

<b>TITLE</b>	<b>Review of Fair Access Protocol - Update</b>
<b>FOR CONSIDERATION BY</b>	School Admissions Forum on 10 February 2014
<b>REPORT PREPARED BY</b>	Sue Riddick, Lead Admissions Officer

**SUMMARY**

The purpose of this report is to update the Forum on progress made on the review of the local authority's fair access protocol.

As reported previously, the local authority began consultation with schools on 28 November 2013 which closed on 17 January 2014. During this time, weekly reminders were placed in both primary and secondary Education News.

Twelve schools confirmed their acceptance (five secondary and seven primary schools). Two schools plus one primary area group sought and received further clarification (summary attached) and no school indicated that they did not wish the revised Fair Access Protocol to be adopted. As advised in the consultation, where no response was received from schools, this would be taken as confirmation that schools are in agreement with the Fair Access Protocol.

The Fair Access Protocol was adopted by the local authority on 23 January 2013 with the first meeting of the secondary Fair Access Protocol Panel held on the same day, chaired by Mary Rome, Headteacher of Foundry College at which five young people were discussed – one potential managed move and four parent-led applications.

The outcome of the consultation will be notified through Education News and both the council's website (admissions in-year page) and Wokingham's School Hub (admissions page) will be updated with the adopted documentation.

**RECOMMENDATIONS**

Members of the Forum to note the information provided.

**SUPPORTING INFORMATION**

The proposed Fair Access Protocol now includes:

1. Fair Access Protocol Overview
2. Young people at risk or at permanent exclusion (prepared by Mary Rome, Headteacher of Foundry College)
3. Managed transfers between secondary schools (prepared by and trialled by schools in the Secondary Federation)
4. Managed transfers between primary schools (prepared by Wokingham Primary Heads Association with Mary Rome)

5. Children at particular risk of missing education known as “vulnerable” children  
(prepared by Sue Riddick together with a small group of local authority officers)

It also includes various forms for completion by schools.

#### List of Background Papers

School Admissions Code	
<b>Held by</b> Sue Riddick	<b>Service</b> Children’s Services
<b>Telephone No</b> 974 6113	<b>Email</b> sue.riddick@wokingham.gov.uk
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## FAIR ACCESS PROTOCOL

### Queries raised by schools on the documentation and the responses made by the School Admissions Lead Officer

1. The flow diagram does not have timings at all stages which would be helpful we feel.

*Response: The School Admissions Lead Officer looks at each application on a daily basis (or by a senior admissions officer in her absence); if amber, the subsequent work can take 1-2 weeks depending on whether information is forthcoming from the previous school and James and I meet weekly. The whole process has to comply with our in-year policy which is to handle applications within 15 school days (although we are currently consulting on a change to 20 days to enable the FAPP (Fair Access Protocol Panel) to meet and consider half-termly). Dates have not been provided other than under the first bullet point of point 2 of the overview document to enable some flexibility in gathering sufficient information especially for applications for children at schools outside the borough.*

2. There is no mention of financial assistance for schools required, at short notice, to meet any additional needs children may have once placed at a school.

*Response: There is no financial assistance. This was a proposal in the original discussion documentation but there was no feedback from schools on this point that this would be welcomed. Had this been supported then we would have requested the Schools Forum to set aside a sum for this purpose.*

3. Travel assistance, if permitted, is unlikely to exceed one term which might compromise the success of the placement.

*Response: travel assistance can be considered by the FAPP but even if recommended as an outcome to support, it will need to be agreed by WBC school transport and will need to comply with the school transport policy. This is certainly something that may be considered for managed moves for the six weeks trial but ultimately, if the request to move schools complies with parental preference; the onus will be on the family to ensure their child attends the school. The school transport policy indicates that any transport agreed is subject to annual review.*

4. Admission authorities must not refuse to admit a child thought to be potentially disruptive or likely to exhibit challenging behaviour on the grounds that the child is first to be assessed for special educational needs (paragraph 3.13 of the School Admissions Code) however we are unclear about a school's ability to insist on putting in place a period of planning in advance of a child joining the school in order that suitable support arrangements are in place, such as recruitment.

*Response: this can be raised at the FAPP and the panel can recommend a start date, certainly for managed moves and reintegration. If this is a response to a parent-led application, the school admissions team will continue to liaise with the school to agree an appropriate start date taking into account whether the child is in school or not. If a request to transfer schools (without a move); this can be after the next half-term as per the current in-year admissions policy which may allow for some time to put in place suitable support depending on the timing of the application, however if through the FAP process it is identified that a more immediate move is*

*recommended (e.g. for the child's safety) discussions will be held with the school for an earlier start date.*

5. *No school, including those with available places, is asked to take a disproportionate number of children who have been excluded from another school or who have challenging behaviour. How would this be determined in a fair and transparent manner?*

*Response: This is through the FAPP and by the reporting of allocations made under the Protocol. In essence, there are two levels of allocation – lower level allocations made under the FAP (Fair Access Protocol) as identified in the vulnerable children's protocol by James and myself e.g. army moves etc. and higher level FAP (reintegration following exclusion, managed moves and the more complex vulnerable cases) considered by the FAPP. Even if a child starts at a school which requires more support than was known at the application stage; a school can make a referral to FAPP to consider registering the child as a child which would have met the FAP criteria and then put on the list.*

6. *The flow diagram on the final page states a maintained school for which the local authority is the admission authority cannot refuse to accept a child. Is this not a permissible outcome of the consultation and negotiation with the LA, governing body, parents and pupil?*

*Response: In the first instance, if the FAP works well then there should not be any need for any school to question the admittance of a child under the FAP. The diagram is that taken from the DFE guidance and does show that ultimately for community and voluntary controlled schools the decision to admit is that of the local authority, as the admissions authority for the school. Even now, the school admissions team will approach the school particularly where we know that the admittance is for a more challenging child and considers, where possible, the comments made by the school about the demands for a particular year group. With the adoption of the FAP, this will invoke the 5 day notice period. If the local authority subsequently decides, as the admissions authority, taking into account the school's views that the child should be admitted, the school will be instructed to place the child on the school roll by a specified date. Ultimately, if the application is parent-led, and subsequently refused the parent would still have right of appeal even if local authority and school agree that it would not be in the child's best interest to attend that school.*

7. *No school will be asked automatically to take another child with challenging behaviour in the place of a child excluded from the school. Such children will be considered by the Fair Access Protocol Panel to determine the most suitable school to meet that child's needs (3.14 of the School Admissions Code). – Agreed - as schools often need time to re-group after dealing with a challenging pupil.*

*Response – this is reinforcing the requirements of the Code.*

8. *Agree with general exceptions categories – pleased to see Ofsted grading is taken into account.*

*Response – good to hear!*

9. *A register of children allocated under the Fair Access Protocol will be kept by the School Admissions Team and shared with all schools on a termly basis (minus names)* Support this means of reporting as schools would otherwise be unaware of the work carried out by this protocol.

*Response – good to hear!*

I am not content that this proposed policy will be agreed by a majority which has been confirmed to me as being “more than 50%” it wouldn’t give me much confidence that schools would be committed especially if this were based on a significant number of non-replies. I would therefore like to see the level of engagement with the consultation when the outcome is released.

*Response - I have no problem releasing this information; School Admissions Forum will more than likely ask for an update at its February meeting (it was on the agenda in June and tonight). My only inclusion of the comment regarding non-replies is that we need to move this on. If the protocol is not agreed then the current one will remain in place until a new one can be agreed. It is my understanding that secondary schools in particular are anxious to move away from the current FAP to a model where schools and local authority collaborate for the best outcomes for all – child, family, school and local authority. The reason for going out with discussion documents in summer before formal consultation was to try to ensure as much as possible that the views of schools were taken into account before the formal documentation was issued. As I have said; there will be a review in a year's time once we see how the Protocol works in practice and then it will change if necessary (and again go out to consultation if there are changes to be made).*

I am however very much in favour of the vast majority of the document. I think it offers much. I would be happy to agree to the protocol with clarity in the following issues: Can we be clear about what this statement specifically means “schools will admit their fair share of children with challenging behaviour, including children excluded from other schools” is it by quota against roll for example?

*Response - Mary's document regarding the operation of the FAPP states “Data, including the number of statemented pupils, pupils who have been permanently excluded from other schools, looked after children, managed move pupils and number of pupils admitted during the year (mobility/turbulence) will be collated and used to inform decisions.” Therefore the FAPP will have a clear understanding of the issues in each school (also voiced by the school's representative). Therefore decision making by the panel will take everything into account including parental preference and where a child lives. I don't consider it can be a quota against roll as each year group in each school will have its own particular issues, for instance turbulence in staffing at the primary level. **However the FAPP is all about co-operation and understanding rather than rigid rules and is based on an appreciation of all the issues.** We acknowledge that part of the problem with the current FAP is that James and I do not know specifics about particular year groups, the broader FAPP will enable this to happen. The panel will also need to know who has taken lower level FAP (those agreed by James and I – the non-asterisked group; as opposed to the higher level FAP which the FAPP will consider). The proposed Protocol is all about working in*

*partnership with schools to place vulnerable children as quickly as possible having had the discussion about which is the best setting for them.*

Definitely unhappy with 3 places over for each year group. This is too high - I may have missed it but I would like transparency and methodology for sharing data re FAPP and all schools termly

*Response - The number element is merely to put a cap on it. We have to remember that this really applies to a very few applications, the majority will still be dealt with as normal in-year admissions. It is my expectation (especially if I am there!) that the 3 would also take into account successful appeals; statements after allocation etc. It is not an absolute; the panel will take into account the make-up of that year group and any particular concerns. A lot of your concerns are all part of the "conversation" about which school is most appropriate to admit. In the majority of instances it will be the designated area school or the preferred school (bearing in mind the parent would still have right of appeal and could come to the school anyway). The fair share element is flagging that being full does not mean that the school cannot take any children under the Protocol (this is another Code requirement). Actually the fact that in-year is centrally co-ordinated at present will help the panel to understand how many children have been admitted to each school and also we manage the majority of school waiting lists too so would have that information to share too. Never yet in all the years that we have had a FAP has this been a particular concern in fact the current protocol agreed by the School Admissions Forum initially and then in the main admissions consultation states the following "Children will be admitted under the Protocol to the relevant year group up to a maximum of two places above the school's published admission number for admission in the case of primary schools and relative to the size year group up to a maximum of ten at secondary schools." With regard to the reporting of statistics; the overview documents states:*

#### **4. "Fair Access Protocol recording and reporting**

A register of children allocated under the Fair Access Protocol will be kept by the School Admissions Team and shared with all schools on a **termly** basis (minus names) and to the Wokingham Secondary Federation Manager. This will include information on whether a managed transfer is in process or has been successfully completed.

This information will also be used to provide statistics on an individual school basis and to report on the effectiveness of the Protocol in the Annual Report to the Office of the Schools Adjudicator annually by 30 June and which is required to be published. It will also be used to report to the School Admissions Forum, which whilst it no longer has a statutory function, is continuing in an advisory role on monitoring the effectiveness of the Protocol.

The register will be made available for each meeting of the FAPP to meet the aims of the Protocol.

Relevant paperwork must be completed and returned to the Headteacher of Foundry College, five school days in advance of each meeting."

It all seems pretty much common sense to me, but there's one para I'm not happy about, but suspect there is more to it than first appears:

- a) Wokingham Borough Council does not expect any school in the area to permanently exclude a looked after child or a child with a statement of SEN. Schools are expected to request an emergency review for a child with a statement of SEN.

I don't understand why schools are expected to treat LAC children in particular, and to a lesser degree, statemented children, differently. Clearly, for any child to have reached the stage when exclusion is being considered, things will have happened beforehand, professional will have been involved, behaviour plans in place etc. If things still go wrong, why can a school not exclude a child simply because they're LAC or SEN? I suspect this is about LA data and statistics, but I am really hoping you'll tell me otherwise. I'm not happy with the idea that 'ordinary' children can be excluded when possibly LAC children aren't even though they have done exactly the same thing. Does that make sense?

*Response - Your question is valid and this paragraph ties up to the DFE statutory regulations and guidance on exclusions available at: <http://www.education.gov.uk/aboutdfe/statutory/g00210521/statutory-guidance-regs-2012>.*

*If there are issues regarding SEN pupils, they should have an early annual review. This does not stop a school taking action after an early or emergency annual review as sometimes this does not produce the required outcome. The DFE statutory regulations and guidance goes into great detail on what should be done prior to and during any consideration of permanent exclusion for this group.*

*LAC are considered a highly vulnerable group and as such the children should have a support network around them e.g. home local authority, foster carers etc. and again any issues should be flagged in advance and the school should be working with other professionals to ensure appropriate support prior to any consideration of permanent exclusion.*

*Such measure could include consideration of a managed move of course under the FAP!*

*I am copying the section relating to this from the DFE guidance:*

**Statutory guidance to head teachers on the exclusion of pupils with statements of SEN and looked after children**

22. As well as having disproportionately high rates of exclusion, there are certain groups of pupils with additional needs who are particularly vulnerable to the impacts of exclusion. This includes pupils with statements of special educational needs (SEN) and looked after children. Head teachers should, as far as possible, avoid excluding permanently any pupil with a statement of SEN or a looked after child.

23. Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should co-operate proactively with foster carers or children's home workers and the local authority that looks after the child.

24. Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with a statement of SEN or a looked after child it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. Where a pupil has a statement of SEN, schools should consider requesting an early annual review or interim / emergency review.