



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** ADA4134 and ADA4138

**Objector:** Two parents

**Admission authority:** The Chiltern Learning Trust for The Cedars Upper School, Leighton Buzzard

**Date of decision:** 25 August 2023

## 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 for September 2024 determined by The Chiltern Learning Trust (the admission authority) for The Cedars Upper School, Leighton Buzzard, Central Bedfordshire.**

## The referral

1. Under section 88H(2) of the School Standards and Framework Act 1998, (the Act), two objections have been referred to the adjudicator by two parents, (the objectors), about the admission arrangements (the arrangements) for The Cedars Upper School (the school), [a year 9 to year 13 academy school] for September 2024. The objection is to the unfairness of admission arrangements brought about by the change in circumstances of school places in the area, the historic position of schools in the area, the creation of a multi academy trust within part of the area and the changing of arrangements at The Cedars School.
2. The local authority for the area in which the school is located is Central Bedfordshire. The local authority is a party to this objection. Other parties to the objection are the Chiltern Learning Trust and The Cedars Upper School and the Governing Board of Vandyke Upper School: the other Upper School in the Area.
3. A separate determination covering cases ADA4134 and ADA4139 deals with objections made to the arrangements for Vandyke.

## Jurisdiction

4. The terms of the Academy agreement between the school and the Secretary of State for Education require that the admissions policy and arrangements for the academy school are in accordance with admissions law as it applies to maintained schools. These arrangements were determined by the governing board, which is the admission authority for the school, on that basis. The objectors submitted their objections to these determined arrangements on 28 April 2023 and 5 May 2023. One of the objectors has asked to have her identity kept from the other parties and has met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 by providing details of her name and address to me.

5. One of the objectors also objects to the creation of a multi-academy trust (MAT) which has been created with Vandyke Upper School and its neighbouring middle school (Gilbert Inglefield Academy). The MAT comes into operation in September 2023 but no changes have been made to the admission arrangements in either school; the parent believes this further compounds the issue because she expects her first child to be unsuccessful in his application to Vandyke Upper School because of the current arrangements and, if as promised by the MAT, the arrangements change to give priority to children attending the middle school then her second child may well be successful in his application to the school due for September 2026 leaving her children attending two different upper schools some distance apart. It may be, of course, that the parent's preference will not be Vandyke Upper School for their younger child particularly as The Cedars arrangements give a high priority for siblings in their arrangements. Whilst I understand the parent's concerns, my jurisdiction is to determine whether or not admission arrangements which are in place for entry in September 2024 do or do not conform with the Code and the law and therefore the creation of a MAT and future plans for admission arrangements do not come under my jurisdiction and I will not be commenting on them further.

6. Both objectors in their forms and in additional material place the blame for the current circumstances firmly in the hands of the local authority and I have seen correspondence between the objectors and the local authority. As most of the schools in the area are academies then, although the local authority has influence over admission arrangements in that they are statutory consultees on changes to admission arrangements, the local authority is correct in its statement that 'the ultimate decision on their admission criteria rests with the schools'. Local authorities have responsibility for school place planning and are required to monitor the admission arrangements for schools which are their own admission authorities. If the local authority is concerned about changes to the admission arrangements of own authority schools, then they should liaise with the school, engage in any consultation and if necessary, refer an objection to the OSA. As far as I am aware this has not happened in this case. Other related matters raised by the objectors are also not within my jurisdiction; namely, the planning for school places in the area, changes to the admission arrangements and age ranges of schools that I am not considering and concerns about the co-ordination or lack of co-ordination between different admission

authorities and between the admission authorities and the local authority in the area. I cannot and do not make findings about any of these matters, but I refer to them where they relate to the matters that are within my jurisdiction, namely the compliance or not of admission arrangements with the requirements relating to those arrangements.

7. I am satisfied that the other elements of the objections have been properly referred to me in accordance with section 88H of the Act and they are within my jurisdiction.

## Procedure

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

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

- a. a copy of the minutes of the meeting of the Trust board at which the arrangements were determined;
- b. a copy of the determined arrangements;
- c. the objectors' forms of objection dated 28 April 2023 and 5 May 2023, supporting documents and subsequent correspondence;
- d. the Trust's response to the objection, supporting documents and subsequent correspondence;
- e. the local authority's very tardy response to the objection and my correspondence with them;
- f. the local authority's composite prospectus for admissions to secondary/upper schools in 2023;
- g. maps of the area identifying relevant schools; and
- h. information gleaned from the websites of the schools and the local authority.

## The Objection

10. The two objectors live in small villages about three miles from the town of Leighton Buzzard, where the school and Cedars are located. The objections concern what they consider to be the apparent lack of planning for school places in the area, the amendment of admission arrangements at some schools, the change in age groups of a local middle deemed secondary school to an extended secondary school and the lack of co-ordination between the admission authorities and between admission authorities and the local authority in the area. These elements have, they contend, led to a situation in which there exists a group of children who have been unable to attend their catchment middle school and now face the prospect of being very low in the priorities for admission to either their original catchment upper school or the only other upper school in the area which is next door to the middle school which the children currently attend. The objectors conclude that the current admission criteria for both upper schools have left some children in an extremely

vulnerable, disadvantaged and extremely upsetting position. The objectors consider that the admission arrangements with respect to this group of children are unfair and contrary to the Code at paragraph 14. This reads '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.'

## Background

11. The local authority for the area (the local authority) is Central Bedfordshire and it undertakes its planning of school places around geographical areas. The area in which the objectors live comes under area two for these planning purposes. Within planning area two, education is provided by the following schools: 17 lower/primary schools, two voluntary aided lower schools, four middle deemed secondary schools, one through extended secondary school, two upper schools and a special school. Three of the middle schools, the extended secondary school and both upper schools are academies and are therefore their own admission authorities. Since 2015 there have been over 950 new houses built in the area, mostly nearer to Vandyke Upper School. The extended secondary school was previously a middle deemed secondary school with a PAN of 50 for Y5. For admission in 2023 this school is expecting to admit up to 60 pupils in Y5 and up to 120 children in year 9 many of whom are already on roll. The local authority has had in place a plan since 2015 ('Schools for the future') in which the whole area moves to a two-tier system but in the last six weeks this plan has been 'paused'.

12. The two upper schools are the Cedars and Vandyke Upper School. The Cedars is a member of a MAT and it is a 13-18 upper school with a published admission number (PAN) of 320. Its most recent Ofsted inspection in April 2023 judged it to be a good school. In the previous three admission rounds the school has been undersubscribed (by 107 in 2021, 134 in 2022 and 133 in 2023).

13. Vandyke Upper School is an academy school and it is a 13-18 upper School with a PAN of 360. Its most recent Ofsted inspection in 2018 judged the school to be a good school. In the previous three admission rounds the school has been oversubscribed. For 360 places in the last three years there have been 433 (2021), 375 (2022), and 414 (2023) first preference applications for places.

14. Both objectors live more than five kilometres from each of the upper schools. The children of the objectors started their education in a lower school. When they were due to move to a middle school (at the start of Y5) the local authority indicated that the villages were within the catchment area of Leighton Middle School. Families duly applied for this school only to be told that their applications had been unsuccessful due to lack of places at the school and the children were allocated to another middle school, Gilbert Inglefield Academy. The children were placed in this middle school, will be in Y8 in September 2023 and will be applying for upper school places in Y9 for September 2024.

15. Gilbert Inglefield Academy is situated next to Vandyke Upper School. In the past two years Vandyke Upper School has had the same admission arrangements whereas the Cedars, having become part of a multi academy trust, has changed their admission arrangements in line with other schools in the trust by removing the priority for children living in a catchment area and prioritising only two of the four local middle schools.

16. The determined arrangements for 2024 for the two schools can be summarised as follows.

### **The Cedars Upper School**

- 1) Children with an Education Health Care Plan which names the school.
- 2) Looked after and previously looked after children.
- 3) Children of staff
- 4) Children with siblings in the school
- 5) Children attending Linslade or Leighton Middle Schools
- 6) Other children by straight line distance.

### **Vandyke Upper School**

- 1) Students with an Education Health Care Plan which names the school.
- 2) Looked after and previously looked after children.
- 3) Students who are children of staff
- 4) Students living in catchment with siblings in the school.
- 5) Other students with siblings in the school
- 6) Other students living in catchment.
- 7) Very Exceptional medical grounds
- 8) Students who will have completed years 5 and 6 (KS2) and years 7 and 8 (KS3) in middle schools in the local community (Brooklands, Gilbert Inglefield, Leighton and Linslade)
- 9) Students who will have completed years 7 and 8 (KS3) in middle school in the local community (Brooklands, Gilbert Inglefield, Leighton and Linslade)
- 10) Other students not meeting the above criteria.

17. In the last three years The Cedars School has been under subscribed, so all who sought a place there were offered one unless a higher preference could also be met.

Successful admissions to Vandyke School have been made down to criteria 8 in 2021 and 2023 and down to criterion 9 in 2022.

## Consideration of Case

18. I have considered the two objections and fully understand the frustration and concern shown by the objectors. Reading the documentation, it would appear that a small group of children who live in two outlying villages, over five kilometres away from Leighton Buzzard where the upper schools are located, have not been well served by the admissions systems when moving from first to middle schools and, it would appear, may continue to be ill-served by the local system when they move to upper schools in September 2024. The objectors have provided me with documents showing communication with the schools, the local authority and local councillors and none of these parties has been understanding of the situation nor tried to resolve it or to reassure the parents. I think it is important that I record early in this determination that having read all the papers and in the light of my own experiences of the parties' responses to me that I am of the view that the children will find a place at a school within a reasonable distance of their home. However, I understand why the parents are concerned and I consider it unfortunate and discourteous that the objectors have not been provided with this information by the schools and/or the local authority that could have reassured them.

19. The information provided to me shows that a group of children from two outlying villages were unsuccessful in their applications for their preferred middle school for admission in September 2020 (Y5). The local authority provided them with the name of their 'catchment school' which was Leighton Middle School (Leighton) but the applications were unsuccessful as the school reached capacity from applicants who were ranked higher against that school's oversubscription criteria. Had they been admitted to Leighton, these children would have had a relatively high priority for their 'catchment' upper School when the children transferred at Y9. This school is The Cedars The children were allocated to another middle school in the area which did have places; Gilbert Inglefield Academy (Inglefield), and they have attended there since that time.

20. At the time of transfer from first to middle schools, the information on the local authority website showed that the objectors lived in the Leighton Middle and Cedars Upper School catchment areas. A study of maps of the areas shows that the objectors live equidistant to both the Leighton Middle School and Gilbert Inglefield Academy to which the children were allocated. Further calculation shows that the objectors live considerably nearer to Vandyke Upper School than they do to Cedars. One objector lives 9.9 kilometres from Cedars Upper School and only 5.4 kilometres from Vandyke Upper school and the other objector lives 11.1 kilometres from Cedars Upper School and only 6.7 kilometres from Vandyke Upper School. This poses the question of why the villages were allocated originally to the Cedars designated catchment area. There may have been sound reasons for the drawing of the catchment area as it was – for example, to ensure access to an upper school for another village or community – although this question now becomes redundant

due to changes in the admission arrangements at Cedars in the time that the children have attended the middle school.

21. Cedars Upper School is a member of the Chiltern Learning Trust and, following due consultation, the Trust changed the admission arrangements for the September 2020 intake. (They also subsequently changed them in 2021 to accommodate previously looked after children in state care outside England following the revised admission code). The changes are shown below.

<b>Criterion Number</b>	<b>Oversubscription criteria prior to 2020</b>	<b>Oversubscription criteria since 2020</b>
1	Looked after and previously looked after children	Looked after and previously looked after children
2	Students living in catchment and with siblings	Child of member of staff
3	Other students living in catchment	Siblings
4	Very exceptional medical grounds	Children attending wither Linslade or Leighton Middle School
5	Other siblings	Children living closest to the school measured on a straight-line distance.
6	Child of member of staff	
7	Students attending four named middle schools	
8	Any other children	

22. Cedars gave the following reasons for making these changes.

- Operating a straight-line distance policy after prioritising siblings and feeder school is fairer to local children and a justifiable measure to families.
- In the proposed new arrangements prioritisation was given to siblings after the looked after children criterion and then the staff criterion. The penultimate criterion was for the named feeder school but only those in the immediate area which primarily serve the school rather than all the schools in the wider area.
- The removal of the very exceptional medical grounds criterion was in line with other trust schools.

23. The Trust consulted on these proposals in line with the Code and duly determined and published the arrangements. The explanation of the rationale for these changes is reasonable and all the changes are in line with the Code. I am of the view that these changes conform to the law and the Code. In retrospect, the removal of the catchment area and operating a straight line distance policy and the removal of two of the middle schools from the arrangements may affect the position of the children in the villages in which the objectors live although the school makes no mention of negative consultation responses from individuals, the middle schools, the other upper school or the local authority.

24. Cedars Upper School has a PAN of 320 for Y9 places and the school has informed me that over the past three years the school has been undersubscribed. This means that all those children who applied were successful. Over the last three years the undersubscription levels have been as follows.

	<b>2021</b>	<b>2022</b>	<b>2023</b>
PAN	320	320	320
Total number of places allocated	213	186	187
Balance of places available	107	134	133
Proportion of places available	33%	42%	42%

25. The school provides no explanation for this level of undersubscription, nor does it suggest that it will or will not continue although I can find no reason why this level should not be maintained in future years thereby providing places at an upper School in Leighton Buzzard in 2024 for an additional 130+ children above the number who needed places in 2023.

26. The other upper School in the area is Vandyke school. This school has not changed its admission arrangements (except to bring them in line with the 2021 Code) over the past four years. The oversubscription criteria are recorded in paragraph 16 above. This school has been oversubscribed over the last three years and as well as admitting up to PAN there have been a significant number of successful appeals including 16 in 2023.

27. The Cedars does not prioritise children living in its previous catchment area and Vandyke does prioritise children living in its catchment area. Understandably, the families are concerned that as they live in what was previously the Cedars catchment area and not Vandyke's then their children will not benefit from any priority catchment admission. Given the distance they live from Cedars they also are concerned that they will be low down the priority list based on distance. I fully understand this concern. The objectors' children will fall into the last category of the Cedars Admission arrangements – criterion 6. They will fall into



criterion 8 of the Vandyke admission arrangements. In 2021 the distance from the school of the last admission in criterion 8 was 4.431 km, for 2022 the distance from the school of the last admission in criterion 9 was 1.206km and for 2023 the distance in criterion 8 was 2.544 km. Both families live more than 5 kilometres away from both schools. All this means that a child living in the objectors' villages and applying to Vandyke School in the last three years would have been sure of a place only in 2022 when all criterion 8 children were offered a place. As the Cedars has been undersubscribed such a child would have gained a place at the Cedars in each of the previous years.

28. A further complication in the provision of places in the area and the likelihood of securing a place at Cedars or the school for 2024 is the change in status of Fulbrook School (Fulbrook). This was previously a middle school catering for Y5 to Y8 at the northern boundary of the Vandyke catchment area and close to another local authority border in the area of Woburn Sands. Its catchment area currently overlaps approximately two thirds of the Vandyke catchment area. This school has become an extended secondary school in the last two years and, subject to Department for Education (DfE) approval is expecting to remain so. As Fulbrook will now cater for children up to the end of Y11, this will add to the total number of places available for those in years 9 – 11. Vandyke and Fulbrook schools have indicated that they may consult on changing their catchment areas to become more delineated but this is not planned until at least the 2025 intake. The objectors hope that this will happen sooner as the overlapping catchment areas mean that some children now have catchment priority for two schools whereas those in the former Cedars catchment have no such priority.

29. PANs and forecasts for Fulbrook have been very difficult to find and so I turned to the local authority for clarification. A planning document showing forecasts for year 9 in the planning area from 2022 to 2026 shows there to be a deficit of 12 places in the area in September 2024. This document had also been seen by the objectors and it added to their original concerns. However, the local authority say that they are currently in the process of reviewing the data forecast and expect this to be finalised within the autumn. It goes without saying that this is too late for planning by the objectors as they have to apply for upper school places in the autumn term. The local authority goes on to say that the impact of Fulbrook School remaining an extended secondary school will impact these figures. It says:

'If Fulbrook receives approval by the DfE, it is likely those pupils living in Woburn Sands area will remain at Fulbrook instead of moving over to Vandyke or Cedars school leaving further capacity within those two upper schools. If we include Fulbrook's capacity figures too, this will provide approx. 800 spaces in total and this will potentially reduce the need for upper school placing the Leighton Buzzard area from Woburn Sands. Our current forecast below shows there are sufficient school places within the Leighton /Linslade cluster.'

30. One of the factors in this case is clearly the extent to which children from Y8 at Fulbrook remain on roll there or transfer to one of the other upper schools. 2022 was the first year that children could stay on into Y9 from Y8. The figures for what has happened in the past few years are as follows.

No students from Fulbrook School by destination school	2020	2021	2022
Out of area	10	11	2
Redborne Upper School	18	3	5
Cedars Upper School	10	35	
Vandyke Upper School	74	34	27
Harlington Upper School		1	
Fulbrook School (remaining on roll)	N/A	N/A	57
<b>TOTALS</b>	<b>112</b>	<b>84</b>	<b>91</b>

30. This table shows that in its first year as a school catering for Y9, (2022) 57 of the 91 pupils on roll (63 per cent) chose to stay in the school. The local authority predicts that this proportion will rise in September 2023. Numbers provided show that there are 117 pupils in Y8 (2022/2023) and the predicted number for Y9 in September 2023 is 119. The local authority therefore assumes that the majority of children will remain in the school and that others will transfer from other middle schools in the area to the extended secondary school. The objectors are concerned that without changes to the catchment area in the admission arrangements pupils from Fulbrook will continue to be admitted to Vandyke Upper School and those further down the priority list for Vandyke will need to be admitted to Fulbrook. The objectors are concerned that this could mean their children could go to a school much further away (over 10 miles) with no peers from their current school. My assessment of the data has led me to conclude that while this is a possibility, it is nevertheless unlikely as there will certainly be places at The Cedars School and it is likely that there will be more places at Vandyke School.

31. The local authority has reassured me that there are sufficient places for all children living in planning area 2. I have studied the figures for all the schools and I am of the view that the children of the objectors will have access to an upper school in the planning area when they transfer in September 2024 under the current arrangements. The Cedars has been undersubscribed and has the capacity to admit an additional 130+ students. So far as the chances of the objectors' children securing a place at Vandyke are concerned, this will depend on a number of factors:

- how many other applications are received from children in priority criterion 8 or above:
- how many places will be made available by the current year 8 at Fulbrook School staying on into year 9 as it continues to be an extended secondary school:
- how many places are taken up at the extended secondary school by children from other middle schools; and
- how many places are allocated on appeal, given the previous large number allowed over the past three years.

32. Because I have not identified that there is any unfairness to the any group of children caused by the admission arrangements of the school, I do not uphold the objections to the admission arrangements for Vandyke Upper School. Similarly, and as set out in ADA4134 and ADA4138 I have not upheld the objections to the admission arrangements for Cedars. I am confident that the objectors' children will have access to an upper school within a reasonable distance of their home when they transfer in September 2024. I am aware that the objectors are also concerned about the future for other members of their families and, although I only have jurisdiction for the September 2024 arrangements, under current arrangements, whichever upper school the children attend, the current admission arrangements allocate a high priority for siblings and therefore any siblings should be admitted under this criterion in the future allowing the siblings to stay together.

## Summary of Findings

33. I fully understand the concerns of the objectors in these cases. However, I am satisfied that there are sufficient places at upper schools in the area to accommodate the children of this group of families. I am of the view that the situation has been brought about by a lack of sensible communication between and among local schools and between local schools and the local authority. I do not believe that the admission arrangements for either school are contributory factors in these concerns. My main reason for this is the undersubscription of The Cedars School - with a surplus of 130+ places in the last three years. If the parents apply to Vandyke school, then it is possible that the children will be admitted under criterion 8. There is an expectation that a significant number of children who would normally apply to either of the upper schools will in fact stay at the newly created extended secondary school of Fulbrook and this will also ease placements at the two upper schools. Also, over the past three years up to 16 places have been agreed at appeal and, should the parents be unsuccessful in their applications this is a path open to them.

34. I therefore do not uphold the objections to the admission arrangements of the school because they are not unfair. Other than in relation to the clarity of the catchment area the arrangements are not unclear. It is not the admission arrangements themselves at the school or at Cedars that has brought about the understandable confusion and concern on

the part of the objectors. I reiterate that better communication between schools, the local authority and parents could have alleviated the parents' concerns without having to go through the process of OSA objection.

35. I have identified a number of ways in which the admission arrangements at Vandyke School do not conform to the Code as outlined in Other Matters and which require urgent amendment.

## **Determination**

36. In accordance with section 88H(4) of the School Standards and Framework Act 1998, I do not uphold the objection to the admission arrangements for September 2024 determined by The Chiltern Learning Trust (the admission authority) for The Cedars Upper School, Leighton Buzzard, Central Bedfordshire.

Dated: 25 August 2023

Signed:

Schools Adjudicator: Ann Talboys