



Office of  
the Schools  
Adjudicator

## Determination

**Case reference:** VAR925

**Admission authority:** Medway Council for St Nicholas Church of England Infant School, Strood

**Date of decision:** 3 April 2020

## Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Medway Council for St Nicholas Church of England Infant School, Strood for September 2020.

I determine that the published admission number for the admissions in September 2020 shall be 30.

## The referral

1. Medway Council (the local authority) has referred a proposal for a variation to the admission arrangements for St Nicholas Church of England Infant School (the school) for admissions in September 2020 to the Office of the Schools Adjudicator. The school is a voluntary controlled school for children aged 4 to 7 in Strood. The religious authority for the school is the Church of England Diocese of Rochester (the diocese).
2. The proposed variation is to reduce the published admission number (PAN) from 40 to 30 for admissions in September 2020.

## Jurisdiction

3. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which states that: "*where an admission authority (a) have in accordance with section 88C determined the admission arrangements which are to apply for a particular school year, but (b) at any time before the end of that year consider that the arrangements should be varied in view of a major change in circumstances occurring since they were so determined, the authority must [except in a*

*case where the authority's proposed variations fall within any description of variations prescribed for the purposes of this section] (a) refer their proposed variations to the adjudicator, and (b) notify the appropriate bodies of the proposed variations".*

4. I am satisfied that the proposed variation is within my jurisdiction.

## Procedure

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

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

- a. the referral from the local authority dated 19 March 2020 (received by the Office of the Schools Adjudicator on 25 March 2020);
- b. the determined arrangements for September 2020 and the proposed variation to those arrangements;
- c. details from the local authority of the provisional number of places to be offered for admission in September 2020 at primary schools in the Strood area;
- d. the comments of the diocese on the proposed variation;
- e. a map showing the location of the school and other relevant schools;
- f. confirmation from the local authority that the appropriate bodies were notified about the proposed variation; and
- g. a determination of the Schools Adjudicator concerning the school that was issued in March 2020 (STP640).

## The proposed variation

7. The local authority is the admission authority for community and voluntary controlled schools in its area. In December 2018, it determined the admission arrangements for these schools for admissions in September 2020. Included in the arrangements is a chart showing the PAN for each school. The PAN for St Nicholas School is shown as 30, with an asterisk directing attention to a footnote that reads:

*"reduction of the PAN to 30 is subject to approval of the expansion of age range, to become a primary school. If such approval is not granted, the PAN will remain at 40 (as it is currently)".*

8. Paragraph 3.6 of the Code requires that admission arrangements, once determined, may only be changed, that is varied, if there is a major change of circumstance, or in certain

other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.

9. Paragraph 3.6 of the Code also requires that relevant parties be notified of a proposed variation. The local authority has provided me with a letter notifying the parties appropriately. The diocese expressed its support for the reduction in the school's PAN. The school made no comment, but clearly does not object to the variation as it is a condition of the approval of a statutory proposal it has made, as I explain below. I have been made aware of one other response to the notification, which was also supportive of the proposed change.

## **Consideration of the proposed variation**

10. Following a period of consultation, on 24 June 2019 the governing board of the school and the local authority published proposals to expand the age range of the school to 4 to 11 and to enlarge its premises. The representation period for the proposals ended on 21 July 2019. The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 require the local authority to determine these types of proposals within two months of the end of the representation period. A number of unforeseen delays made this impossible, so, in accordance with the Regulations, the local authority referred the proposals to the Office of the Schools Adjudicator for determination. This referral did not take place until 23 January 2020. I approved the proposals in a determination published on 30 March 2020 (STP640). A condition of the approval is that the PAN is reduced from 40 to 30 for admission in September 2020. Such a reduction would enable the school, over time, to operate with one class for each of the seven primary year groups, with a total capacity of 210 pupils, which was the figure approved. The request for this variation seeks to fulfil the condition of approval.

11. I am in no doubt that the approval of the statutory proposals represents a major change in the circumstances of the school, but I had some concern about the timing of the variation request. The closing date for applications for admission to the reception year in September 2020 was 15 January 2020. Parents will be notified of the allocation of places on 16 April. Whenever the admission arrangements of a school are changed, there is a likelihood that some families may be disadvantaged in respect of obtaining a place at a particular school. This may be unfair, especially if the change is made after the point at which they can take its implications into account when expressing their preferences for a school place for their child.

12. In this case, however, two considerations have led me to conclude that the proposed reduction in the school's PAN would not cause any significant unfairness. First, the expectation that the PAN for admissions in September 2020 would be likely to be 30 was well publicised by the local authority. The determined admission arrangements, as well as the consultation material and the proposals themselves, explain that approval of the proposals would lead to a reduction in the PAN. In fact, the local authority appeared to suggest that such a reduction would occur automatically, rather than as a result of the

approval of a request for a variation to the determined arrangements. Furthermore, in the local authority's online directory of schools, which parents could consult when submitting their applications for admission in September 2020, the PAN for St Nicholas is listed as 30. This is, of course, inaccurate, but it does demonstrate that it was the figure that parents would have expected to be used when places were allocated.

13. Second, a reduction in the school's PAN to 30 will make very little difference to the allocation of places. In response to my enquiring, the local authority explained that it has processed the applications for admissions in September 2020. Parents of 26 children made the school their highest preference; there are a further six applications for which the school is the highest preference where a place can be offered. Therefore, if the school's PAN were to remain at 40, 32 places would be allocated. I asked the local authority for details of the two applicants who would not be allocated places if the PAN were reduced to 30. Neither lives in the Strood area. Their addresses are over three kilometres and five kilometres from the school respectively. Neither made the school their first preference. They would both be offered a school they made a lower preference. The proposed reduction in the PAN would therefore not deny a place at the school for either an applicant who made the school their first preference or one who lives close to it.

14. For these reasons, I am satisfied that the variation is not inappropriate. Indeed, I consider that it is justified, following the approval of the statutory proposals.

## **Determination**

15. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Medway Council for St Nicholas Church of England Infant School, Strood for September 2020.

16. I determine that the published admission number for the admissions in September 2020 shall be 30.

Dated: 3 April 2020

Signed:

Schools Adjudicator: Peter Goringe