

DETERMINATION

Case reference:	ADA2553
Referrers:	A group of parents, local councillors and members of the public
Admission Authority:	The governing body of Walsall Academy
Date of decision:	17 December 2013

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Walsall Academy, Bloxwich for admissions in September 2014. I determine that some aspects do not conform with the requirements relating to admission arrangements.

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

The referral

1. The 2014 determined admission arrangements (the arrangements) for Walsall Academy (the school) have been brought to the attention of the Adjudicator by a group of parents, local councillors and members of the public (the referrers). In a letter dated 29 July 2013, supported by a lengthy evidence pack, the referrers identify four specific concerns:

- there is very limited local access to the school;
- banding and the use of catchment areas further restricts access;
- the lack of priority for siblings; and
- the admissions policy is discriminatory against social groups

2. Furthermore, following the previous determination in September 2012, the referrers consider that *'the school has made no attempt to change the spirit or demographic of their admissions criteria'*, and in particular, that the consultation process was unsatisfactory.

Jurisdiction

3. These arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the governing body which is the admission authority for the school. Although the referral on 29 July 2013 was received after the deadline for receipt of objections, arrangements that come to the attention of the adjudicator by any means may be considered under section 88I(5) of

the Act. Accordingly, I am satisfied that it is within my jurisdiction to consider the arrangements under section 88I(5) of the Act.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the School Admissions Code (the Code).

5. I arranged a meeting at the school on 3 October 2013 attended by representatives of the referrers, the school, one of the sponsors, and Walsall Council (the council). Correspondence was also submitted after the meeting as a result of my requests for further information and clarification, and has been copied to the council, the school and the referrers as appropriate. I have considered the representations made to me at the meeting and the documentation and correspondence submitted before and after the meeting.

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

- the email of 29 July 2013 from the referrers submitting the referral document and supporting evidence including the 2014 determined arrangements;
- the previous determination of 2012;
- the Funding Agreement for the school;
- the 2014 determined admission arrangements published in the document “Rules of admission to Year 7 for September 2014” on the school’s website;
- the 2013 composite admissions prospectus “Information for Parents” and a map identifying local schools, emailed by the council on 21 August 2013;
- the 2014 composite admissions prospectus, accessed by me from the council’s website;
- the council’s response to the referral dated 27 August 2013 together with data about admissions over the last 3 years, and subsequent correspondence with supporting documents;
- the school’s response to the referral dated 4 September with an annex of supporting documents (all future references to “annex” are to these supporting documents) , and subsequent responses in the period up to 8 November 2013;
- the referrers’ response dated 5 September with supporting documents, further correspondence and a copy of the referrers’ presentation notes used in the meeting at the school on 3 October 2013;
- a copy of the minutes of governing body meetings on 12 November 2012 and 20 March 2013, together with a summary of the discussions at each of these meetings, signed and verified by a governor; and
- a summary of the admissions consultation responses (annex 4) and copies of the redacted responses presented after the meeting on 3 October 2013.

Background

7. Walsall Academy is a state-funded co-educational academy secondary school in the Bloxwich area of Walsall for pupils aged 11 to 18 years. The school opened as

a sponsored academy in September 2003 in purpose built accommodation and replaced TP Riley School, a school that had required special measures. The academy sponsors are the Mercers' Company and Thomas Telford Online. The admissions arrangements were set out in detail as part of the funding agreement and have not been changed in the 10 years since the school opened other than thought necessary to comply with changing legislation and with the previous determination.

8. The funding agreement dated 27 November 2001 confirms that the published admission number for the school is 168 with 100 places available to children living in the inner catchment area and 68 to children in the outer catchment area. The funding agreement also confirms that pupils will be tested and placed into one of the five ability bands each to contain so far as possible the same number of children (33 or 34 children), and that if the school is oversubscribed, priority for inner catchment places would be given to children who reside closest to T.P.Riley School, and priority for outer catchment places to children whose alternative choice of school is the furthest point from their place of residence.

Consideration of Factors

9. The minutes of the meeting of 20 March 2013 confirm that the governing body determined the arrangements for 2014. However, in a letter to the council dated 18 July 2013, the school advised that the governors had approved an increase of 14 places to the published admission number (PAN) to meet the demand for places at the school in September 2014 and to give more families access to their highest preference school, making 108 places available in the inner catchment area, and 74 places in the outer catchment area.

10. To ensure that the school admits all abilities, all children who apply for a place are assessed and then placed in one of five bands, according to test scores; band 1 for applicants with the highest score, and band 5 for children with the lowest scores. Each ability band contains one fifth of the applicants. When the number of children applying for places is greater than the published number (for September 2014 this will be 168 pupils plus 14 additional places), applications are prioritised against the somewhat complicated criteria which I have simplified as shown below:

1. Looked After Children and Previously Looked After Children;
2. Banding: 37 applicants in Bands 1 and 5; 36 applicants in Bands 2, 3 and 4;
3. Catchment Area:
 - a) Inner Catchment Area (108 places): 22 applicants in Bands 1, 3 and 5; and 21 applicants in Bands 2 and 4.
 - If in any band there are more applicants than places available, priority will be given to children living closest to the school, as measured in a straight line from their home address;
 - If there are fewer applicants than places available in any band, then the remaining places will be offered to children living in the outer catchment area.
 - b) Outer Catchment Area (74 places): 15 applicants in Bands 1, 2, 4 and 5; and 14 applicants in Band 3.
 - If in any band there are more applicants than places available, priority will be given to children whose nearest secondary school (excluding schools

that are independent, selective, designated as having a religious character or single sex) is furthest as measured in a straight line from their home address;

- If in any band there are fewer applicants than places available, the remaining places will be offered to children who live in the inner catchment area.

Random allocation will be used as a final tie breaker to decide between two applications that cannot otherwise be separated.

11. The catchment area arrangement is explained on the first page of the admissions policy “Rules of admission to Year 7 for September 2014” published on the school’s website: *‘Students will be drawn partly from within a defined catchment area (“Inner Catchment Area”), and from outside the defined catchment area (“Outer Catchment Area”).’* The policy defines in detail the inner catchment area which *‘encompasses all WS3 3 postcodes, a small number of WS3 2 postcodes including Broad Lane (Walsall), southeast along to Elmore Green Road, across towards Stafford Road, A34, and a small number of WS3 1 postcodes including part of Harden Road between Bloxwich Road as far as the Wyrley and Essington Canal, then following the canal to where it meets Livingston Road’.* In comparison, the outer catchment area is rather loosely described as *‘anywhere outside the WS3 3 postcode’.*

12. The minutes of the governing body meeting on 12 November 2012 confirm that the arrangements have been in place since the school opened in 2003, and *‘were framed to give admission to students from two catchment areas known as “inner” and “outer” ...The reasoning for the two catchment areas was to minimise the effects of any possible encroachment of admissions at neighbouring schools, a reason fully supported by the Local Authority.’* During the meeting on 3 October 2013, the sponsor explained that the rationale for having two different distance measures was that at the beginning the local authority wanted to limit the travel needed to get to the nearest available school; if priority was limited only to the closest distance to the school then catchment areas would not have been needed. Although the arrangements may have been reasonable when the school was established, the referrers assert that the arrangements no longer fit the local circumstances a decade later and so are not reasonable.

Limited local access to the school

13. The referrers assert that *‘every year an estimated 30-50 children from the inner catchment are being forced to travel to schools further afield and often in other boroughs despite all of them living within walking distance of Walsall Academy. This has a huge financial impact on parents who can neither afford the additional transport costs nor the time and complications of taking children to schools some distance away from their homes. In addition, at a time where there are great environmental concerns a large proportion of children from much further afield are using public and private transport to get to Walsall Academy.’* The referrers also explain that in the last decade there has been a significant change in the local circumstances in that several secondary schools have closed and there has also been a significant number of new build houses within the inner catchment area. *‘These are family homes and will be included in the 100 inner catchment places*

offered' so that families living on the outer edge of the inner catchment have little chance of gaining a place at the school.

14. From admissions data supplied by the council (in the table below) the referrers note that for the past three academic years there have been more applications from the inner catchment area than places available so that nearly one third of inner catchment children (around 50 children each year) choosing Walsall Academy as their first preference fail to be allocated a place.

Academic Year	PAN	Total number of first preferences	First preferences inner catchment	First preferences inner catchment not offered a place
2011-12	168	266	135	54
2012-13	168	269	151	53
2013-14	168	266	150	42

I note that the council records 150 first preferences from the inner catchment area in 2013, but puzzlingly, the school states it received only 140, as by the time places were offered some applicants had already accepted places at other schools so the places were reoffered to other students.

15. The referrers comment further that those first preference catchment children not allocated a place at the school, which is within reasonable walking distance of their home, instead have to travel significantly further to an alternative school, and a number even have to travel outside the borough to a school in Staffordshire, as shown in the table below using data supplied by the council:

Other schools offered to inner catchment children not placed at Walsall Academy			
	2011	2012	2013
Aldridge		1	
Blue Coat		2	
Brownhills	6	3	2
Great Wyrley (a Staffordshire school)	17	19	16
Pool Hayes	2	1	2
Shelfield Academy	14	11	10
Shire Oak		4	1
St Thomas More	1		
The Mirus Academy	13	11	9
West Walsall			
TOTAL	54	53	42

16. The referrers make the point that all of the children travelling to alternative schools are travelling significantly further than the distance between their home and Walsall Academy. These children are dispersed among 10 different schools, away from their friends and peers, which makes their transition to secondary school more difficult. The referrers suggest that a child who falls in a 'popular' band and lives on

the outer limits of the inner catchment area has no chance of securing a place, which the referrers believe is unreasonable. The referrers believe that the number of places available for children living in the inner catchment area should have been increased to take account of the significant increase in the next 12 months of new build family homes. The referrers suggest that as a result of the influx of new families, children living on the edge of the inner catchment area will have even less chance of being allocated a place at the school. However, in the meeting on 3 October 2013, the school seemed unconcerned that local children were having to travel significantly further, stating that parents in other parts of the country make much longer journeys.

17. In response to the view that local children want to attend the school, hence it is oversubscribed with applicants from within the inner catchment area, the governors commented in Annex 4.13 that applicants from the outer catchment far outnumber applicants from the inner catchment area, and that the school would be undersubscribed if only inner catchment area applicants were considered. However, throughout the academic year the head and governors had been working to find a way to increase the PAN to allow more students access to the school. Through adopting flexible working with the sixth form, and identifying funds to adapt classrooms and provide additional resources, the school has been able to increase the number of places it offers to inner and outer catchment, making 14 extra places available for September 2013 and have agreed the same increase in the PAN for September 2014. The school's efforts are commendable, but as six of the extra 14 places are "reserved" for the outer catchment, there would still be shortfall of places in the inner catchment area for September 2014.

18. I note that the inner catchment area appears to be longer than it is wide, so some families are disadvantaged by the distance criterion for the inner catchment which gives priority to children living closest to the school, as measured in a straight line from their home address. In the meeting on 3 October 2013, the referrers said that families living near the inner catchment boundary with a different local authority, such as those on the Turnberry Estate, have no other Walsall school within walking distance. The council confirmed that the estate is within half a mile of the school, and after the meeting provided data confirming the distance from the estate to other Walsall schools. In the table below I have shown the distance from the Turnberry estate to alternative schools (not including any schools that are single-sex, selective or designated as having religious character) as supplied by the council, together with comments related to my own research on the relevant oversubscription criteria and the referrers' comments on the travel practicalities.

Alternative school	Distance	Referrers' comments and priority for places
Mirus Academy (3-18 all-through school)	1.91 miles	No direct bus service so transport is difficult. Needs 2 buses and then a long walk across a level crossing and an industrial estate. Priority for siblings, medical/social need, then distance
Sheffield Community Academy	3.00 miles	School bus service at a cost to parents. Oversubscribed Banding then priority for sports aptitude, siblings then distance
Pool Hayes Arts & Community	3.53 miles	Difficult to access from the Turnberry Estate. Priority for siblings then distance.
Willenhall E-Act Academy	3.69 miles	Difficult to access from the Turnberry Estate. Priority for siblings then distance.

West Walsall E-ACT Academy	4.07 miles	Difficult to access from the Turnberry Estate. Priority for siblings then distance.
----------------------------	------------	---

19. It is of note that the Bloxwich area has changed considerably in the decade since the school was first established. A significant number of new build family homes have been built in the inner catchment area so there has been an influx of new families. Yet the number of alternative secondary schools has decreased with the closure of Manor Farm School and more recently Sneyd Community School which was replaced immediately on the same site by a university technical college for students aged 14 to 19 years specialising in engineering and science. In addition, Frank F Harrison Engineering College amalgamated with Hatherton Primary to become The Mirus Academy. In the report to governors before their November review meeting, the school did comment on the secondary school closures, but only with respect to the impact on applications to the school, rather than how the change in local circumstances would put greater pressure on secondary places, which would impact on children in the inner catchment area. The report commented that *'closure of these schools has had no significant impact on the number of applications or the distribution of offers made.'* Of the former Sneyd Community School, the report identified that *'at present only one student has left ... to take up a place at the UTC at the end of year 9. This may increase as the UTC develops.'* In addition, the map at Table 4 was used to illustrate that the impact of the school's outer catchment would not adversely affect other schools, with an acknowledgement that the outer catchment area is wide but follows public transport lines to the school. The school does not appear to have given sufficient consideration to the change in local circumstances since the arrangements were first established in 2003 before proposing the 2014 arrangements which were later determined unchanged.

20. It seems to me that even though families may live only about half a mile from the school, such as those on the Turnberry Estate, they will have very little chance of being allocated a place at the school under the 2014 arrangements, and are also disadvantaged by living further away from other Walsall schools than applicants who live in the areas those schools serve. Although the PAN of the school can accommodate all the highest preference inner catchment children, the school has chosen to continue to "reserve" 40 per cent of places for applicants from anywhere outside the inner catchment area, leaving insufficient places available for children living close to the school.

21. I note that in the information to governors before their November review meeting, the school advised that *'the number of applications from the inner catchment has been stable with 152 in 2010, 139 in 2011 and 146 in 2012. This number of applications is not sufficient to fill the PAN of 168. The number of offers made to the outer catchment has decreased from 76 in 2010 to 70 in 2012.'* However, the report then uses the Walsall area census to explain the demographic changes in the area, indicating that the year 6 population will rise over the next three years and is projected to increase significantly post-2016, but I have no evidence that this projected increase in the local year 6 population has been taken into consideration with respect to the 2014 arrangements. I agree, therefore, that local access to the school is limited and question whether it is reasonable for the school to continue to limit the number of places in the inner (defined) catchment area so that there are insufficient places for local children who put the school as their highest

preference.

22. At Annex 4.3 the school provided information about the spread of applications to the school and the offers made in 2012, with suggested outcomes if the criteria were to be changed. Table 4 of Annex 4.3 identifies on the map the home locations of the 2012 offers to children living in the catchment areas as inner (blue spots) and outer (green spots). The map shows also a circle of radius 1.5 kilometres around each of the other secondary schools in Walsall and the neighbouring areas (but no catchment areas have been displayed), and the school uses this map at Table 4 to illustrate that the impact of the school's outer catchment does not adversely affect other schools. This map shows that inner catchment offers were predominantly to the west and south of the school, and that 17 inner catchment offers were within the 1.5 km radius around what is now The Mirus Academy. Table 5 shows a map of the 2012 offers that would have been made if there were no inner or outer catchment areas and priority had been based only on distance to the school, and Table 6 is similar but includes known parental preferences. These maps show that up to 37 offers would have been made within 1.5 kilometres of The Mirus Academy. From this information available to the governing body at their admissions review conducted in November 2012, the governors decided to keep the 2013 arrangements unchanged as the proposed 2014 arrangements for the consultation process because if distance to the school were the only measure then:

- there would be a significant change in the offers which would in turn have an impact on the alternative schools in the area such as The Mirus Academy;
- the communities in the outer catchment who have historically received offers would be unlikely to do so.

23. Following the consultation on the proposed 2014 arrangements, which was in the period between 4 December 2012 and 8 February 2013, the governing body reviewed the 38 responses received, considered again the data and maps used in their November review, but decided to determine the arrangements unchanged. The governors were fully aware that access for local children is limited, but considered the possible impact on Mirus Academy to be more critical. The minutes also mention the previous determination but only in terms of inclusion in the sixth form arrangements of a PAN of 20 for the admission of external students to comply with the Code, and the governing body then determined the sixth form arrangements. I return to the matter of consultation below.

24. At the meeting on 3 October 2013 I asked the school if it had also considered applying the outer catchment distance criterion to both areas, as prioritising applications for children whose nearest secondary school is furthest as measured in a straight line from their home address may be helpful in resolving the particular issue of the Turnberry Estate which was built after the arrangements were devised a decade ago. It is unfortunate that the school had not considered this option during the admissions review in November 2012, nor in the response to the consultation in March 2013 before deciding to maintain the same arrangements unchanged. The school said this option would need to be modelled up, and if the model gave the spread required then it may be considered, but not before the borough-wide review of admissions scheduled for January 2014. Given the evidence available to me, I find that the 2014 arrangements do limit local access to the school. It does not seem reasonable to me that outer catchment applicants living up to 10 miles from the

school can secure a place when so many children living in the defined catchment area, who put the school as their highest preference, are refused a place at their local school.

Banding and the use of catchment areas is unreasonable

25. The glossary to the Code defines “catchment area” as a *‘geographical area, from which children may be afforded priority for admission to a particular school. A catchment area is part of a school’s admission arrangements and must therefore be consulted upon, determined and published in the same way as other admission arrangements’*. The Code at paragraph 1.14 specifies further that *‘catchment areas **must** be designed so that they are reasonable and clearly defined. Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school.’*

26. The first page of the admissions policy “Rules of admission to Year 7 for September 2014” published on the school’s website explains that: *‘Students will be drawn partly from within a defined catchment area (“Inner Catchment Area”), and from outside the defined catchment area (“Outer Catchment Area”)’*. The policy identifies that *‘the inner catchment area encompasses all WS3 3 postcodes, a small number of WS3 2 postcodes including Broad Lane (Walsall), southeast along to Elmore Green Road, across towards Stafford Road, A34, and a small number of WS3 1 postcodes including part of Harden Road between Bloxwich Road as far as the Wyrley and Essington Canal, then following the canal to where it meets Livingston Road’*. The outer catchment area applies to *‘anywhere outside the WS3 3 postcode’*. It seems to me that what the school calls the inner catchment area is, in fact, the “true” catchment area because it has been defined clearly. However, only 60 per cent of the places are available to children living in the inner catchment, with priority given to children living closest to the school in terms of straight line distance from their home. Therefore 40 per cent of places are not available to children living in the inner catchment area, and as a consequence, one third of the catchment applicants (around 50 children) who chose the school as their first preference failed to get a place at the school. There are sufficient places at the school to accommodate all the inner catchment applications, but as a result of the 60 per cent limit on places for inner catchment children, there are insufficient places to meet the demand from local families, as shown in the table above.

27. Since the inception of the school, any area which is not within the defined catchment has been known as the “outer catchment area”. The school has, in effect, “reserved” 40 per cent of places for applicants living outside the defined catchment area with priority given to children whose nearest secondary school (excluding schools that are independent, selective, designated as having religious character, or single sex) is furthest as measured in a straight line from their home. The question to be considered is whether it is reasonable to operate two catchment areas, one which appears to have been tightly defined to limit the places available to local children (the inner area), and the other which “welcomes” applicants from anywhere else. At the meeting on 3 October 2013 the sponsor explained that the inner and outer catchment areas had been devised in order to try and manage reputation issues for the school, be an inspiration to other schools, raise standards and serve the whole of Walsall. Having the two catchment areas would also minimise the impact on other

schools at the same time as widening the school population to ensure there was a good spread of ability to raise standards. The school retained the two areas because of the relationship it had built with parents, and outer catchment parents wanted to continue to be able to choose a place at the school. Sponsors felt they had a loyalty to the parent group and must continue to think of parents in outer area.

28. The report “Admissions Arrangements Governors Review – November 2012 (Annex 4.5)” confirms that the sponsors of the school *‘strongly believe in the educational model of a broad and balanced intake. The admission arrangements 2003 allowed for this to be achieved by prospective students undertaking fair banding tests. This would ensure that the intake included students from all ability bands in equal numbers ... which has served the school’s community so well since 2003. The governors decided not to change the banding element of the admission arrangements.’* Annex 4.5 explains further that the 2003 arrangements *‘followed lengthy consultation between the sponsors, local community, other schools and the local authority and were designed not only to provide this balanced intake but also to protect the admissions at neighbouring schools at the request of the local authority...’*

29. It appears that the school continues to use the same arrangements in operation since the school opened in 2003. However I note that Annex 2 of the funding agreement details the admission arrangements for the school for 2003/2004 and that paragraph 8(c) states: *‘In the first instance priority will be given on the basis that 60% of the places to be allocated from each of the bands will be for children who live within the inner catchment area ... and 40% of the places to be allocated from each of the bands will be for children who live within the outer catchment area..’* Furthermore, paragraph 12 states that the school *‘shall... consult each year on its proposed admission arrangements’*. From the words “in the first instance” and from the stipulation that the school should consult on its admission arrangements every year it seems clear to me that the admission arrangements were only for 2003, not for all time, and that it was always envisaged that the arrangements would be subject to change. I surmise that the 60:40 split was an interim arrangement to cushion local schools from the likelihood that there would be an increase in applications to the new school which had replaced on the same site the predecessor school which had become unpopular.

30. The referrers assert that prioritisation through the combination of banding and catchment area is unreasonable because it disadvantages children living in the defined (inner) catchment area. This prompts two further considerations: did the school give full consideration to the impact on the families in the local community before deciding to retain the 2003 arrangements for 2014 admissions? Secondly, are children living in the defined (inner) catchment area disadvantaged unfairly as a result?

31. From the data published by the school at Table 1 of Annex 4.2 which I have analysed (in the table below) it is clear that in the five year period from 2008 to 2012 fewer inner catchment applicants have been offered a place at the school than the 100 places available for the inner catchment area. It appears that only some of the inner catchment children allocated to band 1 are actually offered one of the 20 places available in that band. It may be the case that some of the families had chosen other schools as their first preference and decided not to take up the band 1

place. Nevertheless, it appears that each year, not all of the 100 places available for the inner catchment area have been allocated to children living locally.

Inner catchment: Number of places available	(Number of Applicants in the band) Places offered				
	2008	2009	2010	2011	2012
Band 1: 20	(20) 15	(20) 12	(20) 12	(16) 14	(23) 18
Band 2: 20	(38) 20	(36) 20	(26) 20	(18) 17	(28) 20
Band 3: 20	(28) 20	(31) 20	(30) 20	(30) 20	(33) 20
Band 4: 20	(32) 20	(38) 20	(38) 20	(33) 20	(30) 20
Band 5: 20	(40) 20	(46) 20	(38) 20	(42) 20	(32) 20
Total: 100	(158) 95	(171) 92	(152) 92	(139) 91	(146) 98

Conversely, the analysis of data for the outer catchment area (shown below) shows that each year more applicants are offered places than the 14 places available in band 1.

Outer catchment: Number of places available	(Number of Applicants in the band) Places offered				
	2008	2009	2010	2011	2012
Band 1: 14	(101) 19	(108) 22	(93) 22	(97) 20	(84) 16
Band 2: 13	(80) 13	(86) 13	(85) 13	(93) 16	(76) 13
Band 3: 14	(92) 13	(82) 14	(78) 14	(75) 14	(75) 14
Band 4: 13	(97) 13	(76) 13	(80) 13	(82) 13	(70) 13
Band 5: 14	(83) 12	(75) 14	(74) 14	(79) 14	(74) 14
Total: 68	(453) 70	(427) 76	410 (76)	(426) 77	(379) 70

32. In the information pack provided for the governing body before its meeting on 12 November 2012 the school explains that the *'ability ...to recruit band 1 students is impacted by the grammar schools in the area who ... have increased their PAN for the 2013 intake onwards, taking a greater proportion of all band 1 students who could attend all Walsall schools therefore impacting on their all-ability intakes.'*

It appears that there are insufficient children in the inner catchment area who are assessed as band 1 and put the school as their first choice, and as a consequence of the admission arrangements, the spaces in the band are filled by outer catchment band 1 applicants. Is it reasonable that inner catchment band 1 places are allocated to children living anywhere outside the defined inner catchment area?

33. Annex 4.5 confirms that the sponsors are committed to a broad and balanced intake achieved through banding. In the meeting on 3 October 2013 the school confirmed that to place applicants in the appropriate band they are assessed using a non-verbal reasoning test administered by the National Foundation for Educational Research (NFER). NFER then rank the assessment results by test score before devising the five equal bands of approximately 20 per cent of children: band 1 for applicants with the highest scores, and band 5 for children with the lowest scores. The school said that the range of scores within each band is not fixed but varies as banding is completed on rank order and the skew of ability can change from year to year. The school also confirmed that when prioritising applications, the banding process comes before prioritisation by catchment. After the meeting the school sent

a summary of the admissions procedure on 14 October 2013. This summary of the procedure confirms that all applicants are placed in bands before being ranked within each catchment area according to the relevant straight line distance measure: the inner catchment is ranked in order of applicants living closest to the school whereas priority in the outer catchment is given to applicants whose nearest secondary school is furthest from their home, and the council then offers places from the ranked lists.

34. It is the case that many schools use test scores to place applicants in ability bands so as to have a comprehensive intake but the number of bands and the proportion of children in each band is for a school to determine. It may be more common for the five ability bands to be norm-referenced so as to be representative of the national ability range (such as 10%: 20%: 40%: 20%: 10%) rather than for each of the bands to contain the same number of children (five bands each of 20%). It seems to me that allocating 20 per cent of applicants to each band does achieve a broad intake, but it is arguable as to whether it is “balanced” as it does not reflect the ability profile occurring naturally in the population.

35. At the meeting on 3 October 2013 the referrers said there is a problem with the balance of places between the inner and outer areas and the table below further illustrates that fewer inner catchment and more outer catchment places are allocated than the places available to them in band 1.

Number of places available (Inner: Outer)	Number of places allocated in the band by Inner: Outer area				
	2008	2009	2010	2011	2012
Band 1 (20: 14)	15: 19	12: 22	12: 22	14: 20	18: 16
Band 2 (20: 13)	20: 13	20: 13	20: 13	17: 16	20: 13
Band 3 (20: 14)	20: 13	20: 14	20: 14	20: 14	20: 14
Band 4 (20: 13)	20: 13	20: 13	20: 13	20: 13	20: 13
Band 5 (20: 14)	20: 12	20: 14	20: 14	20: 14	20: 14
Total (100: 68)	95: 70	92: 76	92: 76	91: 77	98: 70

36. The referrers argue that if any inner catchment places in band 1 are unfilled, the spare places should be allocated to inner catchment children at the top end of band 2 rather than the places going to outer catchment applicants in the same band. I note that in many of the schools operating fair banding, when there are unfilled places within a band and no applicants in the band remain without a place, then the arrangements provide for the spaces to be filled by allocating places to children from the bands on either side, one from the band above and one from below alternately, until the band is full. This seems fair because the bands are not fixed so the spread of test scores within the band varies from year to year. However, Walsall Academy chooses instead to fill spaces in any inner catchment band by outer catchment applicants in the same band (which is so noticeable in band 1). I also note that the 2014 arrangements allow for the converse to occur, so that if places remain unfilled in outer catchment, the spaces would be allocated to inner catchment children from the same band, but whether this is fair requires further consideration of the admissions data available.

37. When applying for a secondary school place, parents can express up to five preferences. The table below shows that for the same five year period the school appears to have two or three times more outer area applicants than those from the inner area, which is not surprising as the inner catchment is tightly defined and therefore finite whereas the outer area is effectively unlimited as it starts outside the boundary of the inner catchment and has no outer edge.

Total number of:	2008	2009	2010	2011	2012
Applications	669	659	607	614	662
Applications processed	611	597	562	565	525
Inner catchment applications	158	170	152	139	146
Outer catchment applications	453	427	410	426	379

38. However, having looked in detail at the data for each band, summarised in the table below, it appears that in the higher ability bands there can be up to five times more applications from the outer catchment than from the inner catchment. It is my view that although the 2014 arrangements appear to allow equal treatment in the way pupils are allocated to undersubscribed bands, in reality there are so many more applications from the limitless outer catchment area that it is most unlikely that there will ever be spaces in the outer catchment bands which could be filled by inner catchment applicants. For this reason inner catchment applicants do appear to be disadvantaged by the arrangements.

Number of places available (Inner: Outer)	Number of Applicants in the band by Inner: Outer area				
	2008	2009	2010	2011	2012
Band 1 (20: 14)	20: 101	20: 108	20: 93	16: 97	23: 84
Band 2 (20: 13)	38: 80	36: 86	26: 85	18: 93	28: 76
Band 3 (20: 14)	28: 92	31: 82	30: 78	30: 75	33: 75
Band 4 (20: 13)	32: 97	38: 76	38: 80	33: 82	30: 70
Band 5 (20: 14)	40: 83	46: 75	38: 74	42: 79	32: 74
Total (100: 68)	158: 453	171: 427	152: 410	139: 426	146: 379

39. In an email dated 23 August 2013 the council commented that the school's *'inner/outer catchment area arrangement is clearly a cause of concern for members of the local community as it was for the adjudicator as stated within the related 2012 adjudication. It does appear to cause a particular issue in the admissions process with a very tightly defined and limited inner catchment area on the one hand and an undefined outer catchment area on the other.'* The council also commented that *'Fair banding arrangements are a useful tool for the school to use to reflect its aim... to admit a cross-section of children from across the community it serves. However a tension seems evident between the fair banding arrangements and the relationship with the inner and outer catchment areas. This tension is increased by the arrangements for allocating pupils to the undersubscribed bands within the inner catchment area...'* In the meeting on 3 October 2013, the school said the importance of the arrangements for allocating pupils to the undersubscribed bands was to maintain a broad range of ability rather than a skew at the bottom end. However, as the bands are not tightly defined, and so the range abilities within each band is not

fixed but based on the rank order of test scores each year, I am not persuaded that filling inner catchment band 1 places with children next on the list at the top of band 2 would skew the ability range of the school. As there are so many applications from the unlimited outer catchment area, and because applications are ranked first in order of test scores so as to set up the five bands, I think it is more likely that the range of test scores within the bands is skewed by the preponderance of outer catchment applications, and as a result, applicants living in the inner catchment are disadvantaged.

40. At Annex 4.3 the school provided further information about the spread of applications to the school and the offers made in 2012. Table 4 of Annex 4.3 identifies as spots on a map the home locations of the 2012 offers to children living in the inner (coloured blue) and outer (coloured green) catchment areas. I note that the school regards the outer catchment area as “*outside the WS3 3 postcode*” and as there is no outer limit, this lacks the clarity required by paragraph 1.14 of the Code that ‘*catchment areas must be designed so that they are reasonable and clearly defined.*’ From this map it appears that in 2012 offers were made to the outer catchment applicants living up to 10 miles from the school, yet from the data above it is apparent that many children living close to the school are refused a place. I believe it is entirely reasonable that families living within the defined catchment area of any school would expect to have a high chance, but not a guarantee, of a place at that school. I recognise that having a defined catchment area does not mean that children from outside this area cannot apply, but the problem is that around 50 children living in the school’s defined catchment area lose their chance of a place at the school to places “reserved” for applicants from anywhere outside the defined catchment area. It does not appear reasonable to me that children living within walking distance of the school, in the defined catchment area, should not be allocated a place at the school, but children living outside of the defined inner catchment area have a higher priority because the school is nearer than the alternative school. In my opinion, the combination of banding and catchment areas is complicated and I surmise it must be difficult for local parents to weigh up whether to put the school as first preference or not and risk their child not being allocated a place and then having a lower priority at all other schools as a result. These arrangements were set up a decade ago, at the inception of the school, and may have been reasonable at the time to protect neighbouring schools, but local circumstances are now very different. Accordingly I agree that the combined effect of banding and the use of catchment areas is unreasonable as children living close to the school are disadvantaged.

41. The report of the governors’ November review meeting at Annex 4.5 shows that the governors considered catchment areas but took into account that ‘*the arrangements in 2003 followed lengthy consultation between the sponsors, local community, other schools and the local authority and were designed not only to provide ... balanced intake but also to protect the admissions at neighbouring schools at the request of the local authority.*’ The report seems to rely on the funding agreement statement ‘*that these admission arrangements may only be changed by the Secretary of State*’ and this may indicate a misconception. The funding agreement does identify the admission arrangements for 2003, but not the arrangements for all time, because it is the duty of the governing body as the admissions authority, as set out in the funding agreement, to determine the

arrangements each year. The governing body is therefore in a position to determine different admission arrangements if it so wishes as long as those arrangements comply with the Code.

Lack of priority for siblings

42. I note that the admissions policy “Rules of admission to Year 7 for September 2014” on the school’s website clearly states that: *‘Preference is not given in favour of siblings (brothers and sisters)...’* The referrers argue that many people want the school to adopt a priority for siblings and that the lack of it has a huge practical impact on parents, which is even greater given that local access is limited and so parents may have two or three children at different schools, which is both expensive and time consuming. However, the Code is not prescriptive about priority for siblings. The Code at paragraph 1.9 clarifies that it is for *‘admission authorities to formulate their admission arrangements’*; at 1.10 to *‘decide which criteria would be most suitable to the school according to the local circumstances’*; and 1.11 indicates that any priority for siblings would be a matter of choice for the admission authority.

43. In the information pack supplied to the governors before their November review, the school said that since 2003 the proportion of siblings gaining places at the school has increased *‘with 9 offers made in 2003 and 53 made in 2012 out of 76 applications.’* Annex 4.5 reports that the governors acknowledge many schools have a priority for siblings, but there is no sibling rule in any of the schools supported by the sponsors of Walsall Academy. The governors commented that in the *‘five years since the school reached maturity the number of sibling applications ranged from 64 to 80. If all had been offered places automatically this would have accounted for between 38% and 48% of the cohort decided without considering banding on ability.’* From the data published by the school at Annex 4.2, I note that in the same period offers were made to between 40 and 53 sibling applicants, but it is not shown how many of these siblings were in the defined (inner) catchment area.

44. The governors considered that in a primary school the need for siblings to attend the same school may be desirable but *‘it is far less so in a secondary school where independence is to be encouraged.’* The governors considered arguments for a siblings rule including that:

- *‘it is more convenient for parents to have children at the same school;*
- *there is a difficulty for parents if students attend schools in other authorities who may have different holidays’;* and
- *‘possible costs of transporting students to alternative schools...’*

The governors also considered arguments for not having a siblings rule, such as:

- *‘some parents know that their child would get a place where others do not;*
- *some students who live very close to the school being unable to gain a place as places have been allocated to siblings living further away first’;* and
- *‘what would the procedure be if there were more siblings that places in a band for either inner or outer catchment areas.’*

The governors decided they would not adopt a siblings rule in the 2014 proposed arrangements that were subject to the consultation process.

45. During the consultation period the school received 38 responses, and 17 of these asked for the siblings rule to be changed. However, the governors *'felt that although issues may be raised for a number of families for whom siblings did not gain admission, this continued to be outweighed by the lack of opportunity for admission a sibling rule would create for the rest of the applicants.'* Accordingly a priority for siblings was not introduced to the oversubscription criteria before the 2014 admission arrangements were determined.

46. In the email dated 23 August 2013, the council comments that *'the school's sibling policy, which while not unlawful, is unusual and does have the potential to cause significant hardship to families'*. Nevertheless, at the meeting on 3 October 2013, the school mentioned that none of the sponsors' schools have a sibling policy but the existence of a blanket policy for all the sponsored schools is not persuasive as the Code indicates at paragraph 1.10 that *'it is for admission authorities to decide which criteria would be most suitable to the school according to the local circumstances.'* The sponsor said that not all parents want to send their children to the same school, and that the convenience factor is not really an issue as when the school was set up in 2003, parents were leaving in droves and managed to get to other schools with no apparent difficulty. It was important for the school to have a level playing field for all young people, and it was possible that as the school becomes more popular, there could be more siblings than places available so that those with no siblings would be unable to get in. However, the school also said that having the siblings rule would skew the banding but this need not be the case as any siblings would have been assessed and allocated to the relevant band before places would be offered. Therefore I do not accept that having a priority for siblings would "skew" the banding in any significant way. I am of the opinion that neither the arguments for a sibling rule, nor those against the rule are overwhelmingly convincing and I note that not having priority for siblings is not in contravention of the Code.

The admissions policy is discriminatory against social groups

47. The referrers assert that the admissions policy discriminates against social groups. The referrers explain that before the school opened, the predecessor school on the site was classed as a failing school and, as a consequence, was unpopular with local families. The referrers provided ward profile data which indicates that the inner catchment area includes economically deprived areas. The referrers suggest from this that the admissions policy discriminates against social groups and is engineered to exclude them, contrary to the Code at paragraph 1.8. The referrers provided the report "Outline Proposal for the Provision of a City Academy" which shows a predicted shortfall of secondary places in the north-west of Walsall yet the school has never changed the admissions policy to increase the places available for children local to the school. The referrers consider this shows that the inner and outer catchments are set up to limit access from the deprived areas nearest to the school, and are therefore socially discriminating.

48. I note that the first page of the admissions policy "Rules of admission to Year 7 for September 2014" states that *'students will be drawn partly from within a defined catchment area ("Inner Catchment Area"), and from outside the defined catchment area ("Outer Catchment Area"). They will be... broadly representative of the*

community in those areas'. However it is difficult to understand what community the school might be referring to regarding the outer catchment area given that it has no outer limits and the school has been shown to allocate places to children living up to 10 miles away.

49. The referrers contend that *'locally the school is regarded by many as socially divisive; that local children are not wanted.'* The referrers believe that the spirit of the school's arrangements is unfair and discriminates against social groups and for that reason is unlawful and in breach of both the Code and also Equality legislation. The referrers provided a copy of a press report published when the school opened in which a previous headteacher is reported to have implied that the assessment process for banding was based on ethnicity and social background as well as ability. However, I have decided not to take this report into account because any views expressed in the report 10 years ago are clearly not those of the current head or governors. Furthermore, NFER determines the banding at the school by assessing ability using non-verbal reasoning tests. However, I suspect that the tone of this press report which is still accessible on the internet lingers in the memory of the local community.

50. In the response to the referral dated 4 September 2013, the school disputes that there is discrimination against social groups, stating that *'many of the students from outer catchment areas also come from economically deprived areas; the number of ethnic minority students and students on free school meals have both increased during the last five years'* and *'banding does not discriminate against social groups and areas of deprivation as low ability does not necessarily equate to deprivation indices.'*

51. In the meeting on 3 October 2013, the referrers said that *'Bloxwich is a diverse community and can provide a cohort of children from a variety of backgrounds and abilities – there is no need to seek this from elsewhere.'* The referrers argue that the catchment area arrangements actively discriminate against local children and provide school places to children who live outside the area in 'better' communities. I agree that the school has more than enough places to accommodate all the inner catchment children but has set up complicated arrangements which appear to deliberately to exclude them, but I have no evidence that any particular social or racial group is likely to be disadvantaged for admissions in 2014.

The consultation process

52. I note that part of the concerns considered within the previous determination related to the lack of public consultation as required by the Code and by the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations). There is no dispute that the school did consult before the 2014 arrangements were determined, but the referrers contend that the consultation process was flawed because the school did not actively engage the local community in the consultation about the admission arrangements and because the views objecting to the arrangements were ignored. The matter to consider, therefore, is whether the school made every reasonable effort to undertake an extensive, open and fair consultation on their proposed

arrangements for 2014 and therefore whether the consultation met the requirements of the Code.

53. The introduction to the Code at paragraph 15(b) explains that the purpose of the consultation is to enable parents, the local community and other interested parties to understand the changes being proposed and for them to have time to be able to raise any concerns they might have about the proposed changes. Although the governing body had proposed arrangements for 2014 which were effectively unchanged from those for 2013, a consultation was required because none had been conducted in any of the seven preceding determination years. In fact, it appears there had never been any consultation on the admission arrangements since the school opened in 2003 despite the funding agreement stating at paragraph 12 of Annex 2 that the school *'shall... consult each year on its proposed admission arrangements'*.

54. The Code at paragraph 1.42 states that *'the admission authority **must** consult by 1 March if changes to the arrangements are being proposed'* and paragraph 1.43 elaborates further that the minimum consultation period is for *'eight weeks which **must** take place between 1 November and 1 March in the determination year.'* The school confirmed that the consultation period was 4 December 2012 to 8 February 2013, but the "banner" was not taken down from the website until 11 February 2013.

55. The stakeholders who should be consulted about the proposed arrangements are set out in the Code at paragraph 1.44 and in regulation 12 and the school has provided evidence that some of the stakeholders were notified as follows:

- i) an alert to the consultation was displayed prominently on the school's homepage (as confirmed by a screen shot dated 4 December 2013);
- ii) a link from the homepage to the proposed arrangements published on the website, and the date and contact details for the submission of comments;
- iii) letters with attached admission documents were emailed on 4 December 2012 to all primary and secondary schools in the local area, to the local authority and to neighbouring local authorities. The majority of the primary schools that had been notified by email as part of the consultation also have attached nursery provision;
- iv) a copy of a text alert to parents of pupils on roll at the school, dated 14 January 2013;
- v) a copy of a newsletter from a local primary school (St Michael's) dated 25 January 2013, alerting parents to the consultation;
- vi) a copy of the minutes of a meeting of the parents' advisory council dated 8 January 2013. The parents' advisory council is a group of 20 elected parent representatives who meet with the head of the school on a termly basis; and
- vii) a copy of a local newspaper Tweet (Bloxwich Telegraph) dated 18 January 2013.

56. The school asserts that it completed a full consultation and gave due consideration to the views expressed. At the meeting on 3 October 2013, as the school had received only 38 responses to the consultation, I asked whether the school had any evidence that the emails sent to the local schools and neighbouring admissions authorities had been received, and how the school had sought the views

of interested persons in the wider community. The school considered that 38 responses was quite good given that two responses were normal for the annual report. The school explained that the information was on the school's website and the primary schools knew about it. When asked how, as specified in the Code, the school had involved interested persons in the local community and how parents of children between the ages of two and eighteen, such as parents of nursery-aged children, would have known about the information on the website, the school explained it had not realised that was a requirement. As regards involving the local community, although the Code does not prescribe where or how consultation information should be published, I explained that some schools, for example, put an advertisement or public notice in local newspapers and/or make consultation information available in local nurseries, libraries, and supermarkets. Having had the importance of the consultation process brought to the school's attention through the previous determination, it could be argued that the school should have arranged for the consultation to be publicised more widely to the local community. In a follow-up to the meeting, the school confirmed in an email dated 8 October 2013 that 68 of the primary schools that had been notified by email as part of the consultation also have attached nursery provision. It is unfortunate that the school appears not to have carried out the consultation process as carefully as it should have done as not all the relevant stakeholders were notified. Accordingly the governing body, as the admissions authority for the school, needs to give full attention to paragraph 1.44 of the Code to ensure that in future all the appropriate parties are consulted.

57. The school has confirmed there were 38 responses to the consultation and from the ward data provided by the referrers, this amounts to just a tiny proportion of the local community. Of the 38 responses, 15 were objections wishing to change the catchment arrangements, of which 14 also wanted the sibling rule to be changed. There was also a letter from the local Member of Parliament (MP) who, noting the concerns raised by his constituents, suggested that the school might arrange a public meeting so that local parents would be able to ask questions about the arrangements. A further 22 responses requested that no changes be made to catchment areas from those who did not want to lose their chance to attend the school, and three of these asked for the siblings rule to be changed. The governors noted that no objections had been received from the local authority, neighbouring local authorities, neighbouring secondary schools, or local primary schools.

58. I have considered the redacted responses which the school made available after the meeting on 3 October 2013, and I note that the pattern of submission seems strange. Until 8 February 2013 which was the last day of the two month consultation period, the majority of responses favoured making changes to the 2014 proposed admissions arrangements. Most of these responses requested changes to the catchment area arrangement and the introduction of a priority for siblings and most of those views had been expressed as detailed arguments. However, on the last day, the school received almost all of the responses against change as two email clusters sent between 13.30 and 13.53 and between 15.40 and 15.52. Most of the emails in these clusters were very brief, worded similarly, and lacked detailed reasoning for not making change. The receipt of these emails on the last day then tipped the balance so that by the end of the consultation period the majority of responses favoured no change to the arrangements. In the summary of responses made available to governors before their March review meeting, the school noted

that two of the emails in favour of change were submitted from the same address but the school did not comment on the email clusters on the last day.

59. The referrers suggest that the school has ignored many of the comments outlined in the 2012 determination, or if it did consider them, has given no reason why it has chosen not to make changes. It seems strange that the minutes of the meeting of the governing board dated 20th March 2013 indicate that the consultation findings were presented but do not detail how the views submitted were considered, only that the decision not to make changes was based on the number of responses. In the meeting on 3 October 2013, the school explained that the minutes of governing body meetings are action minutes and therefore do not record the discussion in detail. However, the school has provided witness statements from one of the governors, signed on 5 October 2013, detailing the governors' discussions during the November review meeting (Annex 4.5) when the proposed arrangements and consultation process were considered, and also at Annex 4.13 regarding the discussions about the responses to the consultation during the review meeting in March.

60. It is the case that a school must take account of the views expressed as a result of the consultation process before determining the arrangements, but it must form its own view as to how best to proceed. Regarding the request for changes to the proposed arrangements it appears that the governors decided the objections reflected the concerns of a small part of the community rather than a groundswell. The governors reviewed the local MP's suggestion of the need for a public meeting, but considered that such a meeting is not required by the consultation process. The governors noted that most of the 15 objections about the catchment area related to the north edge of the inner catchment area, the Turnberry Estate. In response to the view that children on this estate are at a significant disadvantage, the governors noted that as this area is also on the borough boundary, these families will have less Walsall schools close to them and so have fewer to choose from than those living nearer the centre of the borough. Furthermore, the governors recognised that prioritising places on the straight line distance from home to school may improve the outcomes for families on the Turnberry Estate but decided that the detrimental effect on the intake of another secondary school was more compelling because it was important to safeguard the intakes of other schools as agreed with the local authority. The governors noted that the local authority had not objected, and nor did it supply any data to help the school analyse the situation. The governors decided to continue to monitor the data to see if an acceptable solution could be found.

61. The governors also considered but rejected the solutions suggested by the respondents:

- An adjustment to the inner catchment area to increase the chances of those on the Turnberry estate would mean excluding people from the south of the inner catchment area and would lead to objections from the south;
- Prioritising children from named primary schools may increase the problem as most of the schools are close to the inner catchment boundary and would enrol students from both the inner and outer catchment areas;
- Allocating unfilled band places in the inner catchment with children from other bands would not maintain the broad intake in equal numbers; and
- Allocating unsuccessful inner catchment students to outer catchment places

would not be in line with the Admissions arrangements.

62. In an email dated 23 August 2013 the council advised that there was no record of any response having been made to the consultation process as any such response would have been made by the education provider at the time, but as the contract was terminated at the end of March 2013, the relevant key staff are no longer working in Walsall. The council provided admissions data and a response to the referral. In response, the school provided copies of email communications about admissions with the council since the previous determination and commented that in none of these have any objections been raised to the arrangements. The school comments that the council appear to have had a change of attitude since the end of the consultation period and that had the governors known, they would have at the very least convened a meeting to discuss these concerns further. The school felt that the council's comments marked a significant shift in views and that the observations should have been discussed first with the school as it has always had an excellent working relationship with the council on both admissions and special educational needs.

63. The referrers cite the school's request for assurance after the previous determination, posed in a letter dated 4 September 2012, that *'...if it is found there is no case to warrant changing the Rules of Admission, that the next full consultation would not be due until 2019'*. The referrers explain that the consultation was the first time that comments on the admissions policy have ever been invited and they would be concerned not to have the opportunity to comment again until 2019. The referrers feel that the Admissions policy lacks transparency which is exacerbated by the school's apparent reluctance to consult publicly. In a follow-up letter dated 10 June 2013, the local MP suggested it would be in the interests of the academy for there to be more public consultations and understanding over admissions as he had continued to receive correspondence from constituents and that *'clearly there is a feeling in Bloxwich particularly of dissatisfaction regarding the difficulties of getting their children into the academy.'*

64. I note that in the email dated 23 August 2013, the council comments that *'Given the observations..., points made within the submission presented on behalf of local parents and councillors and findings within the 2012 adjudication report, a further (full) review of the admission arrangements, their purpose and impact would appear timely.'* The council offered full support to the school to enable consideration of the relevant data and engagement with key stakeholders so as *'to inform an outcome firmly rooted in the needs of children within Walsall'*. In a joint letter dated 13 September 2013, the school and the council confirmed their commitment *'to continue to work together to ensure the best possible outcomes for the children, young people, families and communities of the Academy and Walsall.'* The letter also confirmed an *'appetite to review the current Academy admission arrangements following, and to be informed by, a Local Authority review of arrangements for all schools admissions across the Walsall area.'* At the meeting on 3 October 2013, the sponsor said that the arrangements were set up 10 years ago to rescue a failing school, and the proof of their success was in the current popularity of the school. He agreed that the local context had now changed and this was why he was happy to join in with the local authority review as the matter was bigger than the school, which in his opinion could not act in isolation. In follow-up to the meeting, the council

confirmed by email on 15 October 2013 that it hopes to complete the borough-wide strategic review and have a new admissions policy framework in place by the end of January 2014, and this is a welcome development. However, I am not persuaded that the borough-wide review absolves the school from having an open and transparent review of the arrangements to ensure fairness for families living in the inner catchment area. The school does not appear to have met the requirements for consultation before determining its arrangements for 2014.

Conclusion

65. I recognise that a decade ago the school replaced a failing predecessor school on the same site, and so the arrangements were originally developed to manage reputation issues and as well as minimising the impact on admissions to neighbouring schools. The school is now popular and oversubscribed and a consequence of this success is that local families want their children to attend, but only 100 of the 168 places are currently available to the inner catchment area, and this has been at the heart of the referral.

66. Having considered carefully the extensive range of evidence made available by the referrers, the school and the council, I find that:

- The 2014 arrangements do limit local access to the school. It is not reasonable that applicants living up to 10 miles from the school can secure a place when nearly 50 children living in the defined catchment area are refused a place for their school of first choice;
- It is unsatisfactory that more consideration appears to have been given to the possible impact of changing the arrangements on admissions at another local school, than to the impact of not changing the arrangements on children living in the inner catchment area;
- The combination of banding and catchment areas is complicated and disadvantages children living close to the school;
- The governing body needs to give full attention to the Code and to the Regulations to comply with the requirements of consultation and to ensure that the views of all the appropriate parties are sought;
- The school appears to be reluctant to change the arrangements because of the funding agreement, but the governing body is in a position to determine different admission arrangements if it so wishes, as long as those arrangements comply with the Code;
- As neither of the arguments for or against the introduction of a sibling rule have been persuasive, I find that the lack of priority for siblings is not in contravention of the Code;
- I agree that the school appears to deliberately exclude inner catchment children;
- As I have no evidence that any particular social or racial group is likely to be disadvantaged, I do not accept this part of the referral.

67. For the reasons above, I have concluded that some aspects do not conform with the requirements relating to admission arrangements.

Determination

68. In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of Walsall Academy, Bloxwich for admissions in September 2014. I determine that some aspects do not conform with the requirements relating to admission arrangements.

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

Dated: 17 December 2013

Signed:

Schools Adjudicator: