

Cabinet

14 June 2018

WCC Fair Access Protocol for Secondary Schools

Recommendation

That Cabinet agrees the WCC Fair Access Protocol for Secondary Schools

1.0 Key Issues

- 1.1 Each local authority must have a Fair Access Protocol (FAP), agreed with the majority of schools in its area, in which all schools including Academies must participate. The purpose of the FAP is to ensure that – outside the normal admissions round – unplaced children, especially the most vulnerable, are offered a school place as quickly as possible, so that the amount of time any child is out of school is kept to a minimum. The local authority must ensure that no school, including those with available places is asked to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour.

2.0 The Proposals

- 2.1 The current protocol was adopted in June 2016 and came into full process in September 2016. Fair Access Protocols should be reviewed every 2-3 years to ensure they remain relevant and robust to enable the placement of vulnerable children as quickly as possible; the implementation of this protocol will feed into the draft Education Strategy WE2 by working in partnership with the project group looking specifically at learners who are currently missing education.
- 2.2 Following some concerns raised about the operation of the current FAP it was proposed that a revised version should be produced. As well as minor wording changes the following were identified as more substantial areas proposed for revision:
 - 2.2.1 It is considered that some pupils may not be able to be accommodated within mainstream schools, so a system for identifying these children has been proposed;
 - 2.2.2 The time period during which the local authority agrees not to place a number of pupils in excess of 2% of the total number of pupils in the relevant year group has been proposed to increase from six weeks to twelve weeks;
 - 2.2.3 The time-limit for an initial response from schools when approached by the local authority to take a child under the FAP is proposed to increase from 5 school days to 10 school days;

- 2.3 It is also proposed to make changes to the circumstances under which an admission authority can refer a child to the FAP. This includes removing children who have been unable to find a place due to shortage of places or refusal to admit (as more appropriate alternatives exist in such circumstances which do not require use of the FAP) as well as the general categories of Year 11 pupils as it is considered that such pupils need to find school places as soon as possible, and should not be disadvantaged by having to go through the FAP process. It was however considered that pupils who have been permanently excluded and are without a school place as a result should be added to the FAP.
- 2.4 An additional list of categories of children who could not be refused a school place under the FAP but where their admission to school would gain the school points towards FAP allocations is proposed to be added to the Protocol. This includes the following:
- 2.4.1 Children who have been accepted permanently into a school following a successful managed move;
 - 2.4.2 Children whose managed moves broke down or ended after a minimum of six weeks;
 - 2.4.3 Looked After Children;
 - 2.4.4 Year 11 Pupils;
 - 2.4.5 Children who have been removed by their parents from a school roll to be educated 'otherwise' and are now seeking another school place; and
 - 2.4.6 Children with an Education, Health and Care Plan.
- 2.5 The points system continues to be popular with Headteachers as a way of noting students placed within each school across the County and information on the current status of the database with points and rankings is sent regularly to all Headteachers. The points system will continue to be reviewed annually and takes into account the following information for all schools;
- Geo-demographic Factor (now based on Free School Meals data)
 - Pupils whose Home Language is not English
 - SEN
 - Mobility
 - Prior Attainment
- The points system enables the Local Authority to use this as a guide in identifying the most appropriate school, thereby ensuring no school is asked to accept a disproportionate amount of pupils with challenging behaviour, even if places are available. The points system is designed to enable the placement into schools facing less challenge, in terms of general poor behaviour of pupils.
- 2.6 For any school to refuse to accept a pupil via the protocol, they must fully demonstrate why their school is not able to support the placement. Furthermore, they must be able to demonstrate they have a higher than average number of challenging pupils on roll, that the placement of the pupil will significantly affect the efficient and effective use of resources.

3.0 Consultation

- 3.1 Prior to the consultation being sent to all mainstream State Funded Secondary School Headteachers in Warwickshire, a revised draft protocol was produced with input from the Lead Officer for Fair Access and WCC Legal Team and shared with the Protocol Steering Group (a team of 6 Headteachers from across the County). A meeting was held with this Steering Group and members of School Improvement and Vulnerable Groups on 6th February 2018 to consider the draft Fair Access Protocol.
- 3.2 Feedback from this group meeting was considered by the Admissions and Legal teams and changes made as appropriate. Agreement was sought from Councillor Hayfield and permission given for a Consultation process to begin. This document was then emailed out to all mainstream Secondary School Headteachers in Warwickshire on Monday 16th April for consultation advising that the consultation would run until 18th May 2018. Due to time constraints there was insufficient time to go back out to consultation following feedback, however, all feedback was discussed again with the Lead Officer for Fair Access and the Legal Team and further responses sent directly to Headteachers.
- 3.3 At the close of the consultation 33 out of 36 (92%) secondary schools provided some form of response to the proposed protocol. Of the schools that responded, 23 said 'Yes' to the statement 'Do you agree to the implementation of this Fair Access Protocol for September 2018?' 8 schools replied 'No', however, following responses from the Lead Office for Fair Access and the Legal Team 3 schools changed their responses to 'Yes'. Two other schools emailed in their 'Yes' response but did not complete the online feedback form. This means in total 28 out of 36 (78%) secondary schools are in agreement with the proposed Fair Access Protocol, with 4 schools maintaining their 'No' response, one school verbally saying 'No' but not completing the online feedback and only 3 schools not giving any response at all.
- 3.4 The statutory guidance requires that the Protocol is agreed with the majority of relevant schools in the area. It is clear from the responses received during the consultation, that the majority of secondary schools are content with the proposed protocol.
- 3.5 Comments on the proposed Fair Access Protocol are attached in Appendix A along with responses and feedback.

4.0 Cost Implications

- 4.1 There are no cost implications for implementation of the protocol. Area Behaviour Partnerships in each area remain the source of funding and the route to place pupils into Alternative Provision. The Fair Access Protocol is designed to access mainstream education where appropriate and will liaise with the ABPs where a pupil may require Alternative Provision other than

mainstream school. In these cases, pupils will be required to be on the roll of a local school however, the education provision will be provided offsite and monitored by the hosting school and ABP.

5.0 Summary

5.1 The Local Authority has a statutory duty to provide a Fair Access Protocol. The consultation indicates the majority of schools agree with the principles of the new proposed protocol. The requirement for transparency whilst ensuring pupils are not out of school for long periods continues to be addressed by the proposed protocol.

6.0 Timescales Associated with Next Steps

6.1 If Cabinet approve the document, full implementation will commence in September 2018 at the start of the new academic year 2018/19.

Background papers

None.

Appendices

Appendix A – Consultation responses

Appendix B – Draft Fair Access Protocol

Appendix C – Equality Impact Assessment/Analysis (EqIA)

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The report was circulated to the following members prior to publication:

Elected Members:

Councillors Colin Hayfield, Morgan, Dahmash, Williams, Davies, Roodhouse.

Appendix A: Fair Access Protocol (Secondary Schools) Consultation – Comments, Queries and Concerns.

Comments from each Headteacher, or school representative below have been responded to individually. Responses are in red.

Turnaround time in terms of process days is too short for often missing background information.

We are proposing to change the 5 days to 10 days response time. This initial 10 days is for dialogue to be opened with the Lead Officer for Fair Access to discuss the case more fully. We take on board the reference to missing background information and we are putting measures in place to have a much fuller document sent out to Heads, with the option of course of requesting anything more specific once we are in conversation, if for instance, further information has come to light since the initial request was made.

Yes, but see comments below –

Page 3, point 2 (xii) "...The pupil will sit a test to identify their levels of ability and whether they may cope with the academic structure within grammar schools." I think this would be the case if the pupil was not previously tested using 11+ or our in year tests, but not if they had previously been tested. In such cases we would not re-test for admission.

We are suggesting the following sentence be added after the word schools – (Unless previously tested and already proven to be of academic ability for the particular school).

Page 2 - Point 2.vii. It may be worth adding that the subjects studied at the previous school cannot be guaranteed at the school being applied to.

We will add the following comment – particularly when the same subjects and/or syllabi may not be available upon such a change.

Children with special educational needs, disabilities or medical conditions (but without an Education, Health and Care Plan).'

Why is being SEN FAP? Because it is a statutory criteria as defined in the School Admissions Code 3.15 criteria G. This is not a Warwickshire Criteria and has been in every protocol we have used. What are you classing as SEN? All four categories? - Yes. This doesn't really fit in with the idea of inclusive schools. Where will all the SEN students go then? - They will be placed via the protocol. Are we talking lower level SEN support? - Yes. This would allow a school to refuse someone due to a lower reading age or basic literacy need. Have SENDAR been consulted on this? - No because it is a statutory criteria under the School Admissions Code 3.15 Criteria G.

Also

'A child without an Education, Health and Care Plan may be assessed as not being suitable to attend a mainstream school where at least two previous mainstream school placements have irretrievably broken down for reasons relating to behaviour, attendance, mental health or other related reasons. Final decisions will be taken by Warwickshire County Council, informed by all circumstances relevant to the case.'

Are you sure about this? I can see a lot of parents and schools using this to their advantage to say a student is not able to attend their school, then what happens. Could also be used to 'get out' of providing suitable provision to meet an SEN need. How will you assess whether they are suitable to attend school? I can think of 5 off the top of my head at our school this could apply to. **Yes, we are confident, following discussions with the Steering Group that this won't be allowed to be used as a way for schools to use this as a 'get out'.**

Also

'aim shall be that within any 6 week period no school will be asked to accept a number of pupils under the FAP for any particular year group which is in excess of 2% of the total number of pupils within that year group. (SA Code 3.9).' **This is now being changed to 12 weeks.**

So if you're a larger school, with a bigger cohort you will have to take more than others?

Fair Access Protocols should not be used as a means to circumvent the normal in year admissions process. A parent can apply for a place as an in year admission for their child at any time, to any school outside the normal admissions round and is entitled to an appeal when a place is not offered, even if the reason for refusal is for FAP-related reasons.'

This may be so, but this has happened too many times this year with schools asking for managed moves when parents applied direct themselves, and no need for it to be a managed move. It has to be same rule for all and all schools have to comply. **This is being closely monitored and will be reflected in the processes moving forward for ABP's which will be linked to Fair Access. Discussions will take place with individual schools as to the reasons for this request.**

'The groups of children and young people placed via the protocol are in many cases likely to be vulnerable. If after admission, a school identifies that a child presents issues of concern, they should initiate an Early Help Assessment.'

Shouldn't this be up to the school to decide. Schools will likely already have waiting lists, ongoing EHs etc. so I'm worried if this is mentioned to parents the relationship may start off negative. I think needs rewording to say involve suitable external agencies – Early Help isn't necessarily the right one. - **The wording will be changed to *they should take appropriate steps to engage other agencies.***

'Unplaced children presenting with significant behavioural problems, who have been identified as being at risk of permanent exclusion, including those who had left the country, and who were previously attending a Warwickshire school within the same academic year or within one term.'

What do you mean by significant? How prolonged? Does a 1 day exclusion mean another school could say they are FAP? In these cases shouldn't they go through ABP? Or at least the school that has to take gets support from ABP? **These will be looked at case by case as part of our agreement or otherwise of Fair Access Cases once a refusal is received and advice given on a way to proceed which may include support from the ABP. As there is currently a review of ABP's taking place I cannot pre-empt this further.**

'The presence in the same year group at the preferred/identified school of a child with significant challenging behaviour who also falls into one or more of the following categories:
o Looked After Child; o Child with an Education, Health and Care Plan; o Children without an Education, Health and Care Plan but who are in receipt of at least £6,000 per year of special educational needs support; and o Child admitted following a successful managed move.'

Are you sure about this? This would mean we would be able to refuse for every year group currently. *We are suggesting changing this to **The numbers of children present in the same year group***

This is not a reason for refusal, but will be taken into account when we make decisions on placing students.

3ii - 2% IYFAP as a maximum in any 6 week period is too much for any one year group. If the PAN for a year group is 200 this could be as many as 4 students in one year group within 6 weeks. This could significantly affect the stability and dynamics of a year group within a school. I think this should be reconsidered. *Other Heads have also expressed concern. We are changing it to 12 weeks.*

3vi - it will only be possible to hit the 5 day limit if all the information relating to a student is sent immediately. If it is not, I feel schools should be given additional time to make an informed decision. *Again, other Heads have expressed concern. We are changing it to 10 days.*

3viii - are these factors arranged in rank order? If so, I think they need to be reordered. *No, they aren't in rank order.*

5i - parental preference should not be a deciding factor that overrides the points system. *It isn't a deciding factor, but needs to be considered.*

7 - managed transfers in a year group should be considered when potentially allocating an IYFAP student. This could again affect the dynamic and stability of a year group and the potential success of the managed transfer student. *This is always considered, we are looking at ways of working even closer with ABP coordinators to ensure we have up to date information on this.*

Flow diagram on p17 is corrupted. Contains coloured lines that have no purpose – *These will be removed.*

Further comments -

2vii - there is a local agreement in NW not PEX year 11 where at all possible and use alternative provision to support students in relation to the completion of exams.

2xi - I like this point.

2xii - agreed.

3i - I agree with this point, tackling this is long overdue.

3iii - agreed.

3iv - agreed, this is also overdue.

2 vii) Year 11 - they should remain on the roll of the school they are moving from if within the area - eg North Warwickshire, South etc as this would mean host schools are protected from impact no results. *We have done this in the past for exceptional cases, to avoid permanent exclusion, so in effect the student is on a long term managed move. However this would be unlawful unless agreed with the other school and cannot be applied to all year 11's who move schools or move into the County.*

3 viii) Schools need to have a trial period for students who are non-attenders so that they do not take students on roll, who then never come. This was agreed with LA at NASHCL meeting. *Again, this can be looked at case by case and we have done this in the past for a set period of time which is very closely monitored, as legally all students should be on the roll of the school they are attending.*

4 v) Should there be mention of the Admission Team meeting with ABP to agree appropriate school for hard to place. **This is a localised procedural matter and not across the whole County and as such does not need to appear in the protocol. As the workings and operations of the ABP's are under review anyway, this may change.**

Chart 2 Children who have been removed from a school roll. This is a real issue for schools. If not FAP need more guidance on what schools are expected to do when admissions applications of this nature come in. **We weren't sure what is meant by this - happy to discuss further.**

7 I) Good that individual ABPs have their own processes but should these be available on a central website so parents can see them? Do ABPs other than the North have their own agreed protocols that could be published? Do these need to be checked by legal team? **Managed move processes tend not to be published as they are localised. As this area is under review it may be something which is looked at further.**

I was on the working group which produced the document and I fully support the new version, having taken part in careful consideration of it.

At the moment, the protocol is a bit woolly in relation to quantifying troublesome pupils in the receiving school. Therefore, as discussed, I do think we need to find a way to quantify and reflect in the protocol the impact of having pupils in the receiving school who would, without the good management of behaviour in the school, be placed on the register of pupils seeking places. I've suggested that the way to do that would be to deduct points from a school when pupils leave on the same basis that we add points to a school when they take pupils. This isn't about punishing schools for excluding pupils but about trying to quantify the challenges already being successfully dealt with by receiving schools.

I don't suggest we make this change in the current protocol but perhaps it is something we can discuss further at the next steering group meeting. **Agreed. This can be put on the next Agenda.**

In it's current form, I have to say no as I do not believe all of the points are sufficiently considered. I do feel we need a FAP, but would ask that the following points are taken into account: - 3.ii. The aim shall be that within any 6 week period no school will be asked to accept a number of pupils under the FAP for any particular year group which is in excess of 2% of the total number of pupils within that year group. Taking a child into a year group each 6 weeks would be catastrophic for the stability of that year group. It is unlikely that a school would be asked to take a student each 6 weeks, but the protocol should guard against this. Our smallest year group is 55 students. Taking just 1 student into this year group would be too many and unfair on the incoming student as they would have no chance of 'blending in'. **Other Heads have also raised this point. We are changing it to 12 weeks.**

3. iii) In selecting appropriate placements, the local authority will take account of the percentage of pupils who pose additional challenges currently on roll; assessment of the number currently on roll posing additional challenges will be assessed using the same criteria in use for allocating points. This is a good idea and very much welcomed. Perhaps worth us conducting this in advance rather than trying to place a child with us and then having to conduct this evaluation. If the LA already knew which schools had difficulties in particular year groups then this would allow the most appropriate provision to be identified before any transfer of data commenced. i.e. our current Year 10 is too small and has too many children with issues. We have exhausted our resources and as such could not offer an incoming child a fair chance in this year group. **We are trying to develop this area and so welcome this feedback. This will be included in the review of how ABP's will work moving forward and how best we liaise with schools to gain this information.**

3. vii) All known details of the pupil's previous educational history, contact details etc will be made available and passed to the identified school within the protocol letter sent to the identified school for their consideration. Schools must open dialogue with the County Council regarding their ability to meet the needs of the pupil within 2 school days of the first approach being made/ receipt of letter. It is expected that a school will, within 5 school days of the first approach, either agree a starting date for the pupil or set out its reasons for refusal in writing to the local authority. The timescale for placement is unrealistic. I will never offer a place unless I have met the parent and child. This is essential to ensure that all parties are fully aware of needs and difficulties. Equally, parents often select us and then when visiting realise that actually getting their child to us is logistically impossible. Setting up visits often takes more than 5 days. **Again other Heads have concerns over the time frame. We are proposing to change the 5 days to 10 days response time. This initial 10 days is for dialogue to be opened with the Lead Officer for Fair Access to discuss the case more fully.**

I was part of the working party so have already shared by feedback.

1. The six week limit in para 3ii) is too short - this should be much longer and in the region of several months - **Other Headteachers have commented the same. It will be increased to 12 weeks**
2. Five days to respond (para 3vi) is too short - I suggest 10 days - **We agree and it will be changed to 10 days**

- Page 3 , para ii: We welcome the 2% suggestion as this recognises the variously sized year groups in schools. However, the 6 week period is too short. Please reconsider this time frame. **Other Headteachers have commented the same, we will increase this to 12 weeks.**

- Page 4, para vi: definition of 'unplaced' to include pupils with a place but unable to attend current school sits uneasily. Should not FAP be for pupils without a place? **It should and on the whole it is used for students without a school place, however, there will always be exceptional circumstances and cases and to have it written into the protocol ensures it does not exclude a child who may be extremely vulnerable and need to move - not necessarily to do with behaviour and this gives us a platform to be able to do this. It will be monitored carefully so as to not be over-used.**

- Page 4, para vii: The five day expectation is too short, and does not always allow time to meet the family. I will always want the family to visit the school before confirming a place, as they must have a clear knowledge of the school they are joining. Could the five days be for confirming contact with the family, and perhaps ten days for offering or refusing a place? This is not a delaying tactic, but a genuine desire to have all parties informed of the expectations of the new school to ensure the placement works from the start. **Again other Headteachers have raised this issue. We are changing it to 10 days. These 10 days are primarily for dialogue to be opened up with the Lead Officer for Fair Access so that things don't drift for too long.**

Thank you for the work on this document. It clearly reflects recent discussion and feedback between schools and the LA.

3 ii) This translates to no more than 5 students per year group in a 6 week period in our setting. If this number were to be admitted with challenging behaviour, in this time period, we feel students would not be able to get the support needed to make them successful in the main stream. **Other Headteachers have raised this as an issue - we are changing it to 12 weeks.**

Chart 2 (Page 7) Feel students who were removed from a roll by parents should remain under Chart 1, as it is this year, as this can be a way for parents to work around the FAP, proposed to be Chart 2 in future. Home Educated students can often be difficult to place and this is why the points have been raised from 10 to 20. Also, we have found in the past that this can include students who have been 'encouraged' to leave and so may indeed have issues to bring with them to a new school. They have to go through the normal process of applying, however, if taken will have points allocated. This was moved to that chart to try and speed up the process. We will always be happy to find out further information for schools, but often there isn't much information to be found on these students - depending how long they have been out of school. We are working closely with the Vulnerable Groups of CME and EHE to monitor children coming out of schools so that we can hopefully stop any bad practise and these will then become genuine cases to manage.

Why does Year 11 no longer qualify for FAP as it does this academic year? Year 11's historically take far too long to place and so it was felt that by removing the option to refuse, but giving points for taking, we would be able to speed up the process, which will be far better for both the student and the school, as the quicker they are in, the quicker they can start to catch up ready for exams.

Why has current FAP code N (transferred between 2 or more secondary schools..) been removed from FAP? Because it was rarely used as standalone criteria, as they usually fell under another category. We have tried to tighten up on the criteria used as some appeared too woolly or were repeats of other criteria.

Would we still continue to get FAP points for accepting EAL students to our school?

EAL students were taken out of the protocol some time ago and weren't in the current one which was adopted in June 2016. This category of student were taken out by the EMTAS team as they felt it wasn't needed as funding goes into schools for these students. What we do find however, is that often they fall under other criteria such as being out of school for more than two months, SEN without a statement (in a few cases), or they are asylum seekers, in which case points can be awarded.

Overall we agree with the vast majority of the points made in this document. I am, however concerned by one point and the absence of one point. 1) Paragraph 3 viii) identifies factors taken into account in identifying the most appropriate educational provision. The first of these factors is the distance the school is from the child's home. Schools in more rural areas and villages usually have one secondary school. Therefore, children considered for placement will have to travel long distances in order to be placed in these rural schools. Schools in towns and cities will therefore be more likely to be selected by parents as they will be in closer proximity. In our area, four schools have taken the majority of IYFAP this year. We are situated in an area of deprivation with some serious social issues. Therefore, pupils who fit the IYFAP criteria are more likely to live close to our school than other, more rural, affluent schools.

We do recognise this as a real issue, particularly in the Central Area and also the Southern Area of the County. We do have to consider distance and transport for every student we place under Fair Access, due to the overspend in the Transport Budget the LA currently faces. However, to apply the protocol correctly, we will always have to face some costs as we strive to make the Protocol fair for ALL schools and we MUST continue to include schools on the outskirts of an area.

2) Chart 2 on Page 7 shows how points are awarded to admissions where FAP does not apply. I am concerned that as the number of Multi academy trusts grows, managed moves

between trust schools will also become more common. We are against the awarding of points to managed moves within trusts being credited with points as it disadvantages single academies and LA schools.

We agree. Unless a student goes through the protocol then points won't be awarded on the database. It is an issue which will need close monitoring as Multi Academy Trusts continue to grow.

I do support the vast majority of the new FAP. If the above points could be addressed we would be more than happy to support.

I think it might be worth adding 'and curriculum' following 'academic structure in 2xii.

Agreed, this has been added.

One thing I can see that is missing is a time frame for testing. I don't mind it not being there but it might be helpful to know that we usually need at least a fortnight as we have to book an invigilator for the day and staff need time to mark papers once they have been completed.

Thank you. This has been noted.

This isn't about fair access because there is a barrier put in place for children to gain access to all schools by a selection test, given that the fair disruption for hard to place children in the authority, by the very nature, even if they have the academic potential are very unlikely to meet the requirements because of their previous experience. In terms of a FA protocol I think it would be much fairer to gauge a pupils potential successfully with a grammar school by looking at their primary prior attainment. These are children that all schools will find challenging but these are all children who are entitled to our best efforts to achieve their potential. Creating barriers within the system that will deny them access to the grammar schools does not constitute fair access.

This is an issue about Government Legislation and something which will need to be taken up with the DfE as it is not something we can address through a local Fair Access Protocol. Unfortunately, we can't do anything about children needing to be of academic ability for the school. However we are working with schools to put in place more inclusive methods of considering ability.

This proposal supports the common good, with a preference towards the vulnerable and disadvantaged. It promotes an intelligent use of resources whilst securing greater responsibility and accountability at local level.

It is a positive step in countering a difficult and growing issue.

One comment is that if the common good is to be truly supported, then local powers to support these children must be respected.

Grammar schools should take a fair share of those students who are to be on roll but being educated in alternative provision regardless of their student's ability. We believe this should be included in 2.xii. It is important the grammar schools play a fair part in this process.

If the above is addressed we will support the protocol.

This is an issue about Government Legislation and something which will need to be taken up with the DfE as it is not something we can address through a local Fair Access Protocol. Unfortunately, we can't do anything about children needing to be of academic ability for the school. However we are working with schools to put in place more inclusive methods of considering ability.

In summary, we feel if correctly followed/applied and schools worked with, then the protocol should work. However this has not been our experience in the past, and specifically, we feel point 3.v. needs to be applied. It is my understanding that the needs of the pupil and those of the school should be taken into account in the current protocol, however it never feels like this. **We agree and the work is continuing to forge closer links between Fair Access and the ABP to work even more collaboratively with all schools.**

2 xii. Grammar schools. I am not happy with the comments here about coping with the academic structure. The Nuneaton Academy operates an academically rich, knowledge based curriculum. I am unclear as to why Grammar schools wish to participate, but are then dealt with differently.

This is an issue about Government Legislation and something which will need to be taken up with the DfE as it is not something we can address through a local Fair Access Protocol. Unfortunately, we can't do anything about children needing to be of academic ability for the school. However we are working with schools to put in place more inclusive methods of considering ability.

In section 6 reference is made to governing bodies, these structures are very different for academies, presumably the wording here needs to reflect this. i.e. will admission letters be going to Trust boards? **Yes, they will. We have changed the wording to Admission Authorities.**

It is better than the previous system, however the LA needs to create alternatives for students whose needs are too extreme for mainstream school. Currently, the only success criteria applied seems to be getting students onto school roles regardless of whether it is right for the child. LA has a responsibility to create alternatives for those students whose interests are not served in this way. This has been the response from heads for many years but still no actions. LA must also share all information regarding students in this system as experience shows that they have withheld information which showed the child would be a serious threat to children in the school.

We are continuing the work of reviewing the role of ABP's and the links it has with Fair Access. We are aware of the particular case you have mentioned and would comment that no information was intentionally withheld; there was some information that we did not have at the point of contact with your school. However, we will continue to ensure that as far as we are able we will provide all relevant information.

I strongly support the proposal.

I feel that the proposed numbers of potential request to a school of 2% per 6 weeks (if there was such a need) are too demanding of any school. We have a smaller than average group of comprehensives so 1 pupil into a year group can have significant impact if they require high levels of pastoral care. **We are changing this to 12 weeks.**

What does, not suitable to attend a mainstream school mean? What registered providers are there? Within reach of S Works? Does that actually mean anything? **This is under continual review and more work needs to happen around the definition of this area of work.**

3. iii The taking into account the behaviour of other pupils in the year group needs to be linked to data held by ABP and pupils discussed as high behaviour risk etc. Not just description from schools. **We agree.**

What happens if schools are moving pupils or parents are trying to move pupils to avoid P Ex. If pupils are like this then we need to manage on the roll of the other school and have it as a managed move/taught elsewhere. **We agree and this area will be closely monitored.**

3 vii- Is 5 days too tight a turn around? 2 weeks? **We have changed this to 10 days.**

If pupils have been 'off rolled' then there needs to be some accountability to the schools they have come from or the LA needs to maintain those pupils until after the census. Could we publish the year 11 pupils being removed from Roll from schools in Autumn year 11 and Jan year 11 with reasons. This could generate further discussion if required. What has happened to PEX rates in year 10/11 across the county since P8? No change, fewer, more? Ironically, does P exing in 10 and 11 mean schools are more likely to take them as they won't count on P8? **This will be an area discussed again at Steering Group as we feel there are some very valid points.**

I have received feedback from my previous submission. I understand the time of response and 6 week suggestion have been changed. My recommendation would be to put 2% across 6 months.

In terms of my points about yr 11 I fully appreciate they are complex issues linked to many factors, not necessarily linked to FAP, but wanted to propose more of a dialogue about them.

A potential issue could be the availability of enough information to be able to determine whether a case is Fair Access or not. **We agree and this area is continually reviewed.** The new and adapted protocol is a workable process that will hopefully result in a more effective and equitable approach.

I'm happy with the protocol and look forward to some other local schools admitting a fair number in due course.
Thank you to everyone concerned with putting this document together.

The six limit needs to be extended even further than 12 weeks. Six months would be better.

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Warwickshire County Council

Fair Access Protocol for Secondary Schools

1. Summary

- i) The School Admissions Code 2014, issued under Section 84 of the School Standards and Framework Act 1998, requires each local authority to have in place a Fair Access Protocol (FAP) agreed with the majority of schools in its area. The requirement is supplemented by further advice from the Department for Education (DfE) in 'Fair Access Protocols: Principles and Process' published in November 2012. This sets out principles to clarify the expectations on all state funded schools (including academies and free schools) as well as all other admission authorities to ensure that FAP's operate effectively at a local level.
- ii) The purpose of the Protocol is to ensure that, outside the normal admissions round, unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. The Protocol also seeks to ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour.
- iii) Fair Access Protocols should not be used as a means to circumvent the normal in year admissions process. A parent can apply for a place as an in year admission for their child at any time, to any school outside the normal admissions round and is entitled to an appeal when a place is not offered, even if the reason for refusal is for FAP-related reasons.
- iv) All admission authorities **must** participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.

2. The Warwickshire context and statutory guidance

- i) The Fair Access Protocol (FAP) for Warwickshire has been written in accordance with paragraphs 3.9 – 3.23 of the School Admissions Code 2014, and the DfE's departmental advice November 2012 in partnership with the Protocol Steering Group (PSG), who review the process on a regular basis;
- ii) All admission authorities must participate in the Fair Access Protocol (including Academies, all types of Free Schools, University Technical Colleges and Studio Schools) in order to ensure that unplaced pupils are allocated a school place quickly. (SA Code 3.11 & DfE Guidance Nov 12)
- iii) The operation of the Fair Access Protocol is triggered when an eligible pupil has not secured a school place under normal in-year admission procedures. The Fair Access protocol is in addition to our In Year procedures. (SA Code 3.10, 2.21 and DfE Guidance Nov 12)

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- iv) Fair Access Protocols should not be used as a means to circumvent the normal in year admissions process. A parent can apply for a place as an in year admission for their child at any time, to any school outside the normal admissions round and is entitled to an appeal when a place is not offered.
- v) Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to children who were below compulsory school age at the time of the exclusion, children who have been re-instated following a permanent exclusion (or would have been had it been practicable to do so), and children with Statements of Special Educational Needs or Education, Health and Care Plans. (SA Code 3.8 & DfE Guidance Nov 2012).
- vi) Children allocated a place under the Fair Access Protocol will take precedence over those children already on the school's waiting list. (SA Code 2.14).
- vii) Schools cannot cite oversubscription as a reason for not admitting a pupil under the Fair Access Protocol. Year 11 pupils, unless falling into a relevant category within Chart 1, are not part of the protocol and **schools will be expected to accept Year 11 pupils in accordance with their published admission arrangements**. We do not advise that year 11 pupils transfer school as a pupil can be greatly disadvantaged by a change of school during their GCSEs, particularly when the same subjects and/or syllabi may not be available upon such a change. When deciding on whether to apply for a transfer out of the current school parents will be advised to consider that work is not transferable between schools and exam boards can rarely be matched and coursework is monitored and cannot be re-done.
- viii) All parents/carers should discuss any requests to transfer with the current school to see if any issues can be resolved and if the child can continue their education without interruptions to their GCSEs.
- ix) Any requests for placements under the Protocol will be made via School Admissions/Fair Access once an appropriate school has been identified. ABPs (Area Behaviour Partnership) will, once a child has received intervention work, refer all cases back to admissions to enable a school to be identified. It is not the role of ABPs to place pupils into schools via the Protocol.
- x) Warwickshire has in place Area Behaviour Partnership groups. All pupils, other than those assessed by Warwickshire County Council as not being suitable to attend a mainstream school, will be placed on the roll of a school identified via the protocol. Any child who is assessed as not being suitable to attend a mainstream school will be placed on the roll of a registered alternative provider or, in exceptional circumstances, have another form of education provided. Funding has been devolved to ABP teams to meet these requirements. Any.

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registered provision with which a child is registered will be expected to organise and monitor the child's progress both in the school and in any alternative provision sourced for them.

- xi) A child without an Education, Health and Care Plan may be assessed as not being suitable to attend a mainstream school where at least two previous mainstream school placements have irretrievably broken down for reasons relating to behaviour, attendance, mental health or other related reasons. Final decisions will be taken by Warwickshire County Council, informed by all circumstances relevant to the case.
- xii) Warwickshire has a number of grammar schools, all of whom wish to participate in the operation of the protocol. If a grammar school is identified as the most appropriate setting for a pupil that is currently being placed via the protocol, the following process will be followed. If the pupil has not previously taken a test to identify their levels of ability then they will sit such test to determine whether they may cope with the academic structure and curriculum within grammar schools. The results will be compared to those of the cohort that they would be joining. If the child has been found to fall within a range consistent with the cohort for the relevant academic year at the grammar school in question then consideration will be given by the grammar school for a placement. Grammar schools are also encouraged to support the Fair Access Process in other ways where appropriate.

3. Overview of process

- i) The Fair Access Protocol's aim is to ensure every pupil residing within Warwickshire, eligible to be placed via the protocol, has access to the most appropriate education provision within a timely manner, thus avoiding time out of education. Once a pupil has had an application for a place refused on the grounds that the protocol applies, the process timeline will be followed as set out in appendix 2. **Parental preference does not need to be followed.**
- ii) The local authority must ensure that no school – including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, who have challenging behaviour, or who otherwise fall under the terms of the protocol. What amounts to a disproportionate number will be assessed by the use of the points system. The aim shall be that within any 12 week period no school will be asked to accept a number of pupils under the FAP for any particular year group which is in excess of 2% of the total number of pupils within that year group. (SA Code 3.9)
- iii) In selecting appropriate placements, the local authority will take account of the percentage of pupils who pose additional challenges currently on roll; assessment of the number currently on roll posing additional challenges will be assessed using the same criteria in use for allocating points.

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- iv) When seeking to place a pupil under the Fair Access Protocol, all schools should be treated in a fair, equitable and consistent manner. (DfE Guidance Nov 12)
- v) All schools should work together collaboratively, taking into account the needs of the pupil and those of the school. (DfE Guidance Nov 12)
- vi) To ensure that outside the normal admissions round – unplaced children, especially the most vulnerable, are offered a place at a suitable school quickly, to ensure the amount of time any pupil is out of school is kept to a minimum. The use of the word unplaced within WCC protocol will also cover children who are unable, on assessment by the County Council, to attend a school that they are currently registered with, so long as they fit into one of the appropriate FAP categories. **All schools are expected to respond to requests by the local authority to admit a pupil under the Fair Access Protocol within 10 school days to state their intention.** (DfE Guidance Nov 12)
- vii) All known details of the pupil's previous educational history, contact details etc will be made available and passed to the identified school within the protocol letter sent to the identified school for their consideration. Schools must open dialogue with the County Council regarding their ability to meet the needs of the pupil as soon as possible the first approach being made/ receipt of letter. **It is expected that a school will, within 10 school days of the first approach, either agree a starting date for the pupil or set out its reasons for refusal in writing to the local authority.**
- viii) All schools are expected to accept and enrol pupils placed via the protocol, within the agreed timeframes set out. Additional funding requirements for pupils placed via the protocol are to be met by the school or accessed via Area Behaviour Partnerships. Additional funds will only be identified if a school is able to demonstrate the needs of the pupil in question exceed the funds available within the school's budget. It is expected that the school has utilised all of its support mechanisms within school and engaged external partnerships as per the usual ABP procedure. Factors taken into account in identifying the most appropriate education provision will include, but are not limited to:
- *distance from home address,*
 - *year group,*
 - *pupil's previous history,*
 - *available transport (including public transport links),*
 - *the points system showing the ranked order of schools within the local area,*
 - *local associations such as peer groups,*
 - *previous association with a particular school.*

4. Who will the protocol cover?

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The difference between In Year Admissions and Fair Access Protocol:

- i) In Year Admissions (see appendix 1) relate to all admissions to school from reception to Year 11 which are not covered by phase transfer schemes. In most cases the admissions process is straightforward. A parent applies for a place in a school where there is a vacancy and the child is admitted to school if a place is available.
- ii) In other cases there may be extenuating circumstances as to why the child's admission should be treated as an exception and the child placed in a school via the Fair Access Protocol, despite places being available within the relevant year group. **See chart 1**

The circumstances can include;

- an unplaced child who was not previously permanently excluded but who was attending a Pupil Referral Unit (PRU).
 - an unplaced child whose parent/carer states that the child has medical or educational needs but does not have an Education, Health and Care Plan (All information will be explored to determine the best possible route for admission. WCC officers may refer to the Headteacher Protocol Steering Group members for advice.)
 - an unplaced child who has not previously attended a mainstream school or who has not attended a mainstream school for more than 1 school term (possible home educated or persistent non-attender)
- iii) All applicants are required to complete an In Year Common Application Form and return the forms direct to the Local Authority.
 - iv) The County Council will take all reasonable steps to ensure that admission authorities are provided with relevant information to ensure that decisions can be made by the admission authority as to whether the Fair Access Protocol applies. If an application is deemed to fit the criteria for placement under the Fair Access protocol, see Chart 1, a school **may** refer the case back to the Local Authority and refuse admission, even if they have places available. Parents retain the right to appeal this decision through the usual admission appeal route.
 - v) The Admissions Team will undertake appropriate due diligence on all Fair Access cases to ensure that as full as possible an understanding of each child involved is available both to itself and to relevant schools. The Admissions Team will then process the application via the protocol and identify the next school that is able to accept a protocol placement. It may be a school will accept a pupil even though they are not next on the points system to be considered, in which case they will be given the points for the child as if placed via the protocol.
 - vi) The groups of children and young people placed via the protocol are in many cases likely to be vulnerable. If after admission, a school identifies that a child

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presents issues of concern, they should take appropriate steps to engage other agencies, for example through initiating an Early Help Assessment.

vii) If a child's circumstances are not covered in Chart 1 then the child does not form part of the FAP, and they therefore cannot be refused a place by a school on that basis. It is acknowledged however by the local authority that some other groups of children admitted to a school do pose some additional challenges, and therefore points will be awarded for admitting pupils fulfilling the criteria set out in Chart 2, so long as these are notified appropriately to the local authority

vii) The list of children to be included in a FAP is to be agreed with the majority of schools in the area but **must** as a minimum, include the following children of compulsory school age who have difficulty securing a school place: each of these categories is weighted as agreed by the steering group. SA Code 2014, 3.15.

Chart 1 – FAP applies and admission can be refused

	Weighting priority	Points
a) children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education	1	50
b) children who have been out of education for two months or more	7	30
c) children of Gypsies, Roma, Travellers, refugees and asylum seekers;	3	50
d) children who are homeless;	9	20
e) children with unsupportive family backgrounds for whom a place has not been sought;	8	20
f) children who are carers; and	10	20
g) children with special educational needs, disabilities or medical conditions (but without an Education, Health and Care Plan).	4	50

In addition to the minimum requirements listed in the SA Code 2014, Warwickshire's protocol includes the following:

h) Children who have been permanently excluded and who have no school place as a result	2	50
i) Unplaced children known to other professional agencies as 'vulnerable' but with no obvious behavioural problems; (including persistent non-attenders)	11	10
j) children whose permanent exclusions have been quashed by an Independent	5	40

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Review Panel, but who have no school place;		
k) Unplaced children presenting with significant behavioural problems, who have been identified as being at risk of permanent exclusion, including those who had left the country, and who were previously attending a Warwickshire school within the same academic year or within one term.	6	40

Chart 2 – FAP does not apply but points awarded for admission

Children who have been accepted permanently into a school following a successful managed move	40
Children whose managed moves broke down or ended after a minimum of six weeks	20
Looked After Children	30
Year 11 pre January census;	40
Year 11 post January census;	10
children who have been removed by their parents from a school roll to be educated 'otherwise' and are now seeking another school place.	20
Children with an Education, Health and Care Plan	25

5. Further considerations

i) In order to take into account the needs of the pupil and those of the school, the following considerations will also be taken into account by Warwickshire County Council when placing pupils via the FAP. Whilst the points system indicates which schools are next able to accept a pupil via the protocol, the following factors are also considered before making a final decision as to where the child should be placed:

- Parental preference – **although we no longer have to comply with this**, the wishes of parents should be taken into account to avoid possible non-attendance (everything will be done to manage expectations). Where a parent names a preferred school, if this school is not deemed the most appropriate option and does not fall in the points system as the next school eligible to

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accept a pupil, officers will inform parents. Officers will identify a school by use of the points system. If parents wish to pursue their preferred option, officers will make contact with that school and share all relevant details regarding the placement via the protocol. However officers will not pursue a placement with the school, if the school refuses to accept the pupil. Parents will still have the right to appeal the decision of the admission authority not to admit the child, as admission authorities are not obliged to refuse to admit when the FAP applies.

- The ranked order of schools in an area in accordance with the protocol points based system operated by the County Council.
- The number of children allocated previously to a particular school in an area under the FAP during the current term/academic year, or who have had points allocated to them.
- The distance to the identified school from the home address and availability of transport (including public transport links).
- Schools previously attended by the child – consideration will be given to any previous serious breakdown in relationships between a school and the family to include failed managed moves and peer relationship breakdown.
- The number of children in the same year group at the preferred/identified school with significant challenging behaviour who also fall into one or more of the following categories:
 - Looked After Child;
 - Children with an Education, Health and Care Plan;
 - Children without an Education, Health and Care Plan but who are in receipt of at least £6,000 per year of special educational needs support; and
 - Children admitted following a successful managed move.

Please note: it is the responsibility of all schools to inform the School Admissions/FAP team when a managed move is taking place to ensure we are able to collate this information. It is important for the Fair Access team to recognise additional resources are being utilised to help assist a successful Managed Move. This may require placement to the next school identified on the points spreadsheet to avoid placing undue pressure on one school.

- ii) Schools are responsible for presenting any cases listed above to the Lead Officer for Fair Access. The Lead Officer for Fair Access may utilise the local representative from the Protocol Steering Group for guidance and reference; however, the County Council reserves the right to start the formal process of direction to a school, if a school refuses admission and no local agreement can be reached. If schools have Academy status, referral to the EFA will follow.

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- iii) Where necessary for a child with significant challenging behaviour, the Area Behaviour Partnership and the identified school will then work together to ensure the pupil is ready for admission, looking at risk assessments, continued support required, and where applicable, additional funding support via presentation at high needs/behaviour partnership meetings.

6. Refusal to Admit Children and Direction to Admit

- i) Admission authorities **must not** refuse to admit children in the normal admission round on the basis of their poor behaviour elsewhere. (SA Code 3.8)
- ii) Where a pupil has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to children who were below compulsory school age at the time of the exclusion, children who have been re-instated following a permanent exclusion (or would have been had it been practicable to do so), and children Education, Health and Care Plans.' (SA Code 3.8). It also does not apply to any exclusion which has been quashed by an Independent Review Panel.
- iii) Where a admission authority does not wish to admit a pupil with challenging behaviour outside the normal admissions round, even though places are available, it can refuse to admit the child if the Fair Access Protocol applies, but **must** refer the case to the local authority for action under the FAP. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. The points system will confirm or otherwise and support the case for any school found to have a disproportionate number of pupils with challenging behaviour.
- iv) If the situation above applies, the case must be referred to the Lead Officer for Fair Access for consideration. The Lead Officer will expect to see evidence in such circumstances of the:
- particularly high proportion of children with challenging behaviour, and/or,
 - particularly high proportion of previously excluded children, and/or
 - Implications of the admission of an additional pupil with challenging behaviour.
- v) The Lead Officer will then consider the case made by the school. The Lead Officer may consult with a member of the Protocol Steering Group for the area in deciding whether the FAP does apply.
- vi) This provision will not apply to a looked after pupil, a previously looked after pupil or a pupil with an Education, Health and Care Plan naming the school in question, as these children **must** be admitted. (SA Code 3.12).

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- vii) Having concluded that the FAP does apply to a child, the Lead Officer will consider which school within the relevant Area Behaviour Partnership to refer the child to, taking into account points currently held by schools in the relevant area as a result of the application of Chart One and Chart Two, and also the Further Considerations listed in Section 5.
- viii) **Admission authorities in Warwickshire are required to comply with the terms of this Fair Access Protocol and, as a result, should therefore admit any pupil referred to the school under the FAP.** If an admission authority refuses to admit a child, but the County Council remains of the view that it is the most appropriate school for the child, then the County Council will follow statutory steps under the School Standards and Framework Act 1998, either to direct admission or to make an application for direction to the Education Funding Agency, as appropriate.
- ix) It is usual for Admission Authorities to delegate authority concerning aspects of admissions to Head Teachers. Letters will however be addressed to both, to ensure that a timely response is received to correspondence in order to avoid delays.

7. Managed Move Process

- i) Individual Area Behaviour Partnerships operate Managed Move processes, designed to transition pupils who are at risk of permanent exclusion into new school settings. These processes are not operated by Warwickshire County Council, but are supported where they offer an opportunity for a fresh start for a pupil with challenging behaviour, and where both schools involved, as well as the parent / carer of the child in question, are supportive of such a move.
- ii) Such processes operate independently of the Fair Access Protocol and this section is provided as guidance only.
- iii) All managed moves should initially be for a maximum period of no more than 12 school weeks, extendable by one period of six school weeks in exceptional circumstances.
- iv) If a managed move process breaks down, the child will be expected to return to their original school placement.

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Brief History to aid admission and induction:

xxxxxx

Timings

Please make arrangements to ensure that is placed on roll at your school. You should notify the County Council as to whether you agree to admit the child as soon as possible, and at the very latest within 10 school days, with a start date notified to the child's parent / carer and the County Council within a further 5 school days.

If you feel that the school cannot admit, you will be required to send further information in writing, stating your reasons and evidence for refusal within 10 school days. Any information you provide will be considered as a matter of urgency by the Lead Officer for Fair Access and, where necessary, further advice will be sought from a member of the Protocol Steering Group to achieve a speedy resolution.

Thank you for your co-operation in this matter. I look forward to receiving a response from the school within 10 school days and confirmation that a start date has been arranged for the child within a further 5 school days. I would be grateful if you would complete the reply slip on the bottom of this letter and return it to the email address stated below.

If you need any further information about placements made under the Fair Access Protocol please do not hesitate to contact myself on the number above.

Yours sincerely

Lead Officer for Fair Access

CC:

Behaviour and Attendance partnership advisor for the area

Example - Protocol Steering Group Representative

Governors / Trustees

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REPLY SLIP

Please complete this slip and return it to the Senior Admissions Officer, within 10 school days) from receipt of this letter. Alternatively forward electronically to xxxxx email for the attention of the Lead Officer for Fair Access stated on the letter.

Re:

DOB:

NCY:

We confirm that the above mentioned child will be admitted to xxxx School under the agreed Fair Access Protocol.

The planned start date for this child is _____

Signed _____ Date _____

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Example parent letter

Dear parent

RE: **DOB:** **NCY:**

Warwickshire County Council has been seeking a school place for and we would like to take this opportunity to keep you informed of the progress we are making, and seek your views on our proposals.

We are considering naming [School Name] and asking them to admit your child. Before doing so however we are seeking your views on this proposal. Any comments that you have to make will be of benefit to the County Council in reaching its final conclusion. We should be grateful if you would let us know any thoughts that you have by no later than [X].

Please note that there is no duty for the Local Authority (WCC) to comply with parental preference when allocating places through the Fair Access Protocol, as we must ensure that no school is asked to take a disproportionate amount of children who have been excluded from other schools, or who have challenging behaviour. The school we have approached might not necessarily be your preferred school.

Enclosed is a leaflet explaining the Fair Access Protocol in more detail. Please be assured we are committed to finding the most appropriate setting for your child at this time.

Yours sincerely

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Example letter parent no preference

Dear,

RE:

DOB:

NCY:

Further to our previous letter notifying you that a school place had been identified for under the Fair Access Protocol (FAP), we are now in a position to inform you that we do intend to name [School X].

We regret that this is not one of the schools stated on your application; however, when allocating places via the FAP, there is no duty for the Local Authority to comply with parental preference. The purpose of the FAP is to ensure that no school in an area, including those with available places, is asked to take a disproportionate number of children who have been excluded from other schools or who have challenging behaviour.

In accordance with the School Standards and Framework Act 1998 you have the right to appeal against the decision to refuse your preferred school. To request an appeal pack *to be completed in regards to where the parent has to obtain an appeal pack from dependant on the school parent has applied for.*

If the school have not yet made contact with you to arrange admission, you will need to contact the school direct on xxxx. This offer is subject to documentary evidence confirming your child's date of birth.

Please complete the reply slip and return to the school by the date specified below.

We hope that will be happy and successful at this school.

Yours sincerely

Senior Admissions Officer

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Appendix 1

In Year time line

Day 1

Warwickshire Admissions Team receives completed application form from parent

1. Form scanned onto Synergy,
2. Details of application loaded to Synergy
3. Application acknowledged
4. Application sent via 'welearn' secure site to 1st preference school



Day 2 – 4

The school should respond with an outcome within 2 school days. The application sent to the first preference school will be accompanied by a child data sheet which includes a section for the school to complete, either offering the place or refusing and identifying the reasons for refusal.

Day 10

If place offered, application amended on Synergy to reflect offer and letter issued to parent.

If place refused as year group is full, Synergy updated to reflect refusal, letter sent to parent notifying them of outcome. Application sent to next preference (previous process repeated) or 'unplaced' offer made if appropriate

No response received from school, a further letter will be sent from the Manager for School Admissions asking the school to respond with 2 days



If school refuses citing FAP criteria as reasons for refusal, the Admissions Officer will refer the case to FAP officer. If the refusal is concurred the case will be referred through FAP

Escalation procedure to commence, initiated by the Manager for School notifying school of action to be taken

Day 15

School can refer to OSA, LA can inform the EFA or direct if under LA's responsibility

Day 20

On roll status updated on Synergy via ADA

If child is not on roll, identify why and if necessary refer to CME Officer

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Appendix 2

Fair Access time line

Day 1

In Year Application made by parent/carer

Day 2

'Fair Access (FAP)'

Admissions Officer begins case work to assist placement process – to be completed within 5 school days

'In Year' (see In Year flow chart)

Application sent to preference school for consideration, cycle should be completed within 10 school days

Day 6

FAP Officer confirms next school in area to take student, school approached and given 10 school days to respond

School refuses to admit, escalation process begins

School agrees to take student, start date confirmed – to be completed within 5 school days.

Checks made on ADA to confirm student on roll

Child on roll, case closed

Child not on roll, investigate and if necessary inform CME Officer

EQUALITY IMPACT ASSESSMENT/ ANALYSIS (EqIA)

Fair Access Protocol

Warwickshire County Council

Equality Impact Assessment/ Analysis (EqIA)

Group	Communities
Business Units/Service Area	Education and Learning
Plan/ Strategy/ Policy/ Service being assessed	Fair Access Protocol
Is this is a new or existing policy/service?	It is an existing policy / service which is subject to review.
If existing policy/service please state date of last assessment	June 2016
EqIA Review team – List of members	Cheryl Wild
Date of this assessment	22/05/2018
Signature of completing officer (to be signed after the EqIA has been completed)	C. Wild
Are any of the outcomes from this assessment likely to result in complaints from existing services users and/ or members of the public? If yes please flag this with your Head of Service and the Customer Relations Team as soon as possible.	<u>YES</u> / NO
Name and signature of Head of Service (to be signed after the EqIA has been completed)	Chris Malone
Signature of GLT Equalities Champion (to be signed after the EqIA is completed and signed by the completing officer)	Phil Evans

A copy of this form including relevant data and information to be forwarded to the Group Equalities Champion and the Corporate Equalities & Diversity Team

Appendix C

Form A1

INITIAL SCREENING FOR STRATEGIES/POLICIES/FUNCTIONS FOR EQUALITIES RELEVANCE TO ELIMINATE DISCRIMINATION, PROMOTE EQUALITY AND FOSTER GOOD RELATIONS



High relevance/priority



Medium relevance/priority



Low or no relevance/ priority

Note:

1. Tick coloured boxes appropriately, and depending on degree of relevance to each of the equality strands
2. Summaries of the legislation/guidance should be used to assist this screening process

Business Unit/Services:	Relevance/Risk to Equalities																										
State the Function/Policy /Service/Strategy being assessed:	Gender			Race			Disability			Sexual Orientation			Religion/Belief			Age			Gender Reassignment			Pregnancy/ Maternity			Marriage/ Civil Partnership (only for staff)		
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
Fair Access Protocol	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>						
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Are your proposals likely to impact on social inequalities e.g. child poverty for example or our most geographically disadvantaged communities? If yes please explain how. N/A																								YES/ NO			
Are your proposals likely to impact on a carer who looks after older people or people with disabilities? If yes please explain how.																								YES/ NO			

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Form A2 – Details of Plan/ Strategy/ Service/ Policy

<u>Stage 1 – Scoping and Defining</u>	
(1) What are the aims and objectives of Plan/Strategy/Service/Policy?	<p>i) The School Admissions Code 2014, issued under section 84 School Standards and Framework Act 1998, requires each local authority to have in place a Fair Access Protocol (FAP) agreed with the majority of schools in its area. The requirement is supplemented by further advice from the Department for Education (DFE) 'Fair Access Protocols: Principles and Process' published in November 2012. This sets out some principles to clarify the expectations on all state funded schools (including academies and free schools etc.) as well as all other admission authorities to ensure that FAP's operate effectively at a local level.</p> <p>ii) The purpose of the Protocol is to ensure that – outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. The Protocol also seeks to ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour.</p> <p>iii) Fair Access Protocols should not be used as a means to circumvent the normal in year admissions process. A parent can apply for a place as an in year admission for their child at any time, to any school outside the normal admissions round and is entitled to an appeal when a place is not offered.</p> <p>iv) All admission authorities must participate in the Fair Access Protocol in order to</p>

ensure that unplaced children are allocated a school place quickly. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.

2. The Warwickshire context and statutory guidance

- i) The Fair Access Protocol (FAP) for Warwickshire has been written in accordance with paragraphs 3.9 – 3.23 of the School Admissions Code 2014, and the DFE’s departmental advice November 2012 in partnership with a representative from a local school in each area of the County forming a Protocol Steering Group (PSG) that will review the process annually;
- ii) ‘All admission authorities must participate in the Fair Access Protocol (including Academies, all types of Free Schools, University Technical Colleges and Studio Schools) in order to ensure that unplaced pupils are allocated a school place quickly’; (SA Code 3.11 & DFE Guidance Nov 12)
- iii) ‘The operation of the Fair Access Protocol is triggered when an eligible pupil has not secured a school place under normal in-year admission procedures’. The Fair Access protocol is in addition to our In Year procedures. (SA Code 3.10, 2.21 and DFE Guidance Nov 12)
- iv) Fair Access Protocols should not be used as a means to circumvent the normal in year admissions process. A parent can apply for a place as an in year admission for their child at any time, to any school outside the normal admissions round and is entitled to an appeal when a place is not offered.

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- v) Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to children who were below compulsory school age at the time of the exclusion, children who have been re-instated following a permanent exclusion (or would have been had it been practicable to do so), and children with special educational needs statements or Education, Health and Care Plans. (SA Code 3.8 & DFE Guidance Nov 2012).
- vi) Children allocated a place under the Fair Access Protocol will take precedence over those children already on the school's waiting list; 'Fair Access Protocol, must take precedence over those on a waiting list.'(SA code 2.14).
- vii) Schools cannot cite oversubscription as a reason for not admitting a pupil under the Fair Access Protocol. Year 11 pupils, unless falling into a relevant category within Chart 1 are not part of the protocol and schools will be expected to accept Year 11 pupils in accordance with their published admissions arrangements. We do not advise that year 11 pupils transfer school as a pupil can be greatly disadvantaged by a change of school during their GCSEs, particularly when the same subjects and/or syllabi may not be available upon such a change. When deciding on whether to apply for a transfer out of the current school parents will be advised to consider that work is not transferable between schools and exam boards can rarely be matched and coursework is monitored and cannot be re-done.
- viii) All parents/carers should discuss any requests to transfer with the current school to see if any issues can be resolved and if the child can continue their education without interruptions to their GCSEs.

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	<p>ix) Any requests for placements under the Protocol will be made via School Admissions/Fair Access or the SEN teams once an appropriate school has been identified. ABPs (Area Behaviour Partnership) will, once a child has received intervention work, refer all cases back to admissions to enable a school to be identified. It is not the role of ABPs to place pupils into schools via the Protocol.</p> <p>x) Warwickshire has in place Area Behaviour Partnership groups. It has been agreed via the Schools Forum and area Heads meetings, that all pupils will either be placed on the roll of a school identified via the protocol, or, will be placed on the roll of a registered alternative provider. Funding has been devolved to ABP teams to meet these requirements. The identified school will be expected to organise and monitor the child's progress in such provision.</p> <p>xi) Warwickshire has a number of grammar schools all of whom wish to participate in the operation of the protocol. If a grammar school is identified as the most appropriate setting for a pupil that is currently being placed via the protocol, the following process will be followed. If the pupil has not already been found to be of suitable academic ability for the relevant cohort then they will sit a test to identify their levels of ability and whether they may cope with the academic structure and curriculum within grammar schools. The results will be compared to those of the cohort that they would be joining. If they fall within the range set out by each grammar school consideration will be given by the grammar school for a placement.</p>
(2) How does it fit with Warwickshire County Council's wider objectives?	By ensuring children are able to continue to access education it fits in with WE 2 of the Education Strategy.

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(3) What are the expected outcomes?	The Fair Access Protocol's aim is to ensure every pupil residing within Warwickshire, eligible to be placed via the protocol, has access to the most appropriate education provision within a timely manner, thus avoiding time out of education.
(4) Which of the groups with protected characteristics is this intended to benefit? (see form A1 for list of protected groups)	The Fair Access Protocol is designed to ensure all children have access to the most appropriate education provision. This could benefit any of the above groups with protected interests.
<u>Stage 2 - Information Gathering</u>	
(1) What type and range of evidence or information have you used to help you make a judgement about the plan/ strategy/ service/ policy?	<p>The School Admissions Code 2014, issued under section 84 School Standards and Framework Act 1998, requires each local authority to have in place a Fair Access Protocol (FAP) agreed with the majority of schools in its area. The requirement is supplemented by further advice from the Department for Education (DFE) 'Fair Access Protocols: Principles and Process' published in November 2012. This sets out some principles to clarify the expectations on all state funded schools (including academies and free schools etc.) as well as all other admission authorities to ensure that FAP's operate effectively at a local level.</p> <p>Data evidenced pupils out of education for long periods of time showed the need for a more robust system of challenge and fair distribution of challenging pupils. The policy is designed to reduce time out of education by implementing the legal process of direction much earlier.</p>
(2) Have you consulted on the plan/ strategy/ service/policy and if so with whom?	Details of the proposed new Fair Access Protocol were emailed to Warwickshire State Funded Secondary School Headteachers on Monday 16th April 2018 and advised the consultation process would run until Friday 18th May 2018. They were asked to acknowledge receipt and give feedback by the deadline.

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	<p>At the close of the consultation 33 out of 36 (92%) secondary schools provided some form of response to the proposed protocol. Of the schools that responded, 23 said 'Yes' to the statement 'Do you agree to the implementation of this Fair Access Protocol for September 2018?' 8 schools replied 'No', however, following responses from the Lead Office for Fair Access and the Legal Team 3 schools changed their responses to 'Yes'. Two other schools emailed in their 'Yes' response but did not complete the online feedback form. This means in total 28 out of 36 (78%) secondary schools are in agreement with the proposed Fair Access Protocol, with 4 schools maintaining their 'No' response, one school verbally saying 'No' but not completing the online feedback and only 3 schools not giving any response at all.</p>		
<p>(3) Which of the groups with protected characteristics have you consulted with?</p>	<p>Details of the proposed new Fair Access Protocol were emailed to Warwickshire State Funded Secondary School Headteachers.</p>		
<p>Stage 3 – Analysis of impact</p>			
<p>(1) From your data and consultations is there any adverse or negative impact identified for any particular group which could amount to discrimination?</p> <p>If yes, identify the groups and how they are affected.</p>	<p>RACE</p>	<p>DISABILITY</p>	<p>GENDER</p>

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	MARRIAGE/CIVIL PARTNERSHIP	AGE	GENDER REASSIGNMENT
	RELIGION/BELIEF	PREGNANCY MATERNITY	SEXUAL ORIENTATION
(2) If there is an adverse impact, can this be justified?	N/A		
(3) What actions are going to be taken to reduce or eliminate negative or adverse impact? (This should form part of your action plan under Stage 4.)	N/A		
(4) How does the plan/strategy/service/policy contribute to promotion of equality? If not what can be done?	The purpose of the Protocol is to ensure that – outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. The Protocol also seeks to ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour. The policy does not		

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	distinguish between race, gender etc. but does ensure equality across all pupils who are placed via this process.
(5) How does the plan/strategy/service/policy promote good relations between groups? If not what can be done?	<p>In implementing the Fair Access Protocol we will work closely with schools, colleges, parents, students and all other relevant parties to ensure children are allocated a suitable education provision.</p> <p>The policy does not include pupils who would be in receipt of an EHCP as these pupils are placed via our SEND team.</p>
(6) Are there any obvious barriers to accessing the service? If yes how can they be overcome?	N/A
(7) What are the likely positive and negative consequences for health and wellbeing as a result of this plan/strategy/service/policy?	It is not anticipated that the proposed changes will have a negative impact on health and wellbeing. The positive impact will be children quickly provided with education provision.
(8) What actions are going to be taken to reduce or eliminate negative or adverse impact on population health? (This should form part of your action plan under Stage 4.)	It is not anticipated that the proposed changes will have a negative or adverse impact on population health.
(9) Will the plan/strategy/service/policy increase the number of people needing to access health services? If so, what steps can be put in place to mitigate this?	No.

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(10) Will the plan/strategy/service/policy reduce health inequalities? If so, how, what is the evidence?	No.
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<u>Stage 4 – Action Planning, Review & Monitoring</u>																
If No Further Action is required then go to – Review & Monitoring (1)Action Planning – Specify any changes or improvements which can be made to the service or policy to mitigate or eradicate negative or adverse impact on specific groups, including resource implications.	<p>EqlA Action Plan</p> <table border="1"> <thead> <tr> <th>Action</th> <th>Lead Officer</th> <th>Date for completion</th> <th>Resource requirements</th> <th>Comments</th> </tr> </thead> <tbody> <tr> <td>To review / revise the document following consideration by Corporate Board / O&S.</td> <td>Cheryl Wild</td> <td>January – May 2018</td> <td></td> <td>Completed</td> </tr> <tr> <td>To review / revise the document</td> <td>Cheryl Wild</td> <td>May 2018</td> <td></td> <td>Completed</td> </tr> </tbody> </table>	Action	Lead Officer	Date for completion	Resource requirements	Comments	To review / revise the document following consideration by Corporate Board / O&S.	Cheryl Wild	January – May 2018		Completed	To review / revise the document	Cheryl Wild	May 2018		Completed
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To review / revise the document	Cheryl Wild	May 2018		Completed												

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	following consultation exercise				
	To review / revise the document following implementation.	Cheryl Wild	February 2019		
(2) Review and Monitoring State how and when you will monitor policy and Action Plan	The policy will be regularly reviewed as the proposals move through the democratic services / consultation process.				

Please annotate your policy with the following statement:

‘An Equality Impact Assessment/ Analysis on this policy was undertaken on 22/05/2018 and will be reviewed on an annual basis.