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**WOKINGHAM
BOROUGH COUNCIL**

Fair Access Protocol

for

**Wokingham Borough
Council
2016/17**

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Introduction

1. The School Admissions Code requires every local authority to have in place a Fair Access Protocol. The Fair Access Protocol for Wokingham Borough Council (the Borough) applies to all state funded mainstream schools¹ in The Borough and is consistent with the requirements set out in paragraphs 3.9 to 3.15 of the Schools Admission Code 2014, the non-statutory guidance published by the Department of Education in November 2012, the Education (Pupil Registration) (England) Regulations 2006 and the School Standards and Framework Act 1998.
2. The Schools Admission Code 2014 requires all admission authorities of state funded mainstream schools to 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.
3. The purpose of the Fair Access Protocol is to ensure that outside the normal admissions round unplaced children, especially the most vulnerable, are found and offered a place quickly, so that the amount of time any child is out of school is kept to the minimum.
4. The published guidance from the Department of Education sets out a clear expectation from the Secretary of State that all state funded mainstream schools and local authorities should work together to identify a school place for those children who have had difficulty finding one. This guidance also states that all schools are expected to respond to requests by local authorities to admit a child under the fair access protocol within seven calendar days and parent led appeals will be handled separately.
5. The process that local authorities and academies need to follow when a request is made to the Secretary of State to direct an academy to admit a named child will mirror, as closely as possible, the timing set out in relation to maintained schools in the School Standards and Framework Act 1998 and the School Admissions Code.
6. When reviewing a request to direct admission to an academy the Education Funding Agency will act on behalf of the Secretary of State to consider whether due process has been followed in applying the provisions of the Fair Access Protocol.

Principles

7. The Fair Access Protocol is binding on all state funded mainstream schools in Wokingham (this includes Academies).

¹ Academies, free schools, studio schools, voluntary aided schools, trust schools, voluntary controlled schools and community schools

8. There is no duty to comply with parental preference when allocating places through the Protocol but it is expected that the wishes of a child's parents will be taken into account. *(To be reviewed December 2016)*.
9. When seeking to place a child under the Protocol, all schools will be treated in a fair, equitable and consistent manner.
10. The Fair Access Protocol will 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 at any point and is entitled to an appeal if a place cannot be made available.
11. While a child is on roll at a school the school concerned is responsible for the child's educational provision.
12. Any child without a school place is the responsibility of the Local Authority up until the point at which they are taken on roll at a school.
13. This Protocol can only be changed following full consultation with all schools and the adoption of a new protocol by the Fair Access Protocol Panel (FAPP).
14. Reporting on the number of children admitted under the protocol will be included in the report to the Office of the Schools adjudicator as required.
15. **A termly record of decisions will be maintained by the administrative support and reviewed on an annual basis to ensure the Fair Access Protocol Panel has been equitable in the decision making process. The record will form part of the termly reporting process of school performance to Children's Services Leadership Team (CSLT).**
16. The Fair Access Protocol is not applicable to admissions made through the normal admissions round for primary, junior or secondary schools and cannot be used where this would involve contravening the regulations on the size of infant classes.
17. The Fair Access Protocol **will not be used** to require a school to automatically admit another child with challenging behaviour in the place of a child excluded from that school.
18. Requests for places for looked after children, previously looked after children, children with an Education Health and Care Plan (EHCP)² and children with a Statement of Special Educational Needs³ naming a school, will not be referred to the Fair Access Panels. *(To be reviewed December 2016)*.
19. Children who are looked after⁴ by a local authority within the meaning of section 22 of the Children Act 1989 at the time of their application and previously looked after children will always be admitted.⁵ The term "previously looked after children" refers only to children who were looked after but ceased to be so because they were adopted (or became subject to a child arrangements order⁶ or special guardianship order⁷).

20. Looked after children and previously looked after children will normally be placed promptly through the in-year admission arrangements. If this is not possible or when a school placement needs to be arranged as an emergency measure a formal consultation will take place with the school concerned.
21. In the case of looked after children for whom the Borough is responsible the social worker responsible for the child will approach the Admissions Team to check the availability of school places and to establish the distance from the child's placement to local schools. The social worker will then contact the Virtual School for advice on the provision available at the schools being considered. After considering the advice received the social worker will complete an application form for a school place and submit the form to the Admissions Team. The Admissions Team will then write to the school to request a place. The school will then respond within 7 days.

Children covered by the Protocol

22. The Fair Access Protocol can be used for the placement of children who fall within the following categories:
 - a) Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
 - b) Children who have been out of education for two months or more;
 - c) Children of Gypsies, Roma, Travellers, refugees and asylum seekers;
 - d) Children who are homeless;
 - e) Children with unsupportive family backgrounds for whom a place has not been sought;
 - f) Children who are carers;
 - g) Children with special educational needs, disabilities or medical conditions (but without an EHCP);
 - h) Permanently excluded children, including those whose parents have successfully appealed against exclusion, but where the independent appeal panel has decided that the pupil should not be reinstated;
 - i) Children who are at serious risk of permanent exclusion;

² An Education, Health and Care plan is a plan made by the local authority under Section 37 of the Children and Families Act 2014 specifying the special education provision required for that child.

³ Statements of Special Educational are being superseded by Education, Health and Care plans.

⁴ A 'looked after child' is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989) at the time of making an application to a school.

⁵ This group includes children who were adopted under the Adoption Act 1976 (see section 12 adoption orders) and children who were adopted under the Adoption and Children Act 2002 (see section 46 adoption orders).

⁶ Under the provisions of s.14 of the Children and Families Act 2014, which amend section 8 of the Children Act 1989, residence orders have now been replaced by child arrangements orders.

⁷ Section 14A of the Children Act 1989 defines a 'special guardianship order' as an order appointing one or more individuals to be a child's special guardian (or special guardians).

- j) Those children whose parents have been unable to find them a place after moving to the area, because of a shortage of places;
- k) Those pupils who have had more than two school moves during one key stage with the exception of service children, taking into account local changes of address;
- l) Children withdrawn from schools by their family, following fixed term or one permanent exclusion, seeking a mainstream school place at another school prior to receiving any appropriate support;*
- m) Children seeking a return to a school where there was a previous history of fixed term exclusions or previous serious attendance problems (below 75%);*
- n) Children of UK service personnel and other Crown Servants, where a change of location is ordered leading to a need for a change of school (an assignment order in the case UK service personnel or similar notice will be required for Crown Servants);
- o) Children subject to a child protection plan or on the edge of care as identified by the local authority;*
- p) Key Stage 4 children for whom no school place can be found, where on course matches are difficult or where the child would have completed education in his/her school or country of origin;
- q) Children identified on the local authority 'Children Missing Education' list;*
- r) Children seeking a return to school following elective home education where the local authority consider a return to mainstream school appropriate;*

* Applications for children included within these categories will be subject to consideration by the Fair Access Protocol Panel as these are considered to be the most challenging children to place.

Challenging behaviour will normally be defined as:

- a) Serious criminal behaviour resulting in a conviction or a police caution within the previous two years preceding the request for a school place;
- b) Behaviour resulting in a permanent exclusion within the last two years preceding the request for a school place;
- c) Behaviour resulting in a significant number of fixed term exclusions from which it is clear that the child is at serious risk of permanent exclusion within a period of at least one year preceding the request for a school place.

Children with attendance problems, or those for whom English is an additional language, will not, as a result of these problems, be considered "challenging" under the Fair Access Protocol.

Monitoring of the Protocol

23. The Admissions Manager assisted by the Educational Welfare Officers will monitor placements under the Protocol and the operation of the Fair Access Protocol Panel.
24. The Fair Access Protocol Panel will receive a report on in year admissions for the academic year and the number of admissions under the Fair Access Protocol. The report will not include the names of children and will be a public document. This will be reported at each meeting.
25. An annual report will also be made to the Office of Schools Adjudicator.

Publication and Review

26. The Fair Access Protocol will be published on the admissions page of the Borough website and will form part of the admission arrangements for all state funded schools in Wokingham.
27. The Protocol will be reviewed annually and the review will include consultation with all schools. The Admissions Manager will be responsible for the undertaking the review, reporting the outcome to schools and councillors and submitting the Protocol for approval to the Local Authority.

Fair Access Panels

Membership

28. For secondary schools the Fair Access Protocol will be applied through the Fair Access Protocol Panel. All state funded secondary schools have a representative on the Fair Access Protocol Panel, an Education Welfare Officer and the Admissions Manager (or his/her representative).
29. The Chair of the Fair Access Protocol Panel will be the Virtual School Headteacher with identified administrative support. If the Chair is unable to attend a particular Fair Access Protocol Panel meeting a temporary Chair will be elected for that meeting.
30. All Secondary schools are represented at the Fair Access Protocol Panel. If a Fair Access Protocol Panel is established for a group of primary schools the Admissions Manager and the Education Welfare Officer, or their representatives, must be members of that panel.
31. All school representatives, including those from own admission authority schools, will be empowered to make decisions at the Panel meetings and offer provisional places. Paperwork will be circulated five working days prior to the meeting.

32. The decision of the FAPP is binding and must be implemented by schools. The Local Authority powers of direction can be confirmed by looking at the DfE Schools Admissions Code – Sections 3.16-3.18.

Establishing a Fair Access Panel covering primary schools

33. If and when primary schools establish a Fair Access Protocol Panel they are bound by this Protocol.
34. The Education Welfare Officer for the Borough and the Admissions Manager will be members of any Fair Access Protocol Panel established by a primary partnership.
35. Servicing a Fair Access Panel established by a primary school will be the responsibility of the LA with Admin support.

Referrals to Fair Access Panels

36. Referrals for consideration under the Protocol can be made by any state funded schools in the Borough or by the Admissions Team.
37. No referrals can be made by parents.
38. No referrals can be made for Year 11 pupils.
39. In any academic year normally no more than one child per year group will be admitted above the Published Admission Number of a primary, infants', or junior school through the Protocol.
40. Consideration will be given to the OFSTED inspection status of the school. A school designated as special measures will not be expected to admit pupils under this Fair Access protocol.
41. With regard to secondary schools in any academic year those schools with fewer than 900 pupils on roll would not normally be expected to admit more than two above the Published Admission Number in each year group through the Protocol. Those secondary schools with 900 or more pupils on roll may be expected to admit, in any academic year, up to three above the Published Admission Number in each year group through the Protocol. These figures are meant to be a guide to good practice and are not meant to be slavishly followed irrespective of circumstance.
42. The flow chart at Appendix 1 shows the referral process.

Dates of Meetings

43. Fair Access Protocol Panel (FAPP) meetings will be set at the beginning of the academic year with the programme of dates being published on the Wokingham Schools Hub by the Admissions Team. There will be three meetings per term.

Information to be provided prior to a meeting of the Fair Access Protocol Panel

44. Fair Access Protocol Panel referral forms should be emailed to FAPP.admin@wokingham.gov.uk following meetings/conversations with in schools. The referral form is shown as Appendix 2.
45. All members of the Panel will be sent case details and an agenda five school days prior to the meeting of the Fair Access Protocol Panel.
46. Prior to the Fair Access Protocol Panel meeting any school recommending a planned transfer will collate professional advice and discuss with parents and will ask the parent to specify alternative school preferences (these will be treated as advisory and will not be binding on the Panel).
47. Any referral from the Admissions Team, from Foundry College or from the Education Welfare Officer should normally be made with information on the parent's expressed preference of school/schools.

Considering cases

48. The Fair Access Panel will consider previous admissions and wider multi agency needs before deciding a placement. A report will be provided by the FAP administrator of the number of children admitted to schools covered by the Fair Access Panel. The report will be compiled after each meeting.
49. The referring organisation is responsible for informing the family of the outcome of the meeting and co-ordinate the admission arrangements.
50. The Fair Access Protocol Panel will ensure that where a child is without a school place, or there is an agreed need to transfer a child to another school, that a placement **is agreed** at the meeting at which the case is considered. Decisions on referrals will only be postponed to a later meeting when exceptional circumstances apply.
51. The potential receiving school should highlight at the meeting if there are particular concerns about the placement. **No child should be without a school place.**
52. Fair Access Panels may consider whether additional support can be made available from the LA's resources for pupils who are not transferring schools. For example considerations by the moderation panel for pupils with SEND but not an EHC.

53. Non-attendance at one or more meetings of the relevant Fair Access Panel will not preclude the school/schools concerned from being asked or required to admit a pupil who needs to be placed under the Protocol.

Recording

54. The **FAP administrator** is responsible for taking the minutes of the Fair Access Panel meetings.
55. The **FAP administrator** will keep a register of those considered for a move (whether the move is agreed or not) and of those admitted and those leaving schools under the Fair Access Protocol in the area covered by the relevant Fair Access Panel. Education Welfare members will provide this data to the Admissions Manager for inclusion in the Local Authority Report to the Schools Adjudicator and for publication on the Borough website.

Offers

56. The FAP administrator will pass the decisions regarding placements to the Admissions Team.
57. The Admissions Team then write to the relevant school and parents to confirm the agreement to offer a place under the Fair Access Protocol.
58. Parents will be asked to confirm or reject acceptance of the place by responding to the Admissions Team rather than directly to the offered school.
59. Parents will have seven calendar days to respond.
60. An earlier start date can be agreed with the parents once the parent has responded to the Admissions Team (if the placement has been accepted).

Arrangements for being taken on roll

61. Children referred by schools, for whom there is no admissions application form and who have an existing school place will receive a letter from the Admission Team offering a place or, in the case of own admission authority schools, offering a place on behalf of the Governors/Directors. The letter will specify a start date. This date will normally be 15 working days from the date of the letter. The child will not be taken on roll until the parent has confirmed to the Admissions Team that the place has been accepted. The parent will have seven calendar days to respond. The offer will lapse if no response has been received after those seven days.
62. Those children who do not currently have a school place will be taken on roll from the date specified in the letter from the Admission Team offering a place or, in the case of own admission authority schools, offering a place on behalf of the Governors/Directors.

63. When a child is added to the school roll, they will automatically be added to the attendance register.
64. On the day the pupil is expected to arrive at school, the Attendance Register should be marked in the normal way. If a pupil fails to appear and no explanation is provided, then an "N" should be used. This is only a temporary code and therefore should only be used until the reason for absence is confirmed by the parent. If no reason is given by the child's parent the code should be changed to an unauthorised absence. Pupils should not be removed from school roll until they are added to the new school roll.

Directions

The process for requesting that the Secretary of State direct an Academy to admit a child

65. Requesting the Secretary of State to direct an Academy to admit a child will only occur where a local resolution cannot be found.
66. If the Secretary of State is asked to direct an Academy to admit a child the request will be made by the Admissions and Transport Services Manager on behalf of the Local Authority. The Local Authority and the relevant Academy will be responsible for documenting the case for and against admission.
67. The Education Funding Agency will act on behalf of the Secretary of State in considering whether due process has been followed in applying the provisions of the Fair Access Protocol.
68. In requesting a direction from the Secretary of State, the Local Authority will need to provide evidence that the provisions of the Fair Access Protocol have been applied in a fair and appropriate manner. The Local Authority must also set out the Academy's reasons for refusal and the Local Authority's response.
69. The Local Authority will use the template shown as Appendix 4 when writing to the Education Funding Agency.
70. On receipt of a request to direct, the Education Funding Agency can be expected to inform the Academy that it has received a request for a direction. The non-statutory guidance states that in these circumstances the Education Funding Agency will write to the relevant Academy to ask for any evidence that has been supplied that shows the process has not been properly applied. The Education Funding Agency can be expected to give Academy 7 calendar days to respond.
71. Where the Secretary of State is asked to consider a direction, the non-statutory guidance makes it clear that he can be expected to make a decision on the basis of the papers provided, taking into account:
 - Whether the local Fair Access Protocol has been applied appropriately

- The arguments of the Academy and the Local Authority, whether the Local Authority has considered the arguments for refusal and why it still considers the Academy to be the appropriate place for the child.
- Whether the Academy has been asked to accept a disproportionate number of children under the Fair Access Protocol compared to other local schools.

72. A flow chart regarding directions is attached as Appendix 5.

The process for directing a maintained school for which the Local Authority is not the admission authority when the school concerned refuses to accept a child

73. Directing a maintained school to admit a child following a decision made under the Protocol will only occur where a local resolution cannot be found.

74. Initially a letter will be sent from the Admissions Team stating that a place needs to be made available following a decision under the Protocol. Any maintained school approached in this way must respond to the Local Authority within 7 calendar days.

75. If the child concerned has been refused entry to, or permanently excluded from, every appropriate school within a suitable distance the Admissions Manager will then write to the school to inform the Governors and Head of the intention to direct admission.

76. The Governing body may appeal by referring the case to the Schools Adjudicator. The Governors have 15 calendar days within which to refer the case

77. If the Schools Adjudicator does not uphold the direction the Adjudicator may direct admission to an alternative school.

78. If the Schools Adjudicator upholds the direction the child must be admitted to the school. The school will then need to agree a start date with the child's parents.

79. A flow chart regarding directions is attached as Appendix 5.

Queries

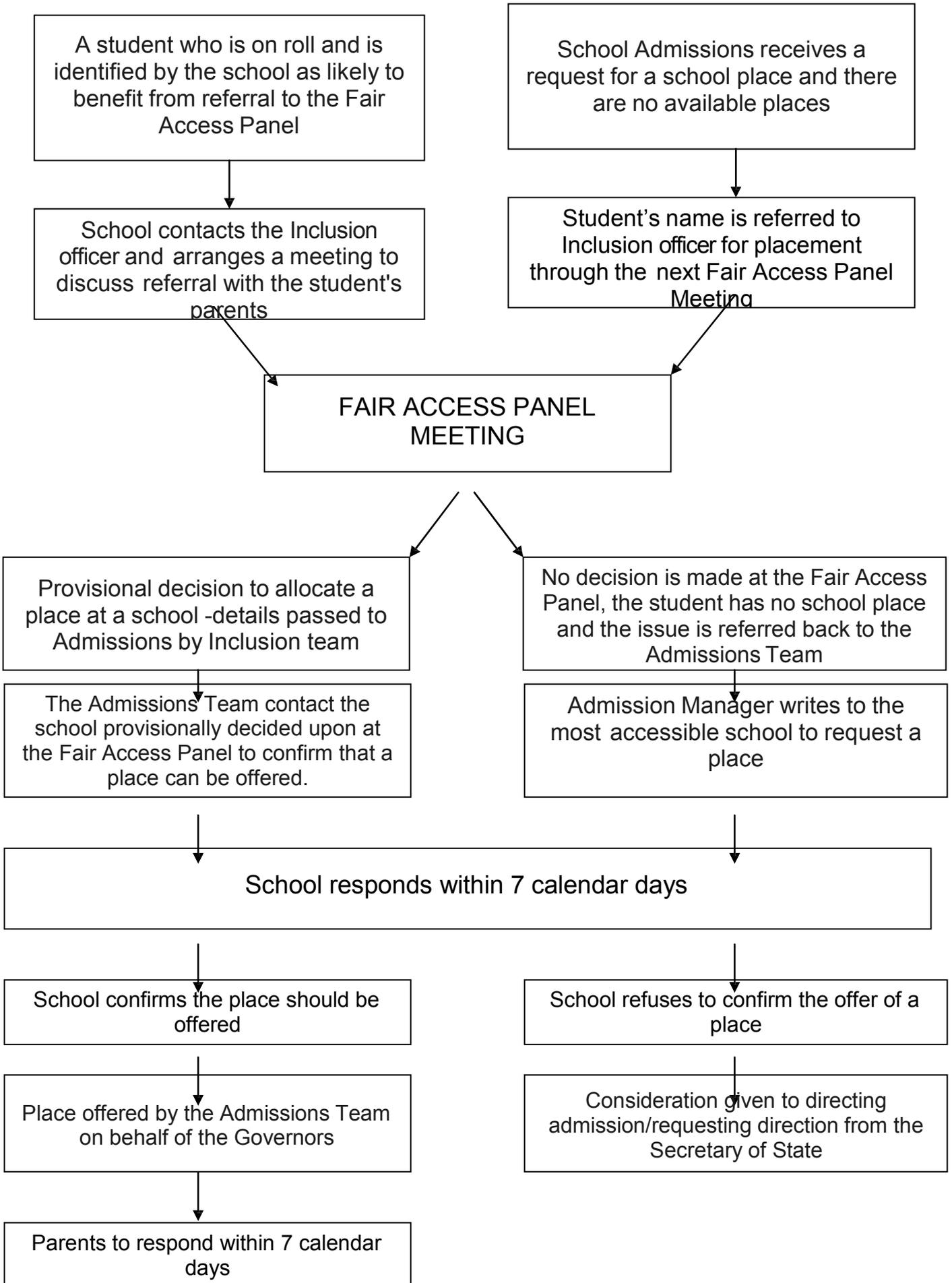
80. Queries regarding the operation of the Protocol should be directed to the Virtual School Headteacher at:-

Virtual School Headteacher
 Civic Offices
 Shute End
 Wokingham RG40 1BN
 Email: Shan.Ratcliffe@wokingham.gov.uk

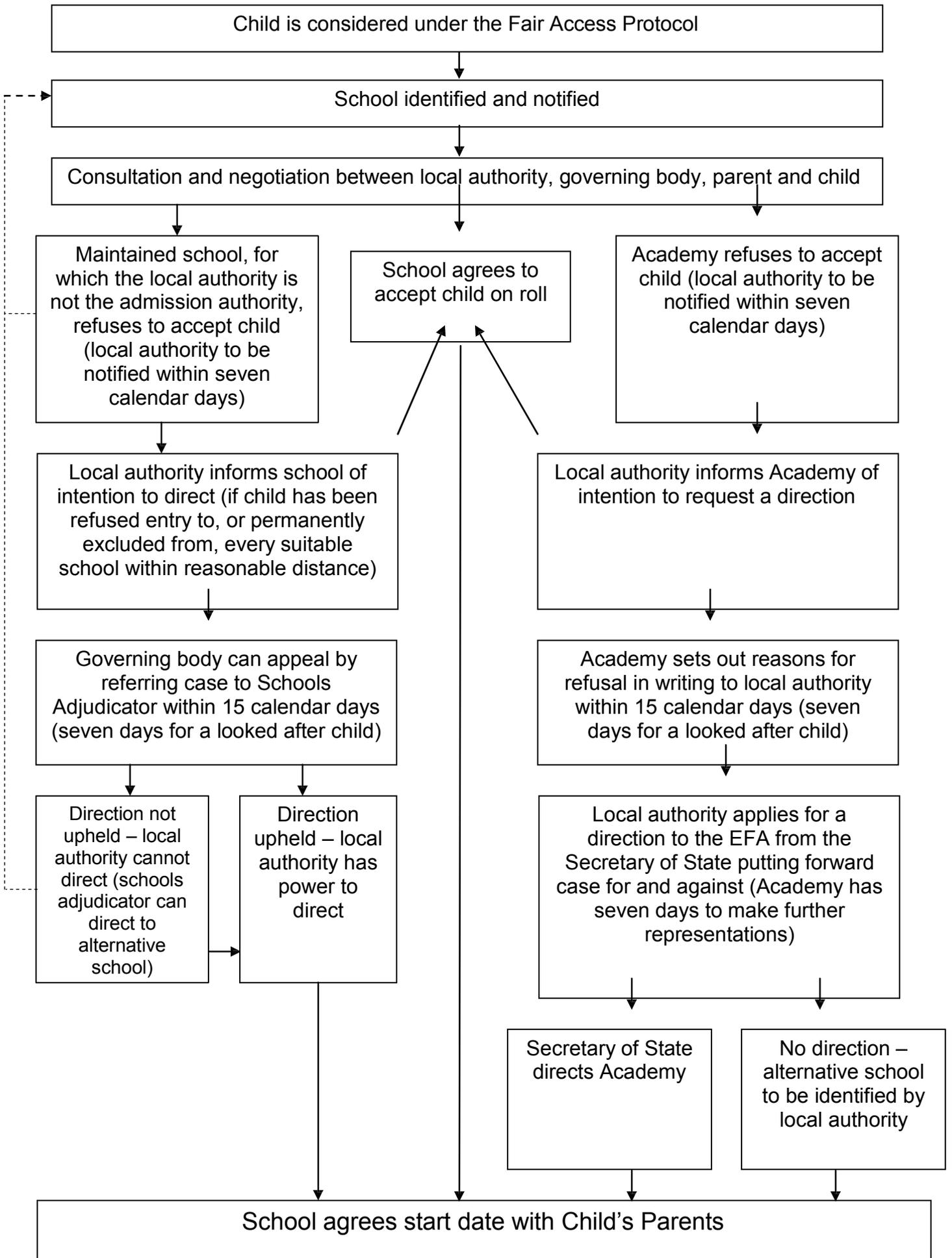
81. The non-statutory guidance on Fair Access Protocols can be obtained at:
<http://dfe.gov.uk/aboutdfe/advice/f00217650/fair-access-protocols-advice>

APPENDIX 1

Placement at a school via the Fair Access Panel



APPENDIX 2 - Directions flow chart (overview of process)



**Note: A community or voluntary controlled school cannot refuse to admit a pupil if requested by its own admissions authority*