

## **DETERMINATION**

**Case reference:** ADA/002419

**Objector:** Head teacher and governing body of Cornelius Vermuyden School, Essex

**Admission Authority:** The Governing body of the Deanes School, Essex

**Date of decision:** 5 June 2013

### **Determination**

**In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of the Deanes School.**

### **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 head teacher and governing body of Cornelius Vermuyden School, about the admission arrangements (the arrangements) for the Deanes School (the school), an 11-16 secondary foundation school for September 2014. The objection is to the admission criterion specifying that the school will admit 10 per cent of the published admissions number of 180 on the basis of aptitude in sport, performing arts or music. The objectors contend that the school is proposing to carry out selection by aptitude in a subject area which is not a specialism of the school. They believe that this will be detrimental to parental choice and will discriminate against disadvantaged students and those of lower ability. They question the distinction between aptitude as defined by the school and ability and suggest that the proposed audition may constitute an interview, which the School Admissions Code (the Code) does not permit.

### **Jurisdiction**

2. These arrangements were determined under section 88C of the Act by the school's governing body, which is the admission authority for the school. The objectors submitted their objections to these determined arrangements on 16 April 2013. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.

## **Procedure**

3. In considering this matter I have had regard to all relevant legislation and the Code.
4. The documents I have considered in reaching my decision include:
  - a. the objector's email of objection dated 16 April 2013;
  - b. the school's response to the objection and supporting documents;
  - c. Essex County Council's, (the council) response to the objection and supporting documents
  - d. the council's composite prospectus for parents seeking admission to schools in the area in September 2013;
  - d. a map of the area identifying relevant schools;
  - e. confirmation of when consultation on the arrangements last took place;
  - f. copies of the minutes of the meeting of the governing body at which the arrangements were determined;
  - g. a copy of the determined arrangements; and
  - h) the Ofsted inspection reports for the school and Cornelius Vermuyden School.

## **The Objection**

5. The objection by the head teacher and the governing body is to several aspects of the admission arrangements. Firstly, they object to selection by aptitude in a subject area which is not a specialism of the school. The objectors contend that this breaches Section 102(1)(a) of the Act. The Act specifies that maintained schools may only make provision for selection by aptitude for one or more prescribed specialisms where the school specialises in the subject or subjects in question.
6. They further state that the area of Essex in which the school is situated has four grammar schools as well as other schools selecting a percentage of their intake by aptitude. Consequently they believe that the proposed criterion would be detrimental to parental choice. They believe that the aptitude tests would discriminate against lower ability students and disadvantaged students who have not had the opportunity to develop their aptitudes by the age of 11. They contend that this would contravene paragraph 1.8 of the Code. They "find it hard to see how demonstrating "a capacity to succeed" differs from "ability". They are concerned that the intended auditions may actually constitute interviews, which are not permitted under paragraph 1.9m of the Code.

7. In addition, the objectors raise concerns that acceptance of this proposal would give carte blanche to any school to select 10 per cent on aptitude irrespective of their specialism and to carry out testing monitored only by their own admission authority.

## **Background**

8. The school has been a designated sport specialist school with an agreed ten per cent of students selected on sports aptitude for some time. It has recently decided to widen its specialism to include music and performing arts. Its consultation on this proposal concluded on 14 February 2013 and the new arrangements were determined on 22 March 2013. There were two responses to the consultation. One was an objection from Cornelius Vermuyden School. The other was an objection from St John School to selection by ability. The school responded to St John pointing out that what was proposed was selection by aptitude, not ability. The council supports the proposal.
9. Together with the council, the school has been developing a vision for co-location with Glenwood Special School and it will be moving to a new co-located school specialising in performing arts and music and providing enhanced performing arts facilities for the whole community. It has also recently come together with two other specialist schools and a group of local secondary schools to form the Benfleet and Thundersley Inter-Cluster Trust. This group is working together for the benefit of the whole community and to celebrate success in performing arts. The school has supplied letters of support for the performing arts vision and development from Glenwood Special School, Westwood Academy, the Castle Point and Rochford School Sport Partnership and the Benfleet and Thundersley Trust.
10. The admissions arrangements for September 2014 do not propose any increase in the number of pupils selected on aptitude. They propose six places for sport, four for music, four for dance and four for drama.
11. These matters have been considered by the governing body, which is the admissions authority for the school, and its sub committees. Minutes of meetings show continuing consideration of the development of the school's specialism in performing arts and music in the light of evolving circumstances, particularly the co-location with Glenwood and the building of the new school. They culminate in an agreement that music and performing arts are the school's greatest strength and that there should therefore be further investment in the music department.

## **Consideration of Factors**

12. The factors I have considered include the statutory position, pupil numbers in the area, parental choice, the impact on other schools, the nature of the proposed aptitude testing and its potential impact on disadvantaged pupils.

13. Under current circumstances, section 102 of the Act, sets out that, *“the admission arrangements for a maintained school may make provision for the selection of pupils for admission to the school by reference to their aptitude for one or more prescribed subjects where --*
- (a) the admission authority for the school are satisfied that the school has a specialism in the subject or subjects in question; and*
  - (b) the proportion of selective admissions in any relevant age group does not exceed 10 per cent.”*
14. In this case there is evidence that the governing body, which is the admission authority, has given serious consideration to both the current curriculum strengths of the school and the most appropriate direction of development for the new co-located school. In the light of these considerations they have agreed the specialism in music and performing arts. They are not proposing that the proportion of selective admissions should exceed 10 per cent as this would be unlawful.
15. The objectors express concern at the attempt to “introduce selection” in an area where pupil numbers are falling. However, the school has always selected 10 per cent of its intake or 18 pupils on aptitude. The proposal would not change these figures. It would only broaden the basis on which the selection is made. It is hard to see how this would be detrimental to parental choice. The objectors take the view that the proposal is socially divisive and places undue burdens and stresses on children in Year 6 and their parents. The objectors are entitled to their view, but such selection is explicitly permitted by the Act.
16. The objectors imply that the proposed selection might discourage children and parents from choosing their local school on the quality of its overall provision. But the selective criteria and the selection process as described are very clearly designed to attract pupils with a particular bent or aptitude for the performing arts. Parents and children with no such interest will presumably continue to choose their schools on the quality of overall provision. I note that the objecting school, Cornelius Vermuyden, is a good school. Ofsted describes it as follows, “This is a good school. Its rapid improvement in recent years is a credit to the leadership of the head teacher and her senior team, and to the hard work of the whole school community.” The report adds, “The proportion of students gaining five good GCSEs has doubled since the school was last inspected”.
17. The objectors raise some difficult questions about the difference between ability and aptitude. In particular they question how “demonstrating a capacity to succeed” differs from “ability.” I suggest that where the performing arts are concerned, there clearly are children who display a particular interest and capacity as distinct from their overall intellectual ability and that it is possible to test for this.

The question then is, what is the nature of the testing that is being proposed and is it appropriate?

18. The objectors have raised concerns that the assessment day may constitute an interview. I have seen no evidence to support this view. The assessment, which is modelled on the existing sport assessment programme, will consist of three practical group workshops for applicants followed by individual auditions in the three specialisms, all of which involve performing. The information sheet for the day specifies that the school is looking for, "enthusiasm, dedication and interest in the performing arts" and the criteria focus on potential. These are all appropriate for a test of aptitude.
19. The objectors suggest that these processes discriminate against those students who have not had the advantages or opportunities in life to develop their aptitudes by the age of 11. The information sheet does state that "students are likely to be a member of a performing arts school, church or similar choir, or of a dance/drama organisation. Students may have had tuition in a musical instrument". But it then goes on to say that, "students may have had no formal training but would like to pursue performing arts further". It is certainly the case that disadvantaged students are much less likely to have had the sorts of opportunities described and therefore the process could discriminate against them. It may be that that is the nature of aptitude testing, but be that as it may, aptitude testing is permitted by the Code and I can see no evidence that the process described contravenes what is permissible. I note that the comments about what students are likely to be doing prior to applying for a place is included in the information sheet and not the admissions policy. Nevertheless, such comments could be seen as discouraging certain children from seeking one of the places available for aptitude and as such go against the spirit of fairness set out in the Code concerning admissions processes in general. It would be better if the information sheet did not contain such suggestions. Furthermore, the admission arrangements set out expectations that students who are successful in gaining a place on aptitude in performing arts will attend at least one relevant club each week and participate in school performances. Admission arrangements must not set what may be perceived as a condition and this expectation should not be part of the arrangements.

## **Conclusion**

20. The Act permits the admission authority for a school to select up to ten percent of its pupils by reference to aptitude in a specialism the school has in one or more subjects. There is evidence that the governing body has given serious consideration to the matter and it is clear that there are reasonable grounds for adopting the specialism in question. I am therefore satisfied that the decision complies with requirements.

21. Where pupil numbers are concerned, the proposal is neutral as there is already selection by aptitude for 18 pupils and that figure will not change.
22. The proposed aptitude testing is not an interview. It has been designed to assess specific capacity in performing arts as opposed to general ability and is therefore permissible. I do accept that disadvantaged pupils are less likely to have had access to some of the experiences and opportunities described but I also note the emphasis in the specification on enthusiasm, dedication, interest and potential. It would nevertheless be desirable for the school to amend its information sheet to remove any doubt about requiring experience and to amend the arrangements to remove any possible implication that participating in particular ways after joining the school could be a condition of gaining a place.
23. Therefore I do not uphold the objection.

### **Determination**

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements determined by the governing body of the Deanes School, Essex.

Dated: 5 June 2013

Signed:



Schools Adjudicator: Mrs Janet Mokades