



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** REF4299 Stopsley High School, Luton

**Referrer:** Luton Borough Council

**Admission authority:** Middlesex Learning Trust

**Date of decision:** 5 November 2024

### Determination

I have considered the admission arrangements for September 2025 for Stopsley High School, Luton determined by the Middlesex Learning Trust in accordance with an objection made under section 88H(2) of the School Standards and Framework Act 1998. I uphold the objection to the reduction in the published admission number for Year 7 admissions.

I have also considered the arrangements in accordance with section 88I(5) and find that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

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 within two months of the date of the determination unless a different date is specified by the adjudicator. I stipulate that the arrangements must be amended no later than 30 November 2024.

### The referral and jurisdiction

1. Under section 88H(2) of the School Standards and Framework Act 1998 (the Act), an objection has been referred to the adjudicator by Luton Borough Council (the referrer, the local authority, the LA), about the admission arrangements (the arrangements) for Stopsley High School (the school), for September 2025. The objection was submitted by the LA on 10 April 2024. The objection was submitted within the required timeframe and, although the school had not determined its admission arrangements by that date as it was

required to do, after due consideration, I have decided to consider the objection as a properly made objection under section 88H(2) of the Act.

2. The objection relates to the published admission number determined for admissions to Year 7 at the school for September 2025 (the PAN). When the LA submitted its form of objection, it provided what it said were the school's determined admission arrangements and complained that the PAN of 240 which had been set, which was lower than the PAN for admissions in 2024, was unreasonably low and inappropriate.

3. The admission authority for the school is the Middlesex Learning Trust (the admission authority, the trust). The trust initially said that it had determined the arrangements on 18 October 2023 and provided me with a copy of a set of admission arrangements (which were identical to those sent with the LA's form of objection). Since the trust had consulted on the proposal to reduce the PAN, and since that consultation had not closed until 30 January 2024, the evidence that had been provided to me could not have been evidence of the determination of the arrangements. It seemed to me that it was, rather, evidence of the approval by the trust of proposed arrangements for the purposes of consultation. This is a generous interpretation as, had it been the case that the school had actually determined a set of revised arrangements prior to consulting on any proposed change, such arrangements would have been unlawful.

4. The trust agreed on 1 May 2024 with my concern that the arrangements had not been determined after the consultation which it had held. This means that on 10 April 2024, when the objection was submitted by the LA, no determined arrangements for the school were in existence. My jurisdiction is to consider determined arrangements and so it was not possible for me to consider the objection at that time. The trust was not able to provide me with evidence that the arrangements had been determined by it (on 6 June 2024) until 7 June 2024.

5. The terms of the academy agreement between the trust 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.

6. Admission authorities are required by section 88C of the Act to determine admission arrangements for September 2025 by 28 February 2024. The trust determined the arrangements on 6 June 2024 which was after the required date. The arrangements were also determined after the date by which the School Admissions Code (the Code) requires objections to admission arrangements for 2025 to be made to the adjudicator, which was 15 May 2024.

7. Although these deadlines have been missed, I am nevertheless able to treat the original objection as such. Regulation 23 of the School Admission (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Regulations) says that the adjudicator is not required to determine under section 88(H)2 an objection which was not received on or before 15 May in the determination year, but I am not prevented from doing so. In this case, the objection was made within the

required time frame and the objector believed the arrangements to have been determined by the admission authority when the objection was made. It is no fault of the objector that the arrangements were not determined within the required time frame and it could not have made an on-time objection to the arrangement by the time they had actually been determined. I am clear that paragraph 3.3b of the Code does not preclude an objection being made to a reduced PAN, which implies that such an objection can be made and therefore that I can consider this aspect of the arrangements under section 88(H)2.

8. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

9. I had earlier thought to consider the matter raised in the objection when considering the arrangements as a whole under section 88(I)5 of the Act. I had written to the LA following the trust's determination of the arrangements asking it if it wished to be a party to my consideration of the arrangements as a referral. The LA confirmed that it did, and so the parties to the case are the trust, the school and the LA.

## Procedure

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

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

- a) the referrer's form of objection dated 10 April 2024 and subsequent correspondence;
- b) copies of the minutes of the meeting of the trust on 6 June 2024 at which the arrangements were determined;
- c) a copy of the determined arrangements;
- d) comments from the trust on the matters raised and supporting documents;
- e) the local authority's composite prospectus for parents seeking admission to schools in the area in September;
- f) a map of the area identifying relevant schools, and
- g) the GOV.UK website "Schools Financial Benchmarking",

12. I have also taken account of information received during a meeting I convened on 3 October 2024 at Stopsley High School, and further correspondence from both parties which resulted from it. The meeting was attended by representatives of the school, the trust and the local authority.

## Other Matters

13. When the arrangements were brought to my attention, I considered that the following additional matters did not, or might not, conform with the requirements relating to admission arrangements.

(i) The first two oversubscription criteria list, separately, looked after and previously looked after children (the first oversubscription criterion) and then children who appear to have been in state care outside of England (the second oversubscription criterion). Paragraph 1.7 of the Code requires all these children to be given the highest priority in admission arrangements and the arrangements do not provide this.

(ii) When referring to the second group of children in (i), the arrangements say "...who appear (to Luton Borough Council) ...". Paragraph 1.7 of the Code says "...those children who appear (to the admission authority) ...". Luton Borough Council is not the admission authority for the school.

(iii) The third oversubscription criterion gives priority to children living in the school's catchment area, and the arrangements later state where details of the catchment area can be obtained. However, the Code at paragraph 14 requires that "Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated". Requiring parents to research the school's catchment area does not meet that requirement.

(iv) The fifth oversubscription criterion refers to "local" feeder schools, which are listed. The word "local" implies that there are other (not local) feeder schools and so is potentially confusing, making the arrangements not clear. Paragraph 14 of the Code requires admission authorities to ensure that their arrangements are clear.

(v) Paragraph 2.15 of the Code states that admission authorities "...**must...**" state in their arrangements "... that each added child will require the [waiting] list to be ranked again in line with the published oversubscription criteria." The arrangements contain no such statement.

(vi) Under the heading "Tiebreaker" the arrangements say:

"A tiebreaker will come into force where the number of places eligible within any of the criteria sent out above would exceed the Approved Admission Number (AAN)".

I understood this to intend to refer to a situation where there are more eligible children under an oversubscription criterion than remaining places, but that is not what is stated, making the arrangements unclear and contrary to paragraph 14 of the Code. The use of the term "Approved Admission Number" also renders the arrangements unclear as it is not a term which parents can find in the Code.

## Background

14. Stopsley High School is a mixed, non-selective academy school for children from the ages of 11 to 16 which is located on the northern edge of Luton. Its catchment area borders the urban centre of the local authority's area. When Ofsted last inspected the school in September 2022, it was judged to be "good". The school is part of the Middlesex Learning Trust, which includes two other secondary schools which are both situated in north London, and which it joined on 1 September 2021.

15. The LA said in its form of objection that "the number of pupils moving into Luton is increasing and removing places is likely to jeopardize the Council's ability to provide an adequate number of school places for the town's pupil population". It said that the school had "a built capacity" of 1370 places" (and therefore it could admit up to 274 pupils per year group) and that if the PAN is reduced to 240 "the DfE will not provide the Council with capital funding to re-provide 170 places elsewhere." I understand the LA to be indicating that if 35 fewer places per year group are available, 170 places in total are lost. It is the case that paragraph 3.3b) of the Code prevents an objection being brought about an own admission authority's decision to keep the same PAN. So, once the school's PAN is reduced the trust could, if it chose, refuse to increase the PAN in a future year whatever the local need for school places. I shall refer to this again below.

16. Somewhat unusually there has been some doubt between the parties as to the school's PAN for 2024, although the admission arrangements currently on the school's website clearly state this as 270. The trust has referred in correspondence to the number being 274, and the LA told me as recently as 11 October 2024 that it "has been working on the basis the School's PAN is 274 and this figure has been included in Luton's Admissions Booklet for parents/carers."

17. I was moved to point out to the parties during the meeting which I convened that I had seen a confusing use of terminology from each of them in which the school's built capacity, the PAN determined for use in its admission arrangements and what appeared to an informal agreement concerning the number of students that the school would be asked to admit had seemingly been used interchangeably. This has not been helpful to anyone concerned, and neither has the fact that the LA told me that it has no record of being sent the school's admission arrangements for either 2023 or 2024. Given the problems which I encountered in securing determined admission arrangements for the school for 2025, this is a matter of some concern, but at this stage in the annual cycle I have decided not to pursue this further, but rather to deal with the matters in front of me concerning the school's admission arrangements for 2025. I repeat here however, my appeal to the parties when I met them to take full cognisance of the guidance provided by the Code, to use the terminology which it contains and to apply it to the relevant concepts. I shall have a little more to say on this point below.

18. The trust set out for me in correspondence, as it put it, its "rationale for formally reducing Stopsley's PAN from 270 to 240". It pointed out that the school had been categorised by Ofsted as "Requires Improvement" when it joined the trust in 2021, and

that the trust was proud of the progress which the school has made. The trust made the point that the school had “never operated with an Admissions Number of 270”, by which I understand it to have meant that it has never admitted up to this number, and that it had “never secured its agreed number of pupils”, which it says has varied annually between 210 and 240. It told me that in April 2024 there were “unfilled places” in each of the year groups at the school, comparing numbers on roll to this informal “admissions limit”. I shall refer to this again below.

19. The trust also pointed to differences each year between what it referred to as its “initial allocation” of Year 7 pupils and actual September admissions. It said this resulted in difficulties for the school management. It also told me that it does not believe that the school will ever need to operate nine forms of entry (that is, to admit 270 pupils to Year 7), and that it is “costly” to operate its present eight forms of entry, since these are not filled. It also wishes to have a PAN of 240 because it believes that the fact that it is never filled at 270 is seen by parents as evidence of unpopularity and that this is hindering it in its attempts to build the school’s reputation within the community.

20. Both the trust and the LA have referred in correspondence to the background of there being “high levels of inward growth from new entrants to the country” (in the trust’s words) in Luton. Both parties made helpful presentations at the meeting which I convened. The LA’s presentation included facts such as there having been an 11 per cent increase in the population of Luton between 2011 and 2021, and that an influx of new arrivals from abroad has been ongoing since mid-2022. There have been something like 12,000 “National Insurance Number registrations for Overseas Nationals” (for adults) in each of the last two years in Luton. Secondary schools in the town show a net gain in the number of pupils in-year in all age groups. A total of 360 pupils were added to the numbers in secondary schools in the year to October 2023. In addition, and in contrast to national trends, the birth rate in Luton is on an upward trajectory and is predicted to remain high by national comparisons.

21. Against this background, the LA is projecting a shortfall in school capacity (against current built capacity) for Year 7 by 2027, and across all secondary age groups the year after. It has also given me the forecasts for the secondary planning area in which the school is located, to which I shall refer below.

## Consideration of Case

### The school’s PAN

22. In considering whether the trust has determined an unreasonably low PAN for the school, I will set out my understanding of, first, the information which was available to it in the form of the forecast of the need for places at the school made by the LA. I will then review the rationale which the trust has set out for its decision and consider whether the factors it has taken into account show it to have made a reasonable decision.

23. I shall consider first the information which I have about the need for Year 7 places at the school in 2025. The LA uses four planning areas to project the local demand for school places. Stopsley High School is in the east planning area which includes two other schools. The determined PANs for the three schools for 2025 are:

<b>School</b>	<b>Year 7 PAN 2025</b>
Stopsley High School	240
Queen Elizabeth School	240
Putteridge High School	243
<b>Total</b>	<b>723</b>

24. The LA is projecting the following need for Year 7 places for the area:

<b>Year</b>	<b>Projected need for Year 7 places, eastern planning area</b>
2025/26	675
2026/27	680
2027/28	718
2028/29	743

25. When the above forecast was made, the projected need for Year 7 places in the planning area in 2024 was 666. At the meeting which I held, I was told that the actual numbers on roll in Year 7 at the three schools (October 2024) were:

<b>School</b>	<b>October 2024 Year 7 number on roll</b>
Stopsley High School	227
Queen Elizabeth School	240

Putteridge High School	243
<b>Total</b>	<b>710</b>

26. In other words, the projection of need for 2024 was an underestimate by a significant margin (44 pupils). It is common practice for LAs to allow a five per cent safety margin of capacity above forecast. A total of 723 places (the current total PAN) would provide such a margin for a forecast of 688 or fewer. Had the 2024 forecast been reflected in the number of actual admissions, then it might be safe to view the forecast for 2025 and beyond as unaffected, but this is clearly not the case.

27. It is the case that it is not possible for an objector to bring an objection to a PAN set by the admission authority for a school if that PAN is the same as that for the previous year. So the LA would be unable to object if the school decided not to increase its PAN between that set for 2025 and that for 2026. I therefore think it is not irrelevant for me to consider the appropriateness of the PAN which has been set by the trust for 2025 as this would apply to information which was and is available at this point about the need for school places locally beyond 2025. In the above data, the forecast for 2025 is only 13 below the “safe” figure of 688, and that for 2026 only eight below. Each would easily be exceeded if the current year’s experience of a 44-pupil underestimate of need were to be repeated.

28. The LA has sent me data from the DfE website which gives the accuracy of LA pupil forecasting nationally. The LA had projected secondary pupil numbers for the authority’s area as a whole, both for 2022/23 and for 2023/24, with a very high degree of accuracy. This was the case for the forecasts made one year and three years previously, for each of the years. Given this evidence suggesting that there is a solid base to the LA’s forecasting methodology in other areas, it seems to me that the recent disparity between the forecast and actual figures for the eastern planning area for 2024 is more likely to be attributable to unexpected changes made since the forecasts were made as opposed to an inaccurate methodology. It is likely therefore that the current projections made by the LA of need in the next few years will have to be revised upwards, rather than the reverse.

29. The LA has told me that the school which is nearest to Stopsley High School but which is in the adjacent central planning area, Denbigh High School (Denbigh), is consistently oversubscribed, and that places at Stopsley are needed in the event of there being “spillover” from Denbigh’s catchment area. When I asked the LA why its forecasts of the need for places in the east planning area were not therefore simply adjusted to reflect this history, it referred to data which it supplies to the DfE concerning the need for capital allocations, saying that it did not want to affect any argument it might be able to make for additional accommodation in the central planning area. This is clearly nothing to do with me, but it is not helpful if school place planning data used to inform school admission arrangements is made less clear, whatever the reason.



30. However, taking all the above together, I am satisfied that the PAN of 240 which has been set for 2025 does not provide the LA with an adequate margin of safety for the number of Year 7 places which are likely to be needed at that time. Looking slightly further ahead, the LA's current projection of the overall need for Year 7 places across the local authority's area, provided to me on 20 August 2024, is shown below.

<b>Year</b>	<b>Year 7 projected need</b>
2025	3210
2026	3237
2027	3416
2028	3536
2029	3359
2030	3675

31. The LA told me at the same time that the total Year 7 capacity of all schools in the borough is 3293, which assumed a PAN of 274 at the school. A PAN of 240 at the school reduces this figure to 3259. This means that there would only be 22 places above projected need in 2026, or less than one percent of capacity. As I have said above, the LA currently projects a shortfall in Year 7 places against actual built capacity in 2017. It has also given me the details of capital funding received by the school from the Priority School Building Programme, for which Statutory Notices were published in January 2013. This expanded the school's capacity to 1350, with an associated PAN of 270, from September 2015.

32. I am therefore clear that the LA as a whole will need in the very near future more Year 7 places than the total which includes the contribution provided by the school's PAN for 2025. The LA will need to create additional capacity soon and it is the case that at least some of this necessary additional capacity has already been provided at the school.

33. I turn now to the trust's rationale for reducing the school's PAN, which was summarised above. The trust has made part of its rationale for wishing to restrict Year 7 admissions at the school to 240 its view that the LA has not been able to provide it with accurate planning information about prospective admissions in recent years, and that there have usually been fewer actual admissions in September than the LA's "initial allocation". The trust complains that this makes it difficult to know how many teaching groups to plan for. It says that the school operates on eight forms in most year groups, but that "it is not being funded as an eight-form entry as the school is not at full capacity".

34. The LA has assured me that its allocation of places take place “in accordance with the statutory requirements”, It has told me that for the September 2024 admission round it “undertook three late admission rounds to accommodate new arrivals and changes of preference. This combined with new offers from other LAs and successful appeals meant that allocations were frequently updated as pupils moved between schools”. I understand this last phrase to refer to the schools to which pupils were allocated having changed.

35. This seems to me to be a clear explanation of the consequences of the degree of volatility which Luton as a whole faces and that it is the background which attends the admission round for all the schools there. The difficulty it causes for an individual school will result from the difference between its initial and final allocations, which is bound up with the proportion of first and other preferences made for a place there and the total number of places needed. If it were likely that what has happened in the last few years would be repeated, then reducing the school’s PAN may well have been a reasonable step for the trust to take to counteract such an effect. However, the trust will have been aware that the rapid growth in demand for pupil places in Luton, as evidenced above, means that the recent history will certainly not be repeated. In my view this will lead to there being higher and more stable demand for places at the school from September 2025 onwards. It is of course the PAN for September 2025 that is my concern here, not what PAN might have more appropriately in previous years.

36. The point made by the trust relating to funding is a reference to the use of October census data for determining the pupil-led element of a school’s annual funding. If October numbers are lower than expected, or if places are taken up only during the school year (as the school has told me is a feature of the current circumstances), then there is either a gap or a delay in the school’s funding. This is one of the difficulties for a school if year groups are not filled at the start of the school year. However, the same considerations apply to it. The demand for places at the school in 2025 and beyond is likely to result in higher and more stable numbers there, particularly in Year 7, and I consider it unlikely that the school’s previous experience will be repeated.

37. I expressed my doubt at the meeting that the school was funded differently from others, and the trust accepted that it was not. I also said that I may make reference to published information about the school’s financial position. Had the school’s finances been in a perilous position, arguments about funding deficits may have had more merit than if this were not the case. I have considered the latest available data (for 2022/23) on the GOV.UK website “Schools Financial Benchmarking” which show that this is not the case, but that the school’s revenue reserve is close to the average for similar schools. The presentation made by the school and the trust at the meeting which I held with the parties showed a projected planned budget deficit for the school for 2024/25, but projected (smaller) surpluses for the following two years (which might be expected as available places in the school are filled in line with the projections of rising demand).

38. A further difficulty which follows from a disjunction between the number of pupils a school plans to educate and the actual number admitted to which the trust has made

reference in its rationale is that of being able to secure appropriate staffing to ensure a quality of educational provision. The trust attributes timetabling issues and staff recruitment difficulties to unfilled year groups, and I again take the same view of this matter. If the position anticipated by the LA in terms of the need for places in 2025 and subsequently is accurate, as I have said I consider it to be, these will in future not be difficulties.

39. The trust has told me that placing “new arrivals” (from overseas) as casual admissions could rapidly change the nature of the school, and that “new arrivals” and other casual admissions should be “distributed fairly”. First, parents of new arrivals have the same rights as any other parents to express a preference for a school place, and is not the case that such students are simply “distributed” among schools.

40. I do not doubt that it is advantageous to a school to have a predictable number of admissions which are a multiple of the number of the teaching groups it wishes to form, so that no casual admissions will need to take place. However, I had to point out to the parties when I met them that the PAN applies only for a school’s normal year of admission, in this case Year 7. Paragraph 2.28 of the Code spells out the consequences of this:

“With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have places available **must** offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria, unless admitting the child would prejudice the efficient provision of education or use of resources.”

41. In the normal admission year, “prejudice” cannot exist below the determined PAN. As a year group moves through a secondary school however, the PAN which applied to it in Year 7 no longer has relevance and so does not define the number of available places. That is to say, reducing the PAN as the trust has for the normal year of admission does not result in an admission authority being able easily to resist casual admissions to other year groups in the school in the way the trust seems to imagine.

42. In coming to a view about this matter, I have borne in mind whether the trust is under any obligation at all to consider the wider issues of the education of the school-age children in its area, or whether it is appropriate for it to consider only matters which pertain to the school itself. I am conscious that The Academies Act 2010 (in section 1A(1)(d)) includes in the definition of an academy school the fact that “It provides education for pupils who are wholly or mainly drawn from the area in which it is situated”. While there may be different readings of these words, I am satisfied in my own mind that they do imply some such general responsibility to educate local pupils.

43. While the trust did say at the meeting on 3 October that it would provide more than 240 places in Year 7 in 2025 if these are needed, it did appear to accept that these would not be places on which the LA could rely. I have been given no evidence to suggest that the trust has taken account in its decision-making the implications for students likely to be

denied a place at the school if the new PAN proves inadequate. I show here the four other secondary schools within three miles of Stopsley High School and the number of unallocated Year 7 places at each in the school year 2023-24 (as at February 2024) shown in data provided by the LA.

<b>School and distance from Stopsley High</b>	<b>Unallocated Year 7 places 2023-24</b>
Putteridge High School (1.1 miles)	2
Queen Elizabeth School (1.3miles)	0
Icknield High School (1.4miles)	8
Chiltern Academy (2.6 miles)	0

44. Against the background of the forecast year-on-year rise in the need for Year 7 places between 2023 and 2025, and the underestimation which attended the actual figures in the eastern area for 2024, the above figure show that other local schools would also be unlikely to be able to provide places for students not found a place at Stopsley High School who would therefore face journeys of some distance to schools where there might be places. It is clearly not the trust’s responsibility to secure adequate provision of schooling in its area, but its actions do have consequences for the LA which does have this responsibility. I have been given no evidence that the trust has even taken this matter into account in its decision making.

45. Although it had in earlier correspondence told me that it did not doubt the accuracy of the LA’s forecasts, after the meeting at the school the trust suggested that I had been provided with inaccurate figures for “the projected growth in pupil numbers in or near Stopsley”. The trust referred me to ward profile data for the Stopsley area saying that it showed “an older profile coupled with higher rates of home ownership” (than for Luton as a whole) which it said meant that there was “less mobility”. The LA pointed out to me that the school’s catchment area included only parts of the Stopsley ward, parts of two other wards together with the whole of a fourth ward. As I stated above, the school’s catchment area does abut those of the schools which serve the centre of Luton and is not confined to its immediate area.

46. The trust has given me no substantive reason for disagreeing with or disregarding the LA’s forecast of the need for places at the school in 2025. The trust was clearly aware of this information yet has chosen to base its reasoning for reducing the school’s PAN on assumptions that do not take it into account. I have noted that it told me following the meeting on 3 October that “The most accurate indicator of what the Year 7 intake will be is the intake number for the past three years.” I can only take the view that this standpoint represents wishful thinking on the trust’s part and that it results in it misleading itself as to

the reality of the circumstances to which its decision concerning the school's PAN applies. I consider that its process of decision-making has not been reasonable as a result.

47. I am of the view that the PAN determined by the trust for the school for 2025 is too low to meet the need for school places, for the following reasons:

- (i) it is likely to lead to a situation where there are insufficient Year 7 places locally to provide the LA with an adequate margin of safety for the number of Year 7 places which are likely to be needed in 2025;
- (ii) it provides insufficient certainty of Year 7 places for the LA as a whole for 2026 and beyond particularly because if the trust continues to adopt a PAN of 240 for this year group, no person may object, and
- (iii) it does not utilise existing built capacity within the LA's area, which is likely to impede the LA in securing (soon to be needed) capital support to expand its provision.

48. I have considered the reasons which the trust has said it has for reducing the school's PAN and find that they do not represent reasonable decision-making on its part because they either ignore relevant information which was available to the trust, or do not include matters that should have been taken into account.

49. As a result, I uphold the objection that has been brought that the PAN for the school is unreasonably low.

50. The national closing date for applications for places at secondary schools in 2025 was 31 October 2024, and the national offer day is 1 March 2025. In view of the closeness of the former date, it will be important that the trust amend the school's admission arrangements so that the Year 7 PAN is no longer unreasonably low, as soon as possible. I will therefore set a date of 30 November 2024 for it to do so. It is my view that, in the light of the information which I have set out above, a revised PAN lower than the 270 would continue to be unreasonably low.

### Other matters

51. When I wrote to the parties setting out my jurisdiction concerning the objection, I sought the comments of the trust regarding each of the matters contained within the arrangements which I considered may not comply with the relevant requirements.

52. The trust noted the "comments" which had been made but said nothing more about the matters raised. I reminded it at the meeting on 3 October that it had made no response concerning these matters and when it wrote to me after the meeting, it said that it had "fully reviewed" the points raised, saying that these "will be addressed in the admission arrangements moving forward." It then set out "areas for change", which I am sure was intended to be helpful. However, I will need to comment on some of what it said in what follows.

53. The first two oversubscription criteria in the arrangements as determined by the trust are:

“1. Looked after children and children who were previously looked after but immediately after being looked after became subject to adoption, a child arrangements order, or special guardianship order (as defined).

2. Children who appear (to Luton Borough Council) to have been in state care outside of England and cease to be in state care as a result of being adopted (as defined).”

Paragraph 1.7 of the Code requires all these children to be given the highest priority in admission arrangements, and therefore to be considered at the same time as part of a single oversubscription criterion. It also refers to “those children who appear (to the admission authority) to have been in state care outside of England”. Luton Borough Council is not the admission authority for the school, and this reference is therefore inaccurate and misleading to readers, making the oversubscription criterion unclear and contrary to the requirement of clarity in paragraph 1.8 of the Code.

54. The third oversubscription criterion gives priority to children living in the school’s catchment area, and the arrangements later state where details of the catchment area can be obtained. Paragraph 14 of the Code says that “Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated”, and it is my view that asking parents to research the school’s catchment area outside the determined arrangements fails to meet that requirement. The LA has commented on the trust’s suggestion that it might remove any reference to a catchment area and replace it with a distance criterion, saying that this would in its view be “a new proposal which would need to be subject to future consultation.”

55. Paragraph 3.6 of the Code explains the very limited circumstances in which an admission authority may revise admission arrangements which it has already determined. It says: “...[admission arrangements] cannot be revised by the admission authority unless such revision [my emphasis] is necessary to give effect to .....a determination of the Schools Adjudicator.....”. I have said that the arrangements do not comply with paragraph 14 of the Code because they do not describe the school’s catchment area. Having a catchment area is clearly compliant with the Code, and it is not a necessary revision of the arrangements to give effect to this determination that the catchment area be replaced by a different oversubscription criterion. This may seem a subtle distinction, but it is important that the trust understand it when it revises the school’s arrangements.

56. The arrangements give priority to “Students who do not live in the catchment area but who attend a local feeder school i.e. [list of schools]”. The trust has helpfully suggested removing the reference to “local” feeder schools, but as determined the arrangements are in my view confusing since they imply the existence of other feeder schools elsewhere and not local to the school. The arrangements therefore fail to comply with the requirement of paragraph 14 of the Code that they be clear.

57. The arrangements do not contain the statement required by paragraph 2.15 of the Code concerning the use of waiting lists and therefore fail to comply with what is required.

58. The arrangements say: "A tiebreaker will come into force where the number of places eligible within any of the criteria sent out above would exceed the Approved Admission Number (AAN)". This statement is unclear in the way I have set out above and means that the arrangements as a whole are unclear and contrary to paragraph 14 of the Code.

59. For the reasons I have set out above, the provisions I have listed do not comply with the requirements I have identified, therefore those aspects of the arrangements will need to be revised in order to comply with the identified requirements. In view of the closeness of the deadlines referred to above, I will set a date of 30 November 2024 for the arrangements to be amended concerning these further matters.

## Summary of Findings

60. I have upheld the objection which has been made to the arrangements determined by the trust for the school for 2025. I have explained my reasons for deciding that the PAN determined by the trust as part of the school's arrangements is unreasonably low, and that it must in consequence be amended.

61. I have also said why the arrangements do not comply with paragraphs 1.7, 1.8, 14 and 2.15 of the Code.

## Determination

62. I have considered the admission arrangements for September 2025 for Stopsley High School, Luton determined by the Middlesex Learning Trust in accordance with an objection made under section 88H(2) of the School Standards and Framework Act 1998. I uphold the objection to the reduction in the published admission number for Year 7 admissions.

63. I have also considered the arrangements in accordance with section 88I(5) and find that there are other matters which do not conform with the requirements relating to admission arrangements in the ways set out in this determination.

64. 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 within two months of the date of the determination unless a different date is specified by the adjudicator. I stipulate that the arrangements must be amended no later than 30 November 2024.

Dated: 5 November 2024

Signed:

Schools Adjudicator: Dr Bryan Slater