

Cabinet

9 November 2023

Fair Access Protocol

Recommendation

That Cabinet approve the introduction of a new Fair Access Protocol for Warwickshire Schools from January 2024 to support a more efficient and effective way of placing children where we have been unable to secure a school place.

1. Executive Summary

- 1.1 It is a mandatory requirement of the School Admissions Code 2021 that Warwickshire County Council establishes a Fair Access Protocol (FAP). The School Admissions Code is a statutory document issued under Section 84(1) of the School Standards and Framework Act 1998 and which, under Section 84(2), has the power to impose mandatory requirements on local authorities and admission authorities.
- 1.2 The purpose of a FAP is to ensure that vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible, minimising the time the child is out of school.
- 1.3 The Council is required to have a FAP in place that is agreed by the majority of schools in its local area.
- 1.4 Warwickshire Education Services engaged with schools between January and July 2023 on the current protocol to understand issues and areas for improvement.
- 1.5 The period of engagement identified elements which supported many changes we wished to make from the existing protocol. Following further liaison with other local authorities, a new draft protocol was published in July 2023 and a formal consultation with schools ran between September and October 2023.
- 1.6 The new proposed protocol is more explicit and robust in terms of decision-making, parameters and supporting processes. The core changes from the existing protocol can be summarised as:
 - 1.6.1 Operating bi-weekly virtual panels for Primary and Secondary Schools. The existing panels operate every 4-6 weeks and do not support placing children quickly enough.

- 1.6.2 Representation from a pool of schools to operate on the behalf of ‘all schools’ as opposed to representing their own individual school. Currently district-based Secondary panels are attended by all schools in the local area face-to-face.
- 1.6.3 Removal of a points system for Secondary that currently informs the placement process. The new model will look purely at pupil needs, circumstances and supporting data/information in terms of placements.
- 1.6.4 Removal of the “schools in scope” approach for Primary. The new model will look purely at needs, circumstances and supporting data/information in terms of placements.
- 1.6.5 Strengthening the FAP Appeals process for schools by setting out clearly a defined procedure should they disagree with a placement made by a panel.
- 1.6.6 Adding placements for ‘distance’ purposes as a core element of considerations and item on FAP agendas. Current place pressures across the county mean more children and young people will be referred to FAP in the future as a consequence of a lack of school places within a reasonable distance of their home and the protocol must ensure they can be placed both locally and promptly.
- 1.6.7 Ensuring multi-agency representation will be available on panels to ensure the holistic needs of a child or young person can be better supported when they start school.
- 1.7 The School Admissions Code states that “The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it.” Historically, the authority has struggled to obtain responses from schools during consultation periods, and this has led to necessary changes not being made to the Protocol. As a consequence, it was made very clear to schools during the consultation period that if they did not provide a response then this would be regarded by the authority as approval of the new proposed FAP.
- 1.8 A summary of the consultation responses is provided below:

FAP Consultation Figures

Total no. of Warwickshire Mainstream Schools	235
• Primary (inc. Infant/Junior)	197
• Secondary (inc. Grammar)	36
• All Through	2
Total No. of respondents	51
• Primary Yes	35
• Primary No	4
• Secondary Yes	4
• Secondary No	8
• *Nil Return	184
Total Yes (inc. Nil return)	223

- 1.9 The majority of schools who responded supported the new protocol. Moreover, when taking into account schools that did not respond to the consultation and the clear guidance to schools with the consultation that non response would be taken as approval, a majority of schools within Warwickshire have agreed to the new proposed Protocol.
- 1.10 Comments and concerns shared in relation to the new protocol are set out in Appendix 2 and can be summarised as:
- 1.10.1 Panel/representation - for Secondary Schools a transition to a single panel where schools will not represent themselves is a large shift in practice.
 - 1.10.2 Decision making - in particular, ensuring proportionality and fairness with the removal of a points system and what information the local authority will use to support placements.
 - 1.10.3 Definitions – a number of respondents wanted a clear description of the term ‘balanced share’ relating to fairness and proportionality of schools taking children.
 - 1.10.4 Impact on schools/support for schools – many points made that schools were under pressure and greater support is required on transition.
 - 1.10.5 Information the Local Authority will use to support placement - with points being removed, how will the most appropriate placement be determined.
- 1.11 Should the Protocol be approved, then Officers will meet with Headteachers prior to implementation to discuss concerns raised. A commitment has already been made to review the protocol again, in the summer of academic year 2023-24, if changes are needed following implementation. An offer will also be made for Headteacher representatives not part of the core panel to attend and observe FAP meetings to witness how placements are made.
- 1.12 In moving away from a points-based system to a model based on principles and key factors for consideration, it is understandable that some schools will be concerned by changing definitions. Officers will produce a dashboard to support the implementation of a new protocol which will be shared with all schools in advance of the new model to evidence how placement decisions will be supported.
- 1.13 The proposed Protocol will create more capacity for local authority officers to support through reducing panels from six to two. It would also ensure a needs-led approach is taken to placing children with fairness and proportionality, supported by Headteachers on a panel representing all schools as opposed to just their own.

2. Financial Implications

- 2.1 FAP does not have a specific budget as it is part of the core business activity of the Service. Therefore, there are not expected to be any cost implications from introducing the new protocol beyond those already planned for within

Education Services. The FAP is designed to access mainstream education where appropriate, however, if a child initially requires a period of time in Alternative Provision (usually for Permanently Excluded children), this will be organised through the Education Entitlements Team and monitored. Within 6 weeks, in most cases, children will then be referred back to the panels for placement into a school.

3. Environmental Implications

3.1 None.

4. Timescales associated with the decision and next steps

4.1 It is proposed the new protocol is introduced from January 2024.

Appendices

Appendix 1: Fair Access Protocol
Appendix 2: Consultation responses

Background Papers

None

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

Local Member(s): N/A – This is a countywide matter

Other Members: Councillors Marian Humphreys, Jerry Roodhouse, and Barbara Brown