of LSOAs in the upper decile range⁹	6 (37.5)	19 (65.5)	32 (59.3)	21 (29.6)	26 (25.2)

Key:

⁸ With increasing distance, the areas covered by the circular zones becomes larger and this naturally incorporates more LSOAs.

⁹ LSOAs do not fit neatly within the zones. If any part of an LSOA is within a zone, it is included in the count. Percentages are in brackets.

71. The data in Table 11 show that, apart from in Zone 2, there is a larger proportion of LSOAs in the lower decile range than those in the higher range in each zone. The data shows that the number of LSOAs in the upper decile range, as a proportion of the possible areas from which the school can admit children, decreases from one to two miles from the school. This is largely because the zones increasingly incorporate deprived areas of Halifax and Bradford. Given the point made earlier (that there is a gap in test performance between economically disadvantaged pupils and their more affluent peers), it would appear that the proportion of areas from which TAH could admit more affluent (and more likely higher ability) children decreases from Zone 2 outwards.

72. Earlier, the data in Table 6 were used by the trust to show that the average distance of children admitted to the school has decreased between 2019 and 2023. In order for me to consider the objector's assertion, that the school's use of banding disadvantages lower

ability children living closer to the school, I asked the objector to provide me with data showing the number of applicants for places from each LSOA under each band and for those who were unbanded between 2021 and 2024. I calculated the percentages and have put the data into Tables 12 to 15 (banded data only for the five zones (marked Z1 (Zone 1) to Z5 (Zone 5))) in which I have sorted the data into those admitted (A) and not admitted (NA) under each band and into the lower and upper decile ranges (LDR and UDR) within each zone.

Table 12: Percentage of applicants (admitted and not admitted) under each band and within the lower and upper decile ranges within each of the five zones in 2021

		Band 1 (A)	Band 1 (NA)	Band 2 (A)	Band 2 (NA)	Band 3 (A)	Band 3 (NA)	Band 4 (A)	Band 4 (NA)
Z1	%LDR	11.9	0.8	11.5	1.6	16.9	1.2	18.5	1.6
	%UDR	1.2	0.4	3.3	0.8	4.9	1.6	9.9	2.5
Z2	%LDR	5.9	5.6	5.6	4.9	7.4	4.6	12.0	4.6
	%UDR	0.9	0.3	0.6	1.9	2.2	3.4	5.6	2.8
Z3	%LDR	2.2	5.1	2.5	4.7	2.2	5.4	3.2	7.9
	%UDR	0.4	0.0	0.0	1.8	1.1	3.2	1.4	4.0
Z4	%LDR	3.0	2.0	0.0	3.0	0.0	1.0	0.0	10.9
	%UDR	2.0	1.0	2.0	2.0	5.0	0.0	11.9	3.0
Z5	%LDR	5.7	0.0	0.0	5.7	0.0	2.9	0.0	11.4
	%UDR	0.0	0.0	2.9	0.0	0.0	0.0	5.7	0.0
	%Total¹⁰	11.0	6.3	10.6	8.5	15.8	9.5	24.6	13.7

Table 13: Percentage of applicants (admitted and not admitted) under each band and within the lower and upper decile ranges within each of the five zones in 2022

		Band 1 (A)	Band 1 (NA)	Band 2 (A)	Band 2 (NA)	Band 3 (A)	Band 3 (NA)	Band 4 (A)	Band 4 (NA)
Z1	%LDR	11.1	1.2	19.4	1.6	13.8	0.8	10.3	2.0
	%UDR	3.6	0.8	4.7	0.4	6.3	0.0	6.3	3.6
Z2	%LDR	5.9	4.3	7.1	5.6	6.5	3.1	6.2	2.8
	%UDR	2.8	0.9	1.9	0.9	3.4	1.5	4.3	3.4
Z3	%LDR	2.9	5.0	2.1	5.8	2.5	4.2	2.1	6.3
	%UDR	0.8	1.3	0.0	0.8	2.1	7.5	2.1	2.5
Z4	%LDR	1.2	4.8	1.2	2.4	2.4	3.6	1.2	4.8
	%UDR	7.2	1.2	7.2	1.2	10.8	0.0	9.6	7.2
Z5	%LDR	3.8	3.8	3.8	0.0	0.0	3.8	7.7	3.8
	%UDR	3.8	0.0	0.0	0.0	3.8	0.0	0.0	0.0
	%Total¹⁰	14.0	7.3	17.4	7.6	17.9	8.3	16.4	11.1

Table 14: Percentage of applicants (admitted and not admitted) under each band and within the lower and upper decile ranges within each of the five zones in 2023

		Band 1 (A)	Band 1 (NA)	Band 2 (A)	Band 2 (NA)	Band 3 (A)	Band 3 (NA)	Band 4 (A)	Band 4 (NA)
Z1	%LDR	11.7	3.7	13.2	3.3	13.9	3.7	7.3	4.8
	%UDR	2.9	0.7	4.8	2.2	8.1	1.8	5.1	1.8

Z2	%LDR	5.3	6.1	6.1	6.7	10.5	7.0	6.1	6.1
	%UDR	1.8	1.5	1.5	3.2	3.8	3.2	3.8	3.5
Z3	%LDR	2.1	5.3	2.8	5.3	2.8	8.8	3.9	6.0
	%UDR	0.7	3.5	0.4	3.2	1.4	3.5	2.8	4.2
Z4	%LDR	0.0	2.7	1.3	0.0	0.0	2.7	0.0	1.3
	%UDR	2.7	0.0	6.7	8.0	12.0	6.7	9.3	5.3
Z5	%LDR	0.0	2.6	0.0	2.6	2.6	10.5	2.6	15.8
	%UDR	0.0	0.0	0.0	5.3	0.0	5.3	2.6	2.6
	%Total¹⁰	10.2	9.1	12.3	11.2	18.0	13.4	13.2	12.6

Table 15: Percentage of applicants (admitted and not admitted) under each band and within the lower and upper decile ranges within each of the five zones in 2024

		Band 1 (A)	Band 1 (NA)	Band 2 (A)	Band 2 (NA)	Band 3 (A)	Band 3 (NA)	Band 4 (A)	Band 4 (NA)
Z1	%LDR	16.2	4.3	13.8	3.2	14.2	4.0	11.1	3.2
	%UDR	3.6	0.8	5.5	0.4	5.5	0.8	3.6	2.0
Z2	%LDR	7.2	8.1	5.2	5.2	8.8	7.8	7.8	7.2
	%UDR	1.3	2.6	1.6	3.3	1.0	4.2	3.9	2.6
Z3	%LDR	1.5	5.7	0.8	7.2	2.3	8.0	4.9	9.1
	%UDR	1.1	1.9	0.0	4.6	1.1	6.1	3.8	4.9
Z4	%LDR	1.8	0.0	1.8	0.0	1.8	1.8	5.3	1.8
	%UDR	5.3	0.0	7.0	5.3	5.3	5.3	14.0	7.0
Z5	%LDR	0.0	2.3	0.0	4.5	0.0	4.5	0.0	22.7
	%UDR	0.0	0.0	0.0	2.3	0.0	6.8	0.0	9.1
	%Total¹⁰	12.5	9.6	11.0	10.3	13.3	13.6	15.4	14.2

Key:

¹⁰ The percentage of the total of the banded applications only (this will add up to 100 per cent – other rows will not as unbanded applicants have not been included in the table though have been included in the calculations for each zone).

73. From the data in Tables 12 to 15, I make the following points / observations:

73.1. The data in these tables will differ from the data in Tables 3 and 4 as it will only include the data from the LSOAs in the five zones identified earlier. The school has, over that period, admitted from further afield and that is not included. Additionally, the objector told me when submitting this data that:

“The numbers are higher than those provided in the table showing those who sat the test within each band as that table showed the number of on time applications only. This data includes late applications also.”

73.2. Over the four-year period, the number of applications under Band 1 increased from 17.3 per cent in 2021 to 22.1 per cent in 2024. The number of applications under Band 4 decreased in the same period from 38.3 per cent in 2021 to 29.6 per cent in 2024.

- 73.3. The data show that the school is admitting from closer to its location over the four-year period. The number of children admitted under Band 1 from Zone 1 has increased from 29 in 2021 to 41 in 2024. The number of children admitted from LSOAs in Zone 5 in any band has been in the low single-digit numbers over the four-year period. It has decreased between 2021 and 2024 such that no child was admitted from Zone 5 under any band in 2024.
- 73.4. I note that in 2023 and 2024, the largest number of children not admitted was those under Band 4 from LSOAs in Zone 5. Of interest is that it is children who are from LSOAs in the lower decile range in Zone 5 who have not been admitted. However, it is clear that a number of children are admitted under Band 4 from LSOAs in the upper decile range in Zone 4, though this has not been more than the proportion admitted under Band 1 from LSOAs in Zone 1 in any of the four years.
- 73.5. The difference in the proportion admitted under Bands 1 and 4 in 2021 was 13.6 percentage points in favour of Band 4. In 2024, the difference dropped to 2.9 percentage points.
- 73.6. I note that admissions from LSOAs in the lower decile range in Band 1 have always been higher than from those in the upper decile range in Zones 1 to 4. This is the same for those admitted under Band 4 for Zones 1 to 3 (save for 2022 when the proportion was the same under Zone 3). As an aside, this demonstrates that it is not always reliable to assume that those from LSOAs in the lower decile range will not be of high ability.

74. From the data, I can see that the number of children admitted under Band 4 is more likely to be spread throughout the five zones (although less so in 2024) and therefore more children come from a greater distance under this band than under Band 1. However, the scale of the disadvantage which that situation might cause is mitigated by the following factors: the proportion being admitted under each band is equalising over time; those from LSOAs in the lower decile range closer to the school are being admitted in increasing numbers; and the proportion of those being admitted under Band 4 from further away is decreasing, save for those admitted from LSOAs in the upper decile range in Zone 4. In respect of the latter point, that increase does not appear to be causing disadvantage on the scale that the objector asserts. I also stress again, that the use of banding itself is a means by which the school can sort those sitting the banding test into ability groups (and to have a group who did not sit the test) to ensure that admission is representative of those who have applied. It is the oversubscription criteria applied within each band that prioritise by distance.

3 The options – in terms of other schools – available for parents of children from that area

75. TAH is situated in Halifax, which is located close to Bradford. Therefore, it is unlikely that it is the only choice for parents in the area. According to the DfE's GIAS website, there are 26 other secondary schools within 5.36 miles (the furthest distance of a child admitted

to the school in 2023) of TAH's postcode. I have put those schools, along with their relevant characteristics, into Table 16.

Table 16: Secondary schools within 5.36 miles of the school's postcode with relevant characteristics

School name	Distance (miles) ¹²	Local authority	Gender	Selection?	Religious character	Ofsted grade
The North Halifax Grammar School	0.3	Calderdale	Mixed	Yes	None	Good
Trinity Academy Bradford	1.43	Calderdale	Mixed	No	None	Good
The Halifax Academy	2.18	Bradford	Mixed	No	None	Good
The Crossley Heath School	2.93	Calderdale	Mixed	Yes	None	Good
Trinity Academy Grammar	3.09	Calderdale	Mixed	No	None	Good
Beckfoot Thornton	3.41	Bradford	Mixed	No	None	Good
Buttershaw Business & Enterprise College Academy	3.49	Bradford	Mixed	No	None	Serious weaknesses
Park Lane Academy	3.95	Calderdale	Mixed	No	None	Requires improvement
Dixons Allerton Academy	4.14	Bradford	Mixed	No	None	Requires improvement
Lightcliffe Academy	4.15	Calderdale	Mixed	No	None	Requires improvement
Ryburn Valley High School	4.19	Calderdale	Mixed	No	None	Good
Co-op Academy Grange	4.28	Bradford	Mixed	No	None	Serious weaknesses
The Calder Learning Trust	4.33	Calderdale	Mixed	No	None	Good

Brighouse High School	4.34	Calderdale	Mixed	No	None	Good
Appleton Academy	4.35	Bradford	Mixed	No	None	Good
Dixons Kings Academy	4.39	Bradford	Mixed	No	None	Outstanding
Bradford Girls' Grammar School	4.74	Bradford	Girls	Yes	None	Requires improvement
Eden Boys' Leadership Academy, Bradford	4.9	Bradford	Boys	No	Muslim	Outstanding
Dixons McMillan Academy	5.08	Bradford	Mixed	No	None	Good
Parkside School	5.12	Bradford	Mixed	No	None	No data available
The Brooksbank School	5.15	Calderdale	Mixed	No	None	No data available
Dixons Trinity Academy	5.18	Bradford	Mixed	No	None	Outstanding
Beckfoot Upper Heaton	5.19	Bradford	Mixed	No	None	Good
Dixons City Academy	5.19	Bradford	Mixed	No	None	Outstanding
Belle Vue Girls' Academy	5.22	Bradford	Girls	No	None	Good
Rastrick High School	5.26	Calderdale	Mixed	No	None	Good

Key:

¹² From the postcode in which TAH is situated.

76. Out of the 26 schools, 20 are judged to be at least 'Good' by Ofsted (or have no available data) and four were graded 'Outstanding' in their last inspection (the same grade as TAH). Out of those 20 schools, 14 share the same characteristics as TAH (co-educational (mixed) and non-selective), though none of the schools in Table 16 are of Church of England religious character. The objector did not raise any issues in respect of any child in the area not being able to find a school place. It is clear to me that any disadvantage that the use of banding in the arrangements at TAH might cause to parents when applying for places for their children at TAH is mitigated by the wide choice of secondary schools (most with at least 'Good' judgements after their Ofsted inspections) and

which are in close proximity. I also took into account that parents can express preferences for five schools. It would, therefore, be unlikely that a child would not be offered a place at one of their preference schools.

4 Whether the use of banding in the arrangements at TAH affects the LA's ability to fulfil its duty to provide a sufficiency of school places in the area

77. In its response to my question about this, the LA responded:

“If we invest available basic need funds to expand the school in order to address additional local need and the admission arrangements do not prioritise that additional local need then this frustrates the LA's role in ensuring that there is sufficient and suitable educational provision within a reasonable travelling distance.

Whilst we have been able to offer alternative places to all children in North Halifax where their preference for Trinity has not been met, in some instances this has been a significant distance from the child's home address.”

78. It would simply be impossible for TAH to admit all who apply. As Table 3 shows, the school would have to have a PAN around 800 to do so. As I have stressed throughout this determination, admission arrangements – and particularly oversubscription criteria within them – are designed to cause disadvantage when a school is oversubscribed. Throughout this part of the determination, I have considered whether the scale of disadvantage asserted by the objector is such that it is unfair. The objector, in its role as the LA, has told me that it has been able to fulfil its statutory duty to provide school places for all the children who did not get admitted to TAH.

79. The balancing exercise shows that, although there is evidence of there being disadvantage caused by the school's arrangements, I do not see that disadvantage in the same way or to the scale that the objector asserts. It does not appear to be anything more than the disadvantage that would ordinarily be afforded by oversubscription criteria which are designed to give some applicants higher priority than others (and which is the point of having them). In terms of the disadvantage to children from more deprived areas not having access to tutoring, research shows that it would be difficult to attribute being less likely to have access to tutoring as the sole reason for any disadvantage in the banding test, given also that the test tends to focus on 'reasoning' which is not something normally tutored. Indeed, the application / admission data in Tables 12 to 15 show that a sizeable proportion of children have been admitted under Band 4 from LSOAs in the lower decile range and close to the school. In respect of the IoD 2019 data, the data does not show the scale of disadvantage that the objector asserts. In fact, the data shows that, between 2021 and 2024, any disadvantage that there might have been to those applying under Band 1 from closer to the school, compared to those being admitted under Band 4 from further away, is diminishing. It is clear that the trust did see an issue as soon as the banding test had first been implemented in 2021 and consequently worked with the named test provider, GL Assessment, to amend the band thresholds. The data shows that this amendment has had an impact and that the proportion of children admitted under each band is equalising. Additionally, the scale of any disadvantage, in any event, is mitigated by there being a

substantial number of other Ofsted-graded 'Good' or 'Outstanding' schools with similar characteristics as TAH and within 5.36 miles of its postcode.

80. As I found when looking at the 'reasonableness test', and as shown by the data in Table 4, save for a number of slight differences between the two sets of data in Table 4 (of no more than 0.3 per cent and which I do not consider statistically significant), the proportion of children admitted under each band between 2021 and 2024 is the same or almost the same as the number of children who sat the test and were allocated to each band according to their results. This was the point of introducing the use of banding in the arrangements and it has clearly been implemented successfully.

81. I have found that the arrangements for 2025 are reasonable and are not causing any unfairness to any identifiable social group.

82. For these reasons, I do not find the use of banding, in the way the objector asserts, to be unfair. I therefore do not uphold this part of the objection.

B. The lack of information in the arrangements in respect of in-year admissions

83. Paragraph 2.26 of the Code requires that own admission authorities must set out on the school's website by 31 August at the latest each year how in-year applications will be dealt with.

84. About concern B., the objector asserted:

"[The school's] In-Year arrangements lack transparency and have the potential to be unfair. Whilst the school website suggests that in-year admissions will adhere to the principles of fair banding, it is unclear how this will in fact operate. The determined arrangements discriminate against anybody moving into the area once the coordinated round of admissions has taken place. There is no opportunity for anybody to sit the Fair Banding assessment outside of the normal round of admissions, meaning all such pupils are considered as unbanded, and therefore last in line for any available places (assuming the waiting list from the coordinated round of admissions is retained).

It is unclear when vacancies do occur, within which band those places exist and how oversubscription criteria will be applied. If it is intended to be consistent with the normal round, this will once again potentially prioritise higher attaining pupils and those living further away from the school (i.e. allocations to the largest band) as opposed to those living locally and in need of a school place.

Irrespective of how it is intended that the policy should operate, more transparency is required in order that this can be understood by parents wishing to apply for a place at Trinity."

85. In its response to my question as to how the in-year admission process works, the trust told me:

“To date, in-year admissions have been managed by the local authority. Numbers are relatively small and movement into the academy in a timely and efficient manner has been the priority of both the local authority and TAH. Working with the LA on in-year admissions, the banding of students moving in-year to the academy has not been raised as an issue. Rather, minimising the disruption and a smooth transition has been the priority for both parties.”

86. When I asked the objector how it had been administering a system on behalf of the school that it claims not to understand, it responded:

“Parents apply directly to the LA regarding in-year admissions for Trinity Academy Halifax. The LA provisionally allocate places in line with the oversubscription criteria for the school and then the school confirm if they will offer a place to that child. The LA send out the offer / refusal to the parent and inform parents of their statutory right of appeal. Where a child has not sat the assessment, they will be placed in the ‘unbanded’ category. The LA are not aware of the school testing any applicants after the normal round of admissions and therefore these children are at a disadvantage and the process is unclear for parents (and the LA).”

87. The arrangements are clear in respect of when children can sit the banding test. It is also clear that outside of those times, a child cannot sit the banding test. The school’s arrangements include a link (via the ‘Admissions and Prospectus’ page) to the LA in-year application process but say no more.

88. The trust proposed:

“However, for clarity, we suggest the below process is added to both TAH’s Admissions Policy and the local authority’s website:

In-Year Vacancies in Years 7-11

For full details of Calderdale Local Authority’s Co-ordinated Admissions Scheme (including in-year transfers) please click here (link)

The procedure for allocating in-year vacancies at TAH will include a fair banding assessment to honour the character of the Admissions policy, as permitted by the Department for Education. Governors will ensure that any child who is [sic] wishes to be admitted to the school into Year 7 (after the first term) or Years 8-11, will be given the opportunity to sit the fair banding assessment. Upon receipt of an in-year application, TAH will notify the applicants in writing of the next available assessment date. Assessments for potential in-year admissions will be held once each half term (6 times per year). In exceptional circumstances (illness etc.), and where a child misses the assessment, a second opportunity will be made available for the child to sit the assessment. Details of the assessment will be communicated to parents in advance.

Sitting the FB assessment does not guarantee a place at TAH. It does however give children on the waiting list, priority over those who choose not to sit the assessment. At such time that a vacancy arises, places will be offered to applicants in accordance with the academy's Admission policy and oversubscription criteria."

89. It is not my role to advise on whether what is proposed is appropriate. It is clear to me that, in making the above suggestion, the trust has recognised that the arrangements are not clear enough for parents and I find that there is a breach of paragraph 14 of the Code in that regard.

90. I therefore uphold this part of the objection.

Other Matters

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

91.1. In respect of the SIF, completed in respect of the faith based oversubscription criteria, it is requested that the "Primary School Attending" is provided.

Paragraph 1.9 b) of the Code states:

"It is for admission authorities to formulate their admission arrangements, but they must not:

[...]

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

Requesting this information is therefore not compliant with the Code.

91.2. 'Akroydon Primary Academy', the named feeder school under oversubscription criterion 2, is not the name of the school concerned (believed to be the Trinity Academy Akroydon). Therefore, the arrangements are not clear for parents in this regard (paragraph 14) and are not compliant with paragraph 1.15 of the Code.

91.3. Random allocation is used to break any tie.

Paragraph 1.34 (part) of the Code states: "[...] Admission authorities that decide to use random allocation when schools are oversubscribed **must** set out clearly how this will operate, ensuring that arrangements are transparent, and that looked after children and previously looked after children are prioritised."

Paragraph 1.35 (part) states: “The random allocation process **must** be supervised by someone independent of the school [...]”

The arrangements do not meet the requirements in respect of the use of random allocation because there is no information on how the random allocation process will work.

91.4. The arrangements do not conform with requirements under paragraph 1.13 of the Code which states: “making clear how the ‘home’ address will be determined and the point(s) in the school or nodal points from which all distances will be measured. This should include provision for cases where parents have shared responsibility for a child following the breakdown of their relationship and the child lives for part of the week with each parent.”

(Underlining is my emphasis). The arrangements do not cover the underlined requirement.

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

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

92. The trust has told me that it will address these matters, as permitted by paragraph 3.6 of the Code, which is welcomed. As the trust is actively seeking to address these areas, I will not mention them further in this determination.

Summary of Findings

93. The objector raised a concern about the banding arrangements and the lack of information about in-year admissions. In considering those concerns, I have found that the use of banding is both reasonable and fair, but that the arrangements in respect of in-year admissions are not clear for parents. Therefore, I partially uphold the objection.

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

Determination

95. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Trinity Multi-Academy Trust for the Trinity Academy Halifax.

96. 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.

97. 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 determine that the arrangements must be revised by 30 September 2024.

Dated: 20/09/2024

Signed:

Schools Adjudicator: Dr Robert Cawley