



DETERMINATION

Case reference: ADA2603

Objector: A parent

Admission Authority: The Governing Body of The Camden School for Girls

Date of decision: 18 July 2014

Determination

In accordance with section 88I(5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of The Camden School for Girls for admissions to year 7 in September 2014 and 2015. I determine that they do not conform with the requirements relating to admission arrangements.

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

The referral

1. The admission arrangements (the arrangements) of The Camden School for Girls (the school) for admissions in September 2014 have been brought to the attention of the Office of the Schools Adjudicator (OSA) in correspondence from a parent on 28 April 2014. The school is a voluntary aided girls' school with a mixed sixth form in the London Borough of Camden (the local authority) (LA). The referral relates to the admission of students into year 7 in September 2014 under the specialist music place scheme and the way in which these students are identified. The referrer suggests that the tests for admission under this criterion are in breach of the School Admissions Code (the Code).

Jurisdiction

2. The admission arrangements were determined under section 88C of the School Standards and Framework Act 1998 (the Act) by the school's governing body which is the admission authority for the school.
3. I am satisfied that it is within my jurisdiction to consider the matter brought to my attention under section 88I(5) of the Act and to decide whether or not the arrangements conform with the requirements of the Code. In addition, I have also used my powers under section 88I of the

Act to consider the arrangements for admission to year 7 in September 2014 and 2015 as a whole.

Procedure

4. In considering this matter I have had regard to all relevant legislation and the Code. The documents I have considered in reaching my decision include:
 - a. the email of referral dated 28 April 2014;
 - b. the school's response to the referral and supporting documents;
 - c. copies of the minutes of the meeting of the governing body at which the arrangements were determined; and
 - d. a copy of the determined arrangements.
5. I have also taken account of information received during two meetings I convened on 21 May 2014 and 15 July 2014 at the school and additional documentation sent to me after the first meeting. The headteacher, chair of governors and governors' clerk attended both meetings and we were joined by the head of sixth form for the meeting on 21 May. The LA was invited to both meetings but was not represented at either.

Other Matters

6. At the meetings on 21 May 2014 and 15 July 2014 I raised a number of matters concerning conformity with the Code as outlined below. In addition, a second, independent referral was received by the OSA which questioned the inclusion of a financial deposit to be paid when accepting a provisional place in the sixth form and this is the subject of a separate determination, ADA 2583, in which I also consider the arrangements for admission to the sixth form in September 2014 and 2015 as a whole.

Background

7. The Camden School for Girls is a voluntary aided girls' school for 11 to 18 year olds. Boys are admitted to the sixth form. The school has a specialism in music. It is consistently heavily oversubscribed. The school admits up to 112 students into year 7.
8. The governing body determined the admissions arrangements for September 2014 on 11 December 2013 and published them on the school's website. The published arrangements for admission in September 2015 are now available on the school's website and are relatively unchanged from those relating to admissions in September 2014. The key difference is the separation of the admission of specialist music students from the other admission arrangements.
9. The oversubscription criteria have looked after and previously looked

after children followed by siblings and then students with exceptional medical or social needs as the first three criteria. The school reports that if multiple siblings tie for the last place then all will be offered a place even if this exceeds the PAN. The published fourth criterion is distance from school although the school also offers eight specialist music places. The number of these music places was increased from five places in 2008.

10. In order to reduce the very large number of applicants the school sets a distance criterion each year at twice the greatest distance at which any applicant has been admitted on the distance criterion over the previous three years and the number of applicants considered is set at three times the greatest number who have been admitted on the distance criterion over the previous three years. For September 2014 the distance criterion was set at 1.256 miles from the school and the number of applicants considered for a place was 207.
11. All applications received by the LA are sent to the school and the school applies the first three over-subscription criteria to these i.e. looked after and previously looked after children, siblings and exceptional medical and social needs. The distance and number criteria are then applied to the remainder of the applicants. All those who fulfil criteria 1 to 3 and those who fulfil the distance and number criteria are then invited to sit the National Foundation for Educational Research's (NFER) Cognitive Ability Tests in non-verbal reasoning and numeracy. The tests are marked by the NFER and applicants are placed into one of four bands by ability. The oversubscription criteria are then applied separately to each of the four bandings until 28 students are identified within each band. The school reports that this ensures four approximately equal ability bands.
12. At the meeting on the 15 July 2014 the school reported that, in order to produce four equal ability bands, the distance criteria for band four (the less able students) has been greater than for the other three bands in the past three years. The school believes that using a simple distance criterion for all applicants would produce a skewed intake and they are therefore committed to providing a banding process which complies with the Code.

Consideration of Factors

Allocation of special music places

13. The school requires all applicants for the special music places to be assessed in two stages. The first stage is a "*musical aptitude test which is designed to provide an objective measure of musical aptitude and does not require any prior training, practice or knowledge of music theory.*"
14. The second stage is an audition. The first 60 students ranked in the musical aptitude test are then invited to an audition in which students are asked to perform 1 or 2 pieces on one or two instruments/voice for

up to five minutes. The information sheet provided to parents by the school states *“This may be a song that they have taught themselves, a piece that they have learnt at school (perhaps in a music club or through a Wider Opportunities project) or something that they have worked on in individual lessons. For this part of the assessment, although we are looking for a degree of technical fluency, as appropriate to the demands of the piece, more important is the musicality and sense of style of the performance and the way in which the performer communicates and interprets the music. An accompanist will be available if one is needed.”*

15. The school reports that the selection of the eight students under this criterion is in line with the Code and the law. The school explains that the music department, who conduct the tests and auditions, are looking for students who display exceptional musical aptitude; the school uses the term ‘musicality’.

16. Section 100 of the Act refers to schools which have pre-existing arrangements for selection which precede the 1998 Act. Under this section selection is permitted under the following circumstances;

“Where at the beginning of the 1997-98 school year the admission arrangements for a maintained school made provision for selection by ability or by aptitude (and they have at all times since that date continued to do so), the admission arrangements for the school may continue to make such provision so long as there is, as compared with the arrangements in force at the beginning of that year;

a) no increase in the proportion of selective admissions in any relevant age group, and

b) no significant change in the basis of selection.

17. Paragraph 1.21 of the Code states that *“Partially selective schools select a proportion of their intake by ability. Where schools can partially select, they **must** publish the entry requirements for a selective place, and the process for such selection. They **must** offer places to other children if there are insufficient applicants who have satisfied the published entry requirements for a selective place.”* In addition paragraph 1.22 reads *“Partially selective schools **must not** exceed the lowest proportion of selection that has been used since 1997/98 school year”*.

18. I am of the view that the school complies with section 100 of the Act and paragraphs 1.21 and 1.22 for the five music places (4.5 per cent of intake) offered to students from before the 1997/8 school year until 2007. The increase agreed by the Governors to eight places does not comply with this section of the Act. It is therefore my view that it is compliant for five students to be admitted for music places having been selected in the same way since prior to and since 1997/8.

19. Paragraph 1.24 of the Code states that *“Schools that have*

arrangements to select by aptitude must not allow for more than 10 per cent of the total admission intake to be allocated on the basis of such aptitude (even if the school has more than one specialism). The specialist subjects on which a school may select by aptitude are b) the performing arts, or any one or more of those arts.” Under the auspices of the school’s specialist status it is entitled to admit up to 10 per cent of its intake for special music places. These additional places are required to be selected by aptitude only.

20. Paragraph 1.32 of the Code states that “*Admission authorities must; ensure that tests for aptitude in a particular subject are designed to test only for aptitude in the subject concerned and not for ability*”.
21. The school currently has arrangements for eight students to be admitted for special music places. The school has a published admission number (PAN) for year 7 of 112. Eight places are therefore in line with the up to 10 per cent indicated in the Code.
22. The first test used by the school is the Edwin Gordon’s Advanced Measures of Music Audiation (AMMA). The test is a commercially available test and is designed to provide an objective measure of musical aptitude.
23. I have seen the musical aptitude test and sampled a range of the questions. The test measures whether students can distinguish between different tones and recognise different rhythmic patterns.
24. In the second stage candidates are asked to perform. The school’s music department reports that in this test, “*technical proficiency is only as important as the music demands. What we are looking for is the musicality of the performance – the sense of shape, phrasing, expression, commitment and communication that cannot be taught.*”
25. Of the music candidates who were admitted to the school in September 2013 one of them sang a popular song and did not perform on an instrument. The school reports that this is something that would be accessible to anyone who felt that she had vocal aptitude without prior coaching. Another successful candidate sang a popular song and played her own composition at the piano; the school reports that this was something that had “*no input other than her love of sitting down and making up music.*” The other six successful candidates played a variety of instruments.
26. The test used for the first assessment is specifically designed to measure musical aptitude and I am satisfied that this complies with the Code.
27. The school cites musical research which suggests that aptitude tests should not be used in isolation or used as the sole determiner of musical potential. They therefore invite candidates to undertake the second test which is a performance. The difficulty for the school is how to assess ‘aptitude’ rather than ‘ability’ in these performances. It could

be argued that a performance from an untrained performer is more straightforward in these terms as teachers will be able to assess more easily *“musicality and sense of style of the performance and the way in which the performer communicates and interprets the music”*. Far more difficult is the assessment of these elements when watching a performer who has been in receipt of musical training or has achieved measurable standards in her performances and is therefore demonstrating her ability in music.

28. The school tries hard to differentiate between musical aptitude and musical ability but it is unreasonable to ask a prospective specialist music student to perform for the school in an audition. It is my view that it is not possible to distinguish musical aptitude from musical ability when comparing children who are at very different stages in their musical progress.
29. The musical aptitude test is in line with the Code and the school is able to rank the results of this test in terms of musical aptitude. The second test or audition is not compliant with the Code as the extent of musical background, achievement and previous learning undertaken by the candidates will demonstrate their musical ability.
30. In conclusion therefore five of the places (4.5 per cent of intake) offered to students following the aptitude test and the audition comply with the Act and the Code in terms of pre-existing partial selection. Other specific music places must be considered in terms of aptitude alone.

Other issues within the arrangements

31. The first oversubscription criterion is published as “Looked After and Previously Looked after Children”. The arrangements do not make it clear that these children will be admitted as a priority, irrespective of any banding tests or distance from the school. At both meetings on the 21 May 2014 and 15 July 2014 I was assured that the school does comply with the Code in this matter. The arrangements require amendment so that it is clear that neither these children nor a girl with a statement of special educational needs to sit the banding tests and that they will not be refused admission on any distance criterion. In addition, there are two footnotes attached to this criterion providing the definition and legal references for the two terms. The Code, at paragraph 14 states that *“In drawing up their admission arrangements, admission authorities **must** ensure that the practices and the criteria used to decide the allocation of school places are fair, clear and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated”*. I consider that the first criterion could be made clearer by explaining the terms in detail in the oversubscription criteria.
32. The priority for admission for the music places appears, un-numbered, at the end of the oversubscription criteria in the 2014 arrangements and as a separate category in the 2015 arrangements. At the meeting

on 21 May 2014 the school reported that priority is given to looked after and previously looked after children and then to siblings before any music places are allocated. They also made it clear that the music places take priority over the distance criteria. At the meeting on 15 July the school suggested that, under the 2015 arrangements the specialist music places would be allocated before all other criteria. These arrangements require amendment; governors must be mindful of the statutory requirement to prioritise looked after and previously looked after children as the first oversubscription criterion. Specialist music places also need to be allocated a priority in the oversubscription criteria. This change is needed in order to comply with paragraph 1.6 of the Code which states that *“The admission authority for the school must set out in their arrangements the criteria against which places will be allocated at the school when there are more applications than places and the order in which the criteria will be applied”*.

33. Oversubscription criterion 4 relating to distance says, *“Applicants whose permanent home is nearest to the school, measured in a straight line (as the crow flies) from the centre of the pedestrian gate in the perimeter fence on Sandall Road. For applicants for September 2014, the school will only consider applications under this criterion for those living within 2.256 miles of the school entrance. If more than 207 applications are received under this criterion, the school will only consider the 207 applicants living closest to the school. (For September 2015 the distance is 1.34 miles and the numerical restriction remains at 207)*. Note (a) explains that as the school is heavily oversubscribed the restrictions in terms of distance and number are *“necessary to avoid the burden and disappointment of applications and assessment sessions for those who have no chance of being offered a place”*. The distance criterion is clear and identifies a concentric circle from the school to the specified distance. This could be considered to constitute a catchment area for the school although it is not presented as one, and it is reviewed and may change annually. The distance and numerical restrictions currently only affect applicants who are not siblings, looked after or previously looked after children or have exceptional social or medical need. The numerical limit is set at three times the maximum number admitted to the school under the distance criterion in the previous three years. The school reports that this restriction is placed on applicants in order to avoid burden and disappointment.
34. Applicants living within the specified distance from the school have no way of knowing if they are likely to fall within or outside this numerical restriction on the number of girls the school invites to take the banding tests and cannot therefore make an informed choice about the chance of a place being offered. Admission criteria *“must be reasonable, clear, objective and procedurally fair”* as indicated by paragraph 1.8 of the Code. I consider it to be unreasonable to set a numerical limit as the parent is unable to predict whether or not the application falls within this number. It is the school and not the parent that benefits as it reduces the burden in terms of the admissions process. I am of the view that having set a distance within which applications will have

priority it is then unreasonable and thus unlawful to restrict and prevent some of those in that area from taking the banding test.

35. The school applies a banding selection to applicants. Under the Code the requirements for banding are set out in paragraphs 1.25 to 1.30. The school reports that they use the banding arrangements to establish four equal bands which represent the range of ability of girls in the local area. In addition to all siblings, the school selects those applicants who are allowed to take the test and who comply with the distance and numerical restrictions. Therefore girls who sit the banding tests are not fully representative of all those living in the area who have applied to the school. The arrangements require clarification and amendment in this respect.
36. In addition the Code covers all forms of selection in paragraphs 1.31 to 1.33. Paragraph 1.32 states that “..... **Admission authorities must;**
-c) take all reasonable steps to inform parents of the outcome of selection tests before the closing date for secondary applications on 31 October so as to allow parents time to make an informed choice of school –while making clear that this does not equate to a guarantee of a selective place.”* Currently, the school administers the tests for banding purposes after the closing date for secondary applications and the arrangements for 2015 say that those invited to take the tests will attend on either Wednesday 3 December 2014 or Saturday 6 December 2014. The school does not meet the requirement set out in paragraph 1.32 of the Code as it does not attempt to tell parents the results of the tests prior to the closing date for making an application. It is therefore necessary for the school to administer the tests within a timeframe which allows parents to be informed of the outcome of the tests before the closing date for applications.
37. The admission arrangements explain that 28 places are available in each of four bands. The maximum number of student admissions over the past three years from those other than looked after or previously looked after, siblings, special medical and/or social conditions or specialist music places is 69 in any year group; the equivalent of 17 or 18 admissions in any one band and not the 28 reported in the arrangements. In addition and apparently contrary to the published admission arrangements which state that “*if multiple siblings tie for the last place then all will be offered a place even if this exceeds the PAN*” the banding arrangement information for parents states that all siblings are ‘*guaranteed entry and are placed in the next higher/lower band on an alternating basis.*’ These statements are confusing to parents and contrary to the Code at paragraph 14 which states that “*Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated*”. In this respect the arrangements require amendment.
38. The Code requires admission authorities to include a tiebreaker so that in the event of two students living the exact same distance from the school there is a clear process for deciding who should be allocated a

place. No tie breaker is currently included in the admission arrangements. This addition is needed to meet the requirement in paragraph 1.8 of the Code which states '*...Admission arrangements must include an effective, clear and fair tie-breaker to decide between two applications that cannot otherwise be separated*'.

Conclusion

39. I conclude that the arrangements for the admission of year 7 students under the special music places do not comply with the Code. Up to five places (4.5 per cent of intake) can be offered using the current arrangements as this is a pre-existing partially selective process which dates from before the 1997/8 school year. For other students selected by aptitude for music places, the first stage of the assessment uses a test which does comply with the Code and which can provide information which establishes a rank order by musical aptitude. The second part of the assessment; the audition, cannot measure musical aptitude alone and must not be used as part of the selection process.
40. In addition I have identified a number of other issues above which require modification of the admission arrangements for year 7 admissions as soon as possible.

Determination

41. In accordance with section 88I (5) of the School Standards and Framework Act 1998, I have considered the admission arrangements of The Camden School for Girls for admissions year 7 in September 2014 and 2015. I determine that they do not conform with the requirements relating to admission arrangements.
42. 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 as quickly as possible.

Dated: 18 July 2014

Signed:

Schools Adjudicator: Mrs Ann Talboys