

DETERMINATION

Case reference: ADA2418

Objector: Head teacher and Governing Body of Cornelius Vermuyden School

Admission Authority: The Governing body of Castle View School, Essex

Date of decision: 13 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 Castle View School.

The referral

1. Under section 88H(2) of the Schools 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 (the objectors), about the admission arrangements (the arrangements) for Castle View School (the school), an 11 to 16 foundation secondary 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 240 on the basis of aptitude in modern languages. 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 students of lower ability.

Jurisdiction

2. These arrangements were determined under section 88C of the Act by the governing body of Castle View School which is the admission authority for the school. The objectors submitted their objection 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 School Admissions Code (the Code).

4. The documents I have considered in reaching my decision include:
 - a. the objectors' form of objection and emails 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;
 - e. a map of the area identifying relevant schools;
 - e. confirmation of when consultation on the arrangements last took place;
 - f. a copy of the determined arrangements;
 - g. material relating to language aptitude testing that is on the website of the Language Learning and Testing Foundation; and
 - h. the Ofsted inspection report for Castle View 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.
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 specialist science college but schools are not permitted to select by aptitude for science. On 3 December 2013, the governing body considered a paper from the head teacher proposing that the school should recognise formally that it has a specialism in modern foreign languages (MFL). In support of this proposal, the paper cited the school's partnerships with France and China, its involvement in the cross curricular Comenius project with schools in Germany, Sweden and France, its employment of French and Chinese foreign language assistants, the large numbers studying French at key stage 4 and the teaching of Mandarin, amongst other things. The governors discussed the proposal and in view of its contents, voted for the MFL specialism.
9. During the consultation period, the objectors made an objection. No other formal objections were received. The council supports the proposal. The arrangements were determined by the governing body on 4 February 2013.

Consideration of Factors

10. The factors I have considered include the statutory position, parental choice, the impact on other schools, the nature of the proposed aptitude testing and its potential impact on less able students.
11. 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.*"
12. In this case, the governing body has given consideration to the head teacher's view that the school has developed a *de facto* specialism in MFL. In the light of the evidence put to them, they have decided to formalise that specialism. This allows them lawfully to select 10 per cent of their admissions on aptitude and that is what they are proposing to do.
13. The objectors express concern at the attempt to "introduce selection" in an area where pupil numbers are falling. They suggest that the proposed selection might discourage children and parents from choosing their local school on the quality of its overall provision. But the selection process as described is specifically designed to identify pupils with a particular aptitude for foreign language learning. Parents and children with no such interest or aptitude 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".

14. The school's MFL aptitude selection process involves the use of tests from the Language Learning and Testing Foundation. The theory and research underpinning these tests was done at Harvard University in the fifties and they were originally used by the American Army to select those most able to learn languages. They are now used by governments, companies and missionary organisations to assess language learning capacity and by schools and higher education for placement purposes. They are also used to assess foreign language learning disabilities.
15. The Foundation's website states that the purpose of the Modern Language Aptitude Test (MLAT) is to predict, "how well, relative to other individuals, an individual can learn a foreign language in a given amount of time and under given conditions". The MLAT is based on a four part model of language aptitude. These four parts are separate from motivation and verbal intelligence which do not form part of the test. The four components are phonetic coding ability, grammatical sensitivity, rote learning ability and the ability to infer or induce rules governing the structure of a language.
16. It is therefore clear that the school is using an accepted method of MFL aptitude testing that selects not on general unitary ability but on a composite of independent specialised capabilities. These tests do not assess prior language learning. The objectors have stated that the selection "will discriminate against the less able who will be less skilled in languages" but no evidence has been put to me to indicate that such specialised capabilities are less likely to be found amongst children of lower ability. Aptitude testing is permitted by the Code and I can see no evidence that the procedures described contravenes what is permissible.

Conclusion

17. The Act permits the admission authority for a school to select up to ten per cent 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 consideration to the question of specialism and has concluded that there are reasonable grounds for adopting the specialism in MFL. I am therefore satisfied that the decision complies with requirements. The school is using a recognised method of aptitude testing and this is permitted by the Code.
18. I therefore 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 Castle View School, Essex.

Dated: 13 June 2013

Signed:

Schools Adjudicator: Mrs Janet Mokades