



Office of  
the Schools  
Adjudicator

## **DETERMINATION**

**Case reference:** ADA3304

**Objector:** Four members of the public

**Admission Authority:** Sheffield City Council for Ecclesall Church of England Voluntary Controlled Junior School

**Date of decision:** 2 August 2017

### **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 2018 determined by the Cabinet Member for Children, Young People and Families, under delegated authority from Sheffield City Council, for Ecclesall Church of England Voluntary Controlled Junior School, Sheffield.**

**I uphold the aspect of the objection concerned with the consultation carried out before the arrangements were determined. I do not uphold the aspect of the objection relating to the determined arrangements themselves.**

**I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to the publication of the admission arrangements. These have now been rectified.**

**The admission authority need take no further action.**

### **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 four members of the public (the objectors), about the admission arrangements for September 2018 (the arrangements) for Ecclesall Church of England Voluntary Controlled Junior School (the school), a voluntary controlled school for children aged 7 to 11. The objection relates to the reduction in the Published Admission Number (PAN) from 90 to 30. In particular, the objectors say that the consultation undertaken by the admission authority for the school, prior to the determination of the arrangements, did not meet the requirements of the School Admissions Code (the Code).

2. The local authority for the area in which the school is located is Sheffield City Council. The local authority is the admission authority for the school. The other parties to the objection are the school's governing body, the objectors and the Diocese of Sheffield (the diocese), which is the body representing the religious denomination of the school.

### **Jurisdiction**

3. These arrangements were determined under section 88C of the Act by Sheffield City Council on 24 February 2017. The objectors submitted their objection to these determined arrangements on 9 May 2017. The objectors have asked to have their identity kept from the other parties and have met the requirement of Regulation 24 of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 (the Admissions Regulations) by providing details of their names and addresses to me. I am satisfied that the objection has been properly referred to me in accordance with section 88H of the Act and it is within my jurisdiction.
4. I have also used my power under section 88I of the Act to consider the arrangements as a whole.

### **Procedure**

5. In considering this matter I have had regard to all relevant legislation and the Code.
6. The documents I have considered in reaching my decision include:
  - a. the objectors' form of objection dated 9 May 2017, supporting documents and subsequent correspondence;
  - b. the school's response to the objection;
  - c. the local authority's response to the objection and supporting documents;
  - d. the diocese's response to the objection;
  - e. the local authority's composite prospectus for parents seeking admission to schools in the area in September 2017;
  - f. a map of the area identifying relevant schools;
  - g. confirmation of when consultation on the arrangements last took place;
  - h. a copy of the decision made by the Cabinet Member for Children, Young People and Families of the local authority to determine the arrangements; and
  - i. a copy of the determined arrangements.

## **The Objection**

7. The objectors have submitted very detailed information explaining their concerns about changes to the pattern of education in the Ecclesall area of Sheffield – some of which have already been decided and some of which are proposed. I have identified the following points that they make relating to the admission arrangements for 2018 at the school which is the subject of this determination:
- the proposal to reduce the PAN at the school was not made sufficiently clear in the consultation undertaken by the local authority (the requirements for consultation are set out in paragraphs 15 (b) and 1.42-1.45 of the Code);
  - the arrangements do not comply with the mandatory requirements of the Code, in respect of their fairness, clarity and objectivity, as required by paragraph 14 of the Code; and
  - the selection of a feeder school does not meet the standard of transparency required by paragraph 1.15 of the Code.

Reference is also made to equalities and human rights legislation, which admissions authorities must comply with, as well as acting in accordance with the provisions of the Code.

## **Other matters**

8. When I considered the arrangements as a whole, I noted that the determined arrangements published on the local authority's website were incomplete. The arrangements are stated to be unchanged from those determined in 2017. The oversubscription criteria for voluntary controlled and community schools could be found, but not the PANs or a list of feeder schools. It appeared to me that this did not comply with paragraph 1.47 of the Code, which requires admission authorities to publish a copy of their determined arrangements on their website. The PAN for a school is part of its admission arrangements as is made clear in paragraph 1.2 of the Code.

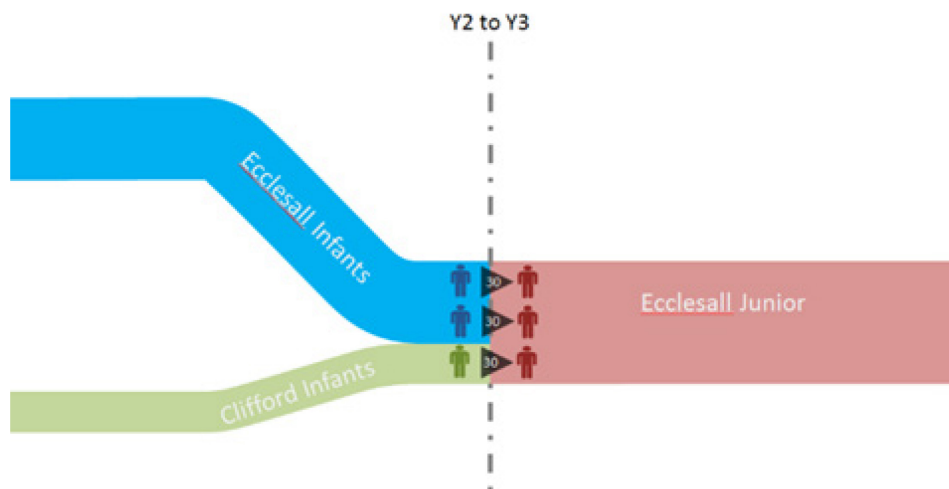
## **Background**

9. Ecclesall Church of England Junior School has historically admitted children from two feeder infant schools. These are Ecclesall Infant School, a community school, which until 2016 had a PAN of 60, and Clifford Church of England Infant School, a voluntary aided school, which has a PAN of 30.
10. In 2016 the local authority approved a statutory proposal, made in accordance with the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the School Organisation Regulations), both to expand Ecclesall Infant School by increasing its PAN from 60 to 90 and to extend its age range from 4 to 7 to 4 to 11 years. The statutory notice issued at the beginning of the

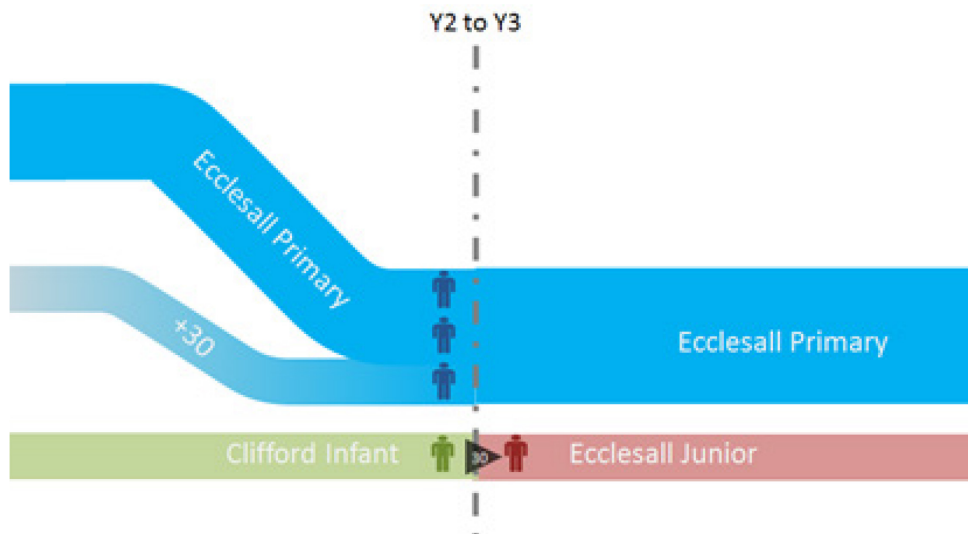
representation period indicates that the local authority's intention was that the extension of the age range at Ecclesall Infant School would take place on a phased basis. From September 2018 the school would accommodate one additional year group each year, beginning with Year 3, that is, the children aged seven and eight, who would remain at the school rather than transfer to Ecclesall Junior School. The proposals also explained the local authority's intention that, again with effect from September 2018, the PAN at Ecclesall Junior School would reduce from 90 to 30. Thus, Ecclesall Junior School would provide sufficient places for the children transferring from Clifford Infant School, but would not be expected to accommodate children from Ecclesall Infant. This reduction in PAN was, of course, not part of the statutory proposal but was subject to the requirements relating to changes of admission arrangements. I note also that a consequence of these changes is that there will be a total of 120 places available across the schools each year (that is, four forms of entry) rather than 90 (three forms of entry) as previously.

11. The local authority has provided diagrams that I find helpful in summarising the changes.

#### Prior to the changes



After the changes are complete



12. The local authority has generic oversubscription criteria for its community and voluntary controlled junior schools. For 2017, these can be summarised as:

- (i) Looked after and previously looked after children.
- (ii) Attendance at the linked infant school.
- (iii) Residence in the catchment area with a sibling at the school or the linked infant school.
- (iv) Residence in the catchment area.
- (v) Children with a sibling at the school or the linked infant school.
- (vi) Other applicants.

Should the PAN be reached and exceeded from applicants satisfying criterion (ii), places will be allocated first to those who also meet criterion (iii), followed by those who meet criterion (iv) and then criterion (v). Where the PAN is reached and exceeded within any of these latter criteria, firstly any children with exceptional social, medical or special educational needs are prioritised, followed by priority based on distance from home to school.

13. The arrangements use the term “linked school”. I consider that this term means the same as “feeder schools” used in paragraphs 1.15, 1.9b and 1.9l of the Code. In 2017, Ecclesall Junior was one of only two junior schools in Sheffield that had two linked infant schools, namely Ecclesall Infant and Clifford Church of England Infant.

14. The report provided to the local authority cabinet member, who determined the arrangements for the community and voluntary

controlled schools, indicated that there were no changes to the generic oversubscription criteria for 2018. A spreadsheet of proposed PANs for 2018, which the local authority has confirmed were provided as an appendix to the report, shows Ecclesall Junior School's as 30. Alongside this figure is some wording, which reads as follows:

*"The proposed number of 30 is subject to change. Ecclesall Junior is part of a wider reorganisation of school places which will require further consultation"*

I will return to this spreadsheet later.

15. More recently and after the determination of arrangements for 2018, consultation has begun on a plan to amalgamate Clifford Infant School and Ecclesall Junior School, by closing the junior school and extending the age range of the infant school up to 11 years. This is projected to take place in September 2018 and will, if it becomes a formal proposal, be subject to the statutory process set out in the School Organisation Regulations referred to above and the School Organisation (Establishment and Discontinuance of Schools) Regulation 2013.

### **Consideration of Case**

16. The objectors have provided me a great deal of material, much of which outlines their views on the changes to the pattern of schools, both that provided for in the statutory proposal determined in 2016 and what may occur in the future. This material covers matters such as the optimum size of schools, funding, transition arrangements and the quality of the buildings proposed to be used. These are not matters that I can consider. Should a future statutory proposal be made relating to Clifford Infant School and Ecclesall Junior School, a wide range of factors will be taken into account in accordance with the statutory guidance for decision-makers. My responsibility is restricted to deciding whether the admission arrangements for the school determined for 2018, and the consultation that preceded the determination, meet the requirements of the legislation and the Code.
17. I will consider the consultation first, before looking at the arrangements themselves. The School Admission Regulations require admission authorities to consult on their admission arrangements where any changes are proposed to the arrangements which applied in the previous year. Several groups that admission authorities must consult with are specified, including "*parents of children between the ages of two and eighteen.*" Paragraph 15 (b) of the Code explains the purpose of consultation:

*"The consultation period allows parents, other schools, religious authorities and the local community to raise any concerns about proposed admission arrangements."*
18. The local authority undertook a consultation on the admission arrangements for 2018 for community and voluntary controlled schools,

for which it is the admissions authority. The proposed arrangements were posted on the local authority's website on 5 December 2016 and a letter drawing attention to the consultation was sent to all schools, nurseries and the parent partnership network. It was made clear both on the website and in the letter that no changes to the local authority's generic oversubscription criteria were being proposed. In addition to the proposed arrangements, three appendices were posted. These related to changes to catchment areas at certain other schools in the city. A spreadsheet was also posted, listing the proposed admission numbers for all schools, including those for which the local authority is not the admission authority. This spreadsheet list is referred to in the consultation letter. The consultation concluded on 31 January 2017 and therefore met the requirement, set out in paragraph 1.43 of the Code, that it must last for a minimum of six weeks.

19. The objectors say that the consultation does not meet the requirements of the Code, as it does not refer to the changes to Ecclesall Junior School. They argue that the wording in the spreadsheet of admission numbers that I quoted above is insufficient and "*does not constitute a full and proper consultation.*" A number of parents did, in fact, submit responses to the local authority about the changes at Ecclesall, within the consultation period. These queried why there was no reference to the proposed changes to Clifford Infant School and Ecclesall Junior School. The local authority responded as follows:

*"The consultation is specifically about proposed admission arrangements, including oversubscription criteria to which there are no proposed changes at Ecclesall. Any proposed school organisation changes for Clifford CE and Ecclesall will be subject to a separate consultation process which will afford all stakeholders with the opportunity to formally respond."*

20. The local authority is correct when it states that a different process would need to be followed if a proposal to change the organisation of schools were to be made. When the closure of a school is proposed, there must be a public consultation, followed by a "representation" period following the publication of a statutory proposal. However, the first sentence quoted above is inaccurate. Whilst the generic oversubscription criteria for community and voluntary controlled schools were not proposed to change, there were changes proposed for Ecclesall Junior School. The PAN, which is part of the admission arrangements, was proposed to be reduced from 90 to 30. This is a change to the admission arrangements for that school. Moreover, I assumed also that Ecclesall Infant School would no longer be regarded as a feeder school for Ecclesall Junior School, although I did not find this stated in the proposed arrangements.
21. The local authority's solicitor, in a response to the objectors made after the end of the consultation period, says that the decision to reduce the admission number was properly consulted on and that,

*“the admission number at Ecclesall Junior School needed to be reduced from September 2018 to take account of the fact that children from Ecclesall Infant School would not be making the transition to the Junior school but would be remaining in the through primary.”*

This confirms the position, from the local authority’s point of view. I regard it as unfortunate that such a statement was not included in the material provided during the consultation on the admission arrangements. It meant that parents and others with an interest may not have realised what changes were proposed for admissions in 2018.

22. When the enlargement and change of age range of Ecclesall Infant was proposed in 2016, it was made clear both in the statutory proposal and at meetings that were held (including one at Clifford Infant School) that a consequence of the proposal would be that the intake would be reduced to 30 at Ecclesall Junior School in September 2018. However, this consequence was not part of the proposal itself as the statutory proposal related to Ecclesall Infant School alone. As the local authority has pointed out, in connection with the possible proposal to amalgamate Clifford Infant and Ecclesall Junior, there are separate processes of representation and consultation required for changes to school organisation and admission arrangements respectively. This also applies to the proposal to reduce the PAN at Ecclesall Junior. Whilst it might have been thought that the reduction was an obvious consequence of the expansion of Ecclesall Infant, a proper opportunity to respond to what was being proposed should have been provided by the local authority.

23. I do not think that the consultation exercise undertaken by the local authority afforded such an opportunity. That a significant change to the admission arrangements of Ecclesall Junior was being proposed is not made sufficiently clear in the consultation material, and was actually denied when queries were made. The likelihood that there may have been no apparent alternative to the proposal, given the enlargement at Ecclesall Infant, does not absolve the local authority from the requirement to consult properly. It is not obvious from the wording in the spreadsheet that a reduction is being proposed and what the reason for it is. The wording explains that further consultation will be required as part of a re-organisation of school places, but no further detail is given. I consider that a fuller and more prominent explanation of the changes to the admission arrangements at Ecclesall Junior should have been provided by the local authority. I therefore uphold the part of the objection relating to consultation.

24. I turn now to the arrangements themselves. The objectors make reference to paragraph 12 of the Code, which states that its purpose is to ensure that school places *“are allocated and offered in an open and fair way.”* They also quote paragraph 14, which says:

*“admission authorities **must** ensure that the practices and the criteria*



*used to decide the allocation of school places are fair, clear and objective.”*

Finally, as far as the Code is concerned, they refer to paragraph 1.15, which is about feeder schools. It states:

*“The selection of a feeder school or schools as an oversubscription criterion **must** be transparent and made on reasonable grounds.”*

The objectors’ argument is summarised in the following paragraph in a letter to the council prepared by solicitors acting on behalf of a group of parents of children at Clifford Infant School, which was submitted with the form of objection:

*“At present the situation facing the learners of Clifford Infant School and Ecclesall Infant School who are due to progress to year 3 in the calendar year 2018 is anything but “fair, clear and objective” and does not meet the requisite standards of “transparency.”*”

I will consider the clarity, objectivity, transparency and fairness of the arrangements for Ecclesall Junior School for 2018 in turn.

25. The generic oversubscription criteria for primary schools (including junior schools) in Sheffield, which are unchanged from 2017, are clearly laid out in the report made to the cabinet member. They were determined in accordance with the timescales required by the Admissions Regulations. Although I have found that it did not feature sufficiently prominently in the consultation material, the local authority has made clear that the PAN of 30 for Ecclesall Junior has been determined for 2018. However, I could not find a list of PANs within the complete arrangements published on the local authority’s website, which is in breach of paragraph 1.47 of the Code. It is not specifically stated in the report to the cabinet member about the arrangements that Ecclesall Infant School will no longer be a feeder school for Ecclesall Junior. I recognise that the extension of the age range of Ecclesall Infant as a result of the statutory proposal of 2016 means that, from 2018, children will be able to continue into Year 3 without changing schools and Ecclesall Infant will no longer need to feed into a junior school. Whilst this is an inevitable consequence of the change to the organisation of the school, by stating that the admission arrangements for Ecclesall Junior are unchanged, the local authority might be understood to be saying that Ecclesall Infant remains a feeder school. I believe that it is clear from other statements made by the local authority, both in the statutory notice of 2016 and elsewhere, and because the PAN at Ecclesall Junior is being reduced from 90 to 30, that this is not the local authority’s intention. However, they should have made this explicit in the arrangements themselves and have published a list of feeder schools as part of the determined arrangements on their website, in accordance with paragraph 1.47.

26. I consider that the arrangements are objective. They can be applied

without the need for any opinion or discretion to be used. All of the criteria relate to objectively determined features, such as where the child lives or whether they have a sibling at the school.

27. In respect of transparency, the objectors' solicitor's letter reads as follows:

*"The planned 'all through' primary school(s) do not have transparent admissions criteria and the lack of an admissions consultation means that there has never been the opportunity to consult on the details of admission for these proposed entities or on what options could / should be made available for the learners who already attend one of the two infant feeder schools affected."*

The Code actually uses the word 'transparent' only in relation to the selection of feeder schools. This is in paragraph 1.15, which I have quoted above. I do not think that the arrangements for Ecclesall Junior School lack transparency in this respect. The school will have one feeder school from September 2018. That school is already one of its feeder schools. Ecclesall Infant will no longer be a feeder school and that is a consequence of the statutory proposals that have been approved. I cannot see that there is any lack of transparency here. The mention of "*the planned 'all through' schools*" in the objectors' letter I take to mean Ecclesall Infant School with its extended age range and expansion and, if it comes to pass, the "amalgamation" of Clifford Infant School and Ecclesall Junior School (which would be brought about by the extension of the age range of Clifford Infant and the closure of the junior school). I do not agree with the objectors' criticism that the admission arrangements are not transparent. In the case of Ecclesall Infant, the school's admission arrangements are the generic ones used in all Sheffield's community and voluntary controlled schools. These have not changed for 2018 in relation to this school and this was made clear in the consultation material. A proposal for the establishment of the other possible 'all through' school has not yet been determined. Therefore, no consultation about its admissions criteria could have taken place during the period laid down in the Admissions Regulations for consultation for admission arrangements for 2018.

28. In the letter prepared by their solicitors, the objectors say,

*"the changes are being rushed through, which will be unfair and irrational because they will significantly disadvantage one group of learners compared with another"*

In particular, the objectors refer to a plan for a "bulk transfer" of pupils from Ecclesall Junior School to the enlarged Ecclesall Infant School in September 2018, should the proposal to "amalgamate" Clifford Infant and Ecclesall Junior Schools be approved. Under this plan, all of the pupils on the roll at Ecclesall Junior School at 31 August 2018 would transfer from Ecclesall Junior at that time. This differs from the original intention that Ecclesall Infant would expand by one year group at a time. If this were to take place, the oldest pupils in the "amalgamated"

Clifford Infant / Ecclesall Junior School would be the 30 children moving into Year 3 from what was previously Clifford Infant School. The objectors argue that there will be a range of negative effects for these 30 children, including reduced social interaction and the difficulty a smaller school would face in providing an equivalent level of resources and extra-curricular activities, compared to the much larger Ecclesall Infant School, which would then accommodate the full primary age range. They also point to the possibility of siblings being separated by the bulk transfer plan.

29. I recognise that these may be valid concerns, but my considerations are restricted to the fairness of the admission arrangements for Ecclesall Junior School for 2018. The reduction in the PAN from 90 to 30 will not be the cause of a bulk transfer of pupils from the school. That may be an outcome of the “amalgamation” proposal, about which a separate period of consultation and representation needs to take place. As things stand, the admission arrangements for 2018 provide 30 places at Ecclesall Junior School, for which pupils transferring from Clifford Infant School have priority, after looked after and previously looked after children. In that respect, the position for the Clifford Infant School children has not changed and therefore, in respect of admission to Ecclesall Junior, I conclude that no unfairness has been introduced.

30. The objectors also argue that,

*“the admissions criteria should make it clear whether parents of learners currently at Clifford Infant School and Ecclesall Infant School will have the choice to send children to a Church of England junior or a non-faith junior school if they prefer.”*

Under the previous arrangements, children from Ecclesall Infant School (a community school) have had priority for places at Ecclesall Junior School, which is a voluntary controlled Church of England school. This will not be the case from September 2018 as Ecclesall Infant will no longer be a named feeder (linked) school for Ecclesall Junior. It may be that some parents of children at Ecclesall Infant would prefer them to attend a Church of England junior school. The new arrangements do not support this, as priority for the 30 places (after looked after and previously looked after children) is given to the children at Clifford Infant School and, as that school’s PAN is 30, there may be 30 such children who seek places at Ecclesall Junior and have priority for such places.

31. This matter was discussed during the consultation on the statutory proposal in 2016. As far as the admission arrangements for 2018 are concerned, I believe the position is clear. There is no specific priority for a place at Ecclesall Junior School for children from the expanded Ecclesall Infant School. Parents at Ecclesall Infant School, who would prefer a Church of England junior school for their children, would have to make an application to Ecclesall Junior or another Church of England junior school, without the benefit of priority under the second oversubscription criterion.

32. The objectors refer to the European Convention of Human Rights, which states that,

*“the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”*

When making admission decisions, admission authorities do need to consider parents’ reasons for expressing a preference, including the above right. This may not necessarily result in the allocation of a place, as that may not be compatible with the provision of efficient instruction and the avoidance of unreasonable public expenditure. Nothing in the arrangements for Ecclesall Junior School for 2018 is at odds with this.

33. Finally, the objectors say that it is unclear whether the local authority has discharged its obligations under the Public Sector Equality Duty. Admissions authorities are subject to this duty, which requires them to have due regard to advancing equality of opportunity in relation to persons who share a protected characteristic listed in the Equality Act 2010. One of the protected characteristics is disability. The objectors argue that children with both learning difficulties and physical disabilities would be disadvantaged by attending Ecclesall Junior School, as it will be much smaller in size as a result of the reduction of its PAN. The objectors refer to the reduced financial resource the school will receive and *“the socialization problems caused by the small cohort of students.”* They say,

*“the proposed changes would place disabled learners at an extreme disadvantage when compared to their peers at other junior or primary schools in Sheffield.”*

34. I do not agree with the objectors. Pupils with disabilities attend schools of very different sizes, both in Sheffield and across the country. I have not been provided with any evidence that shows that the needs of pupils with disabilities are better met in larger schools than smaller ones. I do not consider that in determining the admissions arrangements for Ecclesall Junior School for 2018 the local authority has failed to comply with this aspect of the law.

35. The local authority responded quickly when I pointed out that I was unable to find details of PANs and feeder schools in the arrangements for 2018 published on its website and that this was a breach of the Code’s requirements. The local authority explained that it had experienced difficulties with its website and immediately added the missing items. These confirmed that the PAN for Ecclesall Junior is 30 and that Clifford Infant School is its only feeder school.

## **Summary of Findings**

36. My conclusion is that the admission arrangements comply with the

requirements of the Code and legislation. They are clear, objective and fair. I recognise that there is uncertainty as to what will happen in the future, particularly for the children at Clifford Infant School who will be entering Year 3 in September 2018, but this is not because the arrangements breach the requirements in relation to admissions in any way.

37. I have found that the consultation carried out by the local authority was defective. Insufficient explanation was provided of the change to Ecclesall Junior's PAN and the removal of Ecclesall Infant as a feeder school. However, I do not believe that this of itself renders the arrangements themselves non-compliant with the legal requirements.

### **Determination**

38. 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 2018 determined by the Cabinet Member for Children, Young People and Families, under delegated authority from Sheffield City Council, for Ecclesall Church of England Voluntary Controlled Junior School, Sheffield.

39. I uphold the aspect of the objection concerned with the consultation carried out before the arrangements were determined. I do not uphold the aspect of the objection relating to the determined arrangements themselves.

40. I have also considered the arrangements in accordance with section 88I(5) and find there are other matters which do not conform with the requirements relating to the publication of the admission arrangements. These have now been rectified.

41. The admission authority need take no further action.

Dated: 2 August 2017

Signed:

Schools Adjudicator: Peter Goringe