



Determination

Case reference:	ADA4387
Objector:	Representative of a trust
Admission authority:	The Trinity Multi-Academy Trust for the Trinity Academy Leeds
Date of decision:	19 November 2024

Determination

In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Trinity Multi-Academy Trust for the Trinity Academy Leeds. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2025 to address the aspects of the objection which I have upheld.

I have also considered the arrangements in accordance with section 88I(5) and find there are matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by the local authority (the objector), about the admission arrangements (the arrangements) for September 2025 for the Trinity Academy Leeds (TAL or the school).

2. The school is a secondary academy for 11 to 16 year olds. The school is part of a multi-academy trust called The Trinity Multi-Academy Trust (TTMAT or the trust), the governing board of which acts as the admission authority for the school (the admission authority). The trust is a diocesan MAT.
3. The local authority (LA) for the area in which the school is located is Leeds City Council.
4. The parties to the objection are the objector, the LA, the trust (and, by default, the diocese) and the school.
5. The objection raises concerns about the approach to, and lack of information made available about, the measures adopted by the school to determine eligibility for selection by aptitude. This determination will be published after the application process for school places for 2025 has closed and after the auditions will have taken place to determine eligibility and the order of priority for places offered on the basis of aptitude for the performing arts. I have been informed that applicants seeking priority under this oversubscription criterion are provided with the necessary additional information. The effect of this determination cannot be retrospective, therefore the order of priority under this oversubscription criterion will not be redetermined for the main admission. In respect of the matters raised by the objector, the arrangements will need to be revised before 28 February 2025 to address the aspects of the arrangements identified in the objection which I have found to be in breach of the requirements of the School Admissions Code (the Code). In respect of the other matters I have found to be in breach of the Code (set out in the sections of this determination entitled 'Other Matters'), these must be addressed within two months of the date of this determination.

Jurisdiction

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

“[...] the Academy Trust will act in accordance with and will ensure that its Independent Appeal Panel is trained to act in accordance with, the School Admissions Code and School Admission Appeals Code published by the Department for Education (the “Codes”) and all relevant admissions law as they apply to foundation and voluntary aided schools, and with equalities law.”
7. The school’s arrangements were determined on 5 February 2024 by the trust, which is the admission authority for the school, on that basis.
8. The objector submitted the objection to these determined arrangements on 15 May 2024. I am satisfied the objection has been properly referred to me in accordance with section 88H of the Act and that it is within my jurisdiction.
9. I have also used my power under section 88I of the Act to consider the arrangements as a whole and to determine whether or not they conform with the requirements relating to

admissions and, if not, in what ways they do not so conform. I will refer to these as ‘Other Matters’ and they are covered in the sections of the determination under that name.

Procedure

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

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

- a. a copy of the minutes of the meeting of the trust’s governing board at which the arrangements were determined;
- b. a copy of the determined arrangements and the supplementary information form (SIF);
- c. the objector’s form of objection;
- d. the responses of the trust and school to the objection, along with supporting documents;
- e. a copy of the supplementary funding agreement for the school;
- f. the LA’s online composite prospectus for admissions to secondary schools;
- g. Google Maps; and
- h. information available on the websites of the school, trust, LA, the Department for Education (DfE) – particularly the ‘Get Information About Schools’ (GIAS) site – and Ofsted.

The Objection

12. The objector raises a number of concerns about the school’s arrangements which I have grouped into two categories:

- A. The process of selection for places for children who have an aptitude for the performing arts is a test of ability not aptitude.
- B. That the school does not provide sufficient information in respect of the entry requirements for a selective place.

13. The objector identified the following areas of the Code which he believes apply to the objection:

- 1.9 (part): “It is for admission authorities to formulate their admission arrangements, but they **must not**:

[...]

- i) prioritise children on the basis of their own [...] past or current hobbies or activities”.

- 1.17: “The admission authorities for all selective schools **must** publish the entry requirements for a selective place and the process for such selection in their admission arrangements.”
- 1.32 (part): “Admission authorities **must**:
 - a) ensure that tests for aptitude in a particular subject are designed to test only for aptitude in the subject concerned, and not for ability;”

14. I have identified that the following paragraph of the Code is also relevant to the objection raised:

- 14 (part): “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 [...] clear [...]. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated.”

Other Matters

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

16. In summary, I note here that I raised the following matters in respect of the arrangements: the definitions of looked after and previously looked after children and siblings are inconsistent where they appear in different places in the arrangements; the use of ambiguous statements making the arrangements unclear for parents; a lack of cross-referencing from certain oversubscription criteria to critical notes set out later in the arrangements; not including information about the process for applying for a place outside of a child’s normal age group; there being a process for a parent to have their child ‘added’ to a waiting list when parents are not expected to have to request such a place; and an issue in respect of the way the section of the arrangements dealing with ‘appeals’ is worded.

Background

17. According to GIAS, the school is a non-selective and co-educational secondary free school (a type of academy) which does not have a religious character. It is an academy which opened in 2021. The Published Admission Number (PAN) for Year 7 is 240.

18. TTMAT runs 11 academies:

- 18.1. Excluding TAL, there are five other secondary academies: Trinity Academy Grammar (Sowerby Bridge); Trinity Academy Cathedral (Wakefield); Trinity Academy Bradford; Trinity Academy Halifax; and Trinity Academy St. Edwards (Barnsley).

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

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

19. In the event of oversubscription, after the admission of children with Education, Health and Care Plans (EHCPs) which name the school, places will be prioritised according to the school's oversubscription criteria, summarised as follows:

- 1 Looked after and previously looked after children.
- 2 Children who have exceptional medical or social needs.
- 3 Children of brothers and sisters.
- 4 Children who show a particular aptitude for the performing arts (10 per cent of the intake (24 children)).
- 5 Children of staff.
- 6 Other children, by straight line distance.

Parents are expected to complete the SIF in respect of oversubscription criterion 4.

Children are prioritised within each criterion by order of proximity to TAL. If there is a tie, 'lots will be drawn' to break it, witnessed by a "person independent of the school".

20. The trust told me that oversubscription criteria 4 was introduced for the first time in the 2025 arrangements (I note that this was also the case for criterion 5). The trust provided the reasons for the introduction of criterion 4, which were:

"We introduced the new oversubscription criteria relating to aptitude in the performing arts in 2024 in readiness for the September 2025 intake, following a statutory period of consultation.

We introduced this because at TAL we believe in a broad and balanced curriculum where young people achieve academic excellence and learn to thrive across many disciplines. Alongside this we have a specialism in 'voice'. This comes in many guises, but crucially aims to ensure that young people are empowered to use their voice as a force for good, impacting positively on individuals, families and communities. In a system where performing arts is sometimes marginalised, we see it as important in developing our young people and their voice. Through the arts, our young people learn to thrive, building confidence, discovering new experiences and learning important communication skills.

In addition to this, as a Trust we have witnessed the positive impact such a pathway can have on a school and have been operating a similar policy for over 5 years at another Trinity MAT secondary school in Wakefield. As a result, we have experience

and knowledge of the administration, application and impact of such a policy and believe it will be an important step for the young people and community at TAL.

Therefore, we believe that selecting 10% of our cohort through aptitude for the performing arts will enable us to offer places to young people who have potential to thrive in the performing arts. Given the provision we offer, we believe that this will give those young people a springboard into potential careers in this area as well as fuelling their passions.”

21. In the school’s admission arrangements up to 2024, the following oversubscription criteria were employed to prioritise admission:

- 1 Looked after and previously looked after children.
- 2 Children who have exceptional medical or social needs.
- 3 Children of brothers and sisters.
- 4 Other children, by straight line distance.

22. The trust provided me with a copy of the materials produced for the consultation conducted in respect of the changes to the 2025 arrangements. I can see that the consultation took place in accordance with the requirements of paragraph 1.46 of the Code.

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

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

Year 7	Year 8	Year 9	Year 10	Year 11	TOTAL
240	244	240	240	0 ^A	964

^A As a free school, TAL opened in 2021 with its first and only Year 7 group of 240 children and has been growing its roll each year by adding a new Year 7. The school will have children in every year group from September 2025.

Consideration of Case

24. I will take each of the two areas of concern raised by the objector in turn.

A. The process of selection for places for children who have an aptitude for the performing arts is a test of ability not aptitude

25. The objection is that the school’s processes for assessing the ‘aptitude’ (for the performing arts) of applicants under oversubscription criterion 4 include aspects which test the ‘ability’ of those applicants.

26. Before considering this part of the objection, I pause here to note that I have taken into account the following:

26.1. The terms 'ability' and 'aptitude' do not mean the same thing and are made distinct from each other by their everyday definitions. Put simply, ability can be defined as: that which one has and can demonstrate in the present. Aptitude can be defined as: that which one has the capacity to develop; one's potential; and how quickly and easily one will be able to learn (that something to which a particular aptitude refers) in the future. In the context of the requirements relating to school admissions, partial selection by 'ability' on the one hand and 'aptitude' on the other are treated differently from each other by both the Act and the Code.

26.2. Schools are expressly prohibited by law from introducing partial selection by ability if they did not already do so prior to 1997/98. As a school which only opened in 2021, this means that the school could not select on the basis of ability prior to 1997/98. The school's arrangements, if found to be including any testing of ability in order to determine priority for admission would be unlawful, contrary to sections 99(2)(a) and 100(1) of the Act and paragraph 1.9 d) of the Code.

26.3. Section 102(1) of the Act makes provision for a school to be able to introduce partial selection by aptitude into its arrangements, providing it is for no more than 10 per cent of the intake (section 102(1)(b) and as set out in paragraph 1.24 of the Code). The arrangements clearly set out that the maximum number of children that will be admitted under oversubscription criterion 4 is 24 (10 per cent of the PAN).

27. About this concern, the objector told me:

"TAL supplementary information form asks for previous performing arts experience (if any). If the assessment were a test of aptitude, rather than ability, this would not be relevant information. [...]"

The information requested would appear not to be appropriate to this stage of the application process. [...]"

An audition is a test of ability, rather than the widely available Music Aptitude Test, which

- covers Pitch, Texture, Rhythm and Melody
- is designed to test a young person's natural music aptitude.
- is designed to look for innate musicality in a student.
- This means measuring their aural awareness and ability to discern detail
- To pass a Music Aptitude Test, you don't need to play an instrument.

In the absence of any explanatory information to the contrary, the oversubscription criterion 4 in the published admissions policy which refers explicitly to an audition process, coupled with the supplementary information form request for details of previous performing arts experience strongly indicate an ability and experience rather than an aptitude based assessment for prospective students.”

28. The arrangements say about oversubscription criterion 4:

“This will be determined through an audition process. Those wishing to be considered under this criteria must complete a supplementary information form, available on the academy website. Any children who apply and do not meet this criteria will be considered under the other oversubscription criteria.”

29. I asked the trust for information about the audition process. In its response, it told me:

“The audition process is designed to allow our qualified and experienced staff to select students for their aptitude for the performing arts. This is entirely targeted to assess their potential to thrive in the performing arts, rather than their current ability. The audition element comprises of the following:

- A short drama performance
- A short musical performance
- A short dance performance

Staff score the applicants on each area, as well as making any relevant comments based on the potential shown by each applicant in relation to the table shown on the supplementary guidance [...] sheet. [...]

Staff then use a combination of these scores alongside a discussion between the specialist staff to rank students. Although only 10% (24) can be selected by aptitude, our staff rank all participants. Therefore, if there are 60 applicants for audition, they will all be ranked. This is because the LA allocate places based on all criteria and therefore it is not necessarily the top 24 ranked who will end up with a place at TAL. In addition some may decide not to apply, therefore it is important to have a full list, ranked. The school then provide the ranked list to the LA.

The objection which states that we assess for ability rather than aptitude is misinformed. One contributing factor to the objection is that we ask about ‘previous performing arts experience’ in our SIF. This contextual information contributes to our understanding of their potential. For example, we want to be able to recognise potential rather than see a snapshot when one applicant may be in a more favourable position than another due to other factors e.g. greater parental support, financial issues etc. Knowing what experience they have in clubs and activities at primary school or outside of school helps us understand this.”

30. The trust provided the school's 'Supplementary Guidance' document which includes further details about the audition process:

"Dance

Students will take part in a group physical warm-up exercise.

Following this, students will be given asked [sic] to perform a freestyle dance sequence of their choice to a contemporary dance track lasting two minutes. After the warm up, they will have half an hour after hearing the chosen track to practice. Their performance will be individual, although several children will dance at the same time.

Drama

Students will be given a stimulus and asked to take part in a character creation exercise. They will rehearse as part of a small group and create a short performance in response to the stimulus.

Music

Students will be asked to either:

- a) Play a short (up to 3 minutes) music piece using an instrument of their choice.
- b) Sing a composition of their choice without accompanying music for approximately 2 minutes.

Students will be assessed by our specialist performing arts staff for potential in the range of performing arts. Our staff will be looking for students with strengths and potential to develop and improve in one or more of these areas. Therefore, we emphasise that students need not worry if they are stronger in one area than the others. Within each of the areas our staff will be looking to assess the following:

Dance	Drama	Music
<ul style="list-style-type: none">• Creativity• Technique• Rhythm• Timing	<ul style="list-style-type: none">• Body language• Use of gestures• Facial expressions• Enthusiasm	<ul style="list-style-type: none">• Rhythm• Melody• Pitch• Tempo• Texture"

31. I do not find that the objector's concerns are evidenced by the materials provided by the trust. I find the trust's explanation of the reason the school requests information about the previous performing arts experience of applicants to be credible and note that, in any event, it will not feed into, affect or form the basis of the process of assessing aptitude in the performing arts. It is clear that the school plan to employ a commonly used process for auditioning for aptitude in the performing arts and that the focus of the assessment through the audition process will be on the aptitude of students in the three areas tested and not on

their ability. In respect of the music aptitude test, the objector is concerned that the option for an applicant to play a musical instrument is a test of ability. That is not the case when the criteria for the test are designed to assess musical aptitude and not musical skill, as is the case here.

32. I, therefore, do not uphold this part of the objection.

B. That the school does not provide sufficient information in respect of the entry requirements for a selective place

33. About this concern, the objector said:

“The application form refers to supplemental guidance but this cannot currently be found on the TAL website. [...]

The supplemental information to support the completion of [sic] the application form is not available to parents. [...]

Oversubscription criteria 4 – this will be determined through an audition process. Timeline section specifies that this will take place on Saturday 12 October 2024 at TAL.

The information currently provided does not provide sufficient information for parent to understand the expectations, the potential impact on their child on the process, accessibility if child has additional needs. No criteria are provided for how those eligible under this criterion will be identified from the audition process.”

34. In its response to this concern, the trust told me that:

“We believe that the objection stating that we do not provide enough information to allow parents to make an informed decision is inaccurate. This is because we take numerous steps to inform parents about our admissions going well beyond just the website.

These steps include the following:

- visits to partner primaries and dialogue with year 5 and 6 students;
- a well-publicised open evening with key information sessions;
- social media campaign and posts;
- a new prospectus which will be available in September and will include specific reference to the new oversubscription criteria.

Despite this, we recognise that the information on our website could be more detailed, and we can take immediate steps to improve this by including the information shown in the [supplementary guidance] [...] readily available on the

website. Alongside this we will add further details of the reasons for choosing this pathway as follows:

‘Students with a keen interest in the performing arts could consider this pathway as it includes the following opportunities:

- An outstanding performing arts curriculum
- Membership of our in-house drama academy
- Membership of our contemporary dance academy
- Membership of our orchestra in conjunction with Opera North
- Instrumental and singing lessons
- Access to casting directors and professional opportunities
- A programme of high quality extra-curricular experiences
- State of the art facilities’

Our intention was to share [the supplementary guidance] with those who had registered by completing the SIF. We understand it could be misleading that the SIF says that the supplementary guidance is available on our website. As a result, we have now added this guidance to the website and will ensure that it remains accessible for parents and stakeholders.”

35. I note that the trust has said that the information on its website could be improved and admitted that the supplementary guidance was not provided to all potential applicants. I make the point here that had this information been provided, it is likely that this objection would not have needed to be raised with the adjudicator.

36. I therefore uphold this part of the objection.

37. Taking into account that I have not upheld concern A, this means that I partially uphold the objection as a whole.

Other Matters

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

38.1. In respect of oversubscription criterion 1, the list provided for previously looked after children is not complete and not the same as provided under Note 1. Having different information in two different places is not clear for parents. (Paragraph 14)

38.2. Oversubscription criterion 3 prioritises “Children with older brothers or sisters who will be attending our academy.” About this, there are two concerns:

- 38.2.1 Note 3, to which the criterion refers, provides a more extensive definition of 'brothers and sisters'. The criterion itself does not mention that the relevant definition is in Note 3 and is therefore not sufficiently clear for parents. (Paragraph 14)
- 38.2.2 The criterion states "who will be attending our academy". This can read as if the sibling upon which the prioritisation is based is 'going to be attending' rather than 'is currently attending' the school. That cannot be the case and is therefore not clear for parents. (Paragraph 14)
- 38.3. Under oversubscription criterion 6, straight line distance is used to prioritise admission. The criterion does not include a reference to Note 4 which provides further information on how that measurement is calculated. It is not clear that parents need to look at Note 4. (Paragraph 14)
- 38.4. In the first paragraph after the title 'Applying after the national closing date', it states: "we cannot guarantee to consider your preferences at the same time as those received on time" (underlining is my emphasis). This phrase is ambiguous and contradicts the paragraphs that come after, where it is clear how a late application will be dealt with. This is therefore misleading and not clear for parents. (Paragraph 14)
- 38.5. Under the section entitled: "Admission of children outside their normal age group", the process that the school expects a parent to follow when the parent is applying for a place for their child(ren) out of their normal age group (paragraph 2.18) is not clear because the following information is not included:
- what form the application should take;
 - to what body or person the application should be made;
 - what body or person makes the decision; and
 - how a parent knows what steps to follow. (Paragraph 14)
- 38.6. The section of the arrangements entitled 'Waiting lists' includes the statement: "How to add your child to a waiting list will be explained in the offer or decision letter you are sent." Parents are not expected to request to be placed on a school's waiting list. However, it is permissible for the school to ask parents to confirm if they wish their child(ren) to stay on the waiting list (as is stated later in the arrangements in the 'Waiting List' section). (Paragraph 2.15)
- 38.7. In the section entitled 'Appeals', it is stated that: "Find Leeds City Council's appeals timetable containing deadlines and timescales". It is not clear what this is referring to. It appears to be an unfinished sentence / link to the LA's materials on appeals. The result is that it is not clear for parents. (Paragraph 14)

39. In its response to these matters being raised with them, the trust provided me with suggestions as to how it could change the arrangements to make them more compliant. I am unable to comment on those suggestions as they are not part of the currently determined arrangements. The trust also asked for my advice on how it might best go about addressing some of the matters raised. My role is to check for compliance with the Code. I am, therefore, unable to provide such advice.

40. However, I note the willingness of the trust to address these matters, which is welcomed. Paragraph 3.6 of the Code permits the trust to make the changes it needs to make in order to ensure compliance with the Code now that I have made my determination. As the trust is actively seeking to address these areas, I will not mention them further in this determination.

Summary of Findings

41. The objector raised concern about the test for aptitude in the performing arts and issues about the lack of information provided to potential applicants in respect of that test. In considering those concerns, I have not found evidence of the concern that the aptitude test includes elements of a test for ability. However, I have found that there is merit to the concern raised by the objector in respect of information not being provided to potential applicants about the process of selection by aptitude in the performing arts. This has also been recognised by the school. I, therefore, partially uphold the objection.

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

Determination

43. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I partially uphold the objection to the admission arrangements for September 2025 determined by The Trinity Multi-Academy Trust for the Trinity Academy Leeds. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of this determination unless an alternative timescale is specified by the adjudicator. In this case I determine that the arrangements must be revised by 28 February 2025 to address the aspects of the objection which I have upheld.

44. I have also considered the arrangements in accordance with section 88I(5) and find there are matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination. The School Admissions Code requires the admission authority to revise its admission arrangements within two months of the date of the determination.

45. By virtue of section 88K(2) the adjudicator's decision is binding on the admission authority.

Dated: 19 November 2024

Signed:

Schools Adjudicator: Dr Robert Cawley