

**WAKEFIELD LA  
FAIR ACCESS PROTOCOL**

### Document Detail

<b><u>Document Type:</u></b>	Protocol & Associated Documentation
<b><u>Document Name:</u></b>	FAP version 3
<b><u>Version Number:</u></b>	3
<b><u>Effective from:</u></b>	16 January 2020
<b><u>Owner:</u></b>	Wakefield Secondary & Primary Headteachers
<b><u>Approved by:</u></b>	
<b><u>Next Review Date:</u></b>	1 September 2020
<b><u>Consultation:</u></b>	Wakefield Secondary & Primary Headteachers Wakefield Local Authority Officers

### Document History

<b>Version</b>	<b>Date</b>	<b>Reviewed By</b>	<b>Note of Revisions</b>
1	16 January 2020	Secondary Headteachers, D Atkins	Revision of FAP criteria to include: <ul style="list-style-type: none"> <li>• Involvement of agencies in last 12 months; and</li> <li>• All children who have been EHE.</li> </ul>
2	3 February 2020	Working Group including : D Atkins A Warboys W Bush L Proctor D Cook C Milner R Merritt T Rutter	Clarity on EHE but no further changes at this point. Agreed that further wider review for 1 September 2020 which includes: <ul style="list-style-type: none"> <li>• Clarity on criteria eg SEN, attendance</li> <li>• Review Y11 transfer to include Y10</li> <li>• General re-fresh.</li> </ul>
3	5 February 2020	Secondary Headteacher	Report back work of working group.
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## **Background**

In line with the latest DfE guidance (Admissions Code 2014 and Guidance 2012) and in consultation with all relevant partners a Fair Access Protocol was agreed. This Protocol was previously known as the Hard to Place Protocol and was first introduced in Wakefield in November 2005. The Protocol applied to all schools in Wakefield, including the Academies, Trust schools and Voluntary Aided schools.

The aims of the protocol were set out to:

- (i) ensure all children within the District have the opportunity to reach their potential through regular attendance at school.
- (ii) ensure that no school has to take an unfair proportion of pupils who have challenging behaviour.

These aims are set within an operational context, which is informed by the principles set out in Every Child Matters which emphasises the need to safeguard the well being of all children and young people.

## **Background**

In a subsequent revision of the School Admissions Code of Practice (February 2007), the DfE issued new regulations which required LAs to review and revise the Hard to Place Protocol. This would be replaced by a newly modelled protocol - Fair Access Protocol - which was agreed by schools and LAs in the Autumn term of 2007.

The DfE introduced a new Admissions Code in 2010 and the LA undertook a "refresh" following these new regulations. A further refresh was undertaken in 2014 following the revised Admissions Code (2014). It is then reviewed annually in the summer term of each academic year with the respective Fair Access Panels

The Fair Access Protocol ensures that unplaced children, especially the most vulnerable, are offered a place at a suitable school in the home Local Authority as quickly as possible. This includes admitting children above the

published admission number to schools that are already full and refusing children where there are school places.

### **School Admissions Policies**

Admission procedures in Wakefield work well for most pupils and schools. Across the district there remains a strong commitment between all schools and the LA, to work together in partnership on all matters concerning admissions.

The admission of all pupils, including those who have Special Educational Needs, are generally through the usual routes, which are set out within the relevant statutory and local admissions policies and procedures.

A range of existing policies deal with situations where there are more applications than places available at any particular school. Information on how these admissions are prioritised is provided within the Local Authority admissions policies or school's own admission policies. These policies apply in all cases where a particular year group is full, not just during the usual September admissions round.

However, there continues to be a significant number of admission requests, outside of the usual school intake admissions round and these can occur at any time of the year. Many are straight forward, however, a disproportionate number of these admissions involve pupils who have a complex range of personal and educational needs and who have the potential to present significant challenges to schools, in terms of their capacity to meet those needs.

Some schools will inevitably take a higher proportion of pupils with challenging needs, due to the nature of their local catchment areas. The purpose of the Fair Access Protocol is to ensure that no one school takes more than its fair share of challenging admissions. The LA will endeavour to ensure that most of these children, who seek admission during the academic year, are admitted to the most appropriate school.

Schools which have places available also often have to admit a high proportion of challenging pupils and the Protocol operates to ensure these schools are not asked to take more than their fair share due to the fact that they have places.

The School Admissions Code of Practice, and other previous guidance, recognises and emphasises that admissions policy and practise must secure a balance between finding a place quickly in an undersubscribed school, or one in challenging circumstances, and finding a school place that is appropriate for the child. The Code is clear that Local Authorities must not require undersubscribed schools to admit a greater proportion of children with a recent history of challenging behaviour than other schools.

The Children and Young People Service recognises that some parents can find difficulty in obtaining a school place for their child(ren) and that this can lead to an unnecessary delay in the admission to a school. This can be for a number of reasons, but it often also results in undersubscribed schools (which may also be operating under challenging circumstances) being asked to admit a larger proportion of hard to place pupils than those schools operating at their indicated admission number.

One of the main purposes of the Fair Access Protocol is therefore to support timely access to appropriate education for all pupils. At the same time the Fair Access Protocol will ensure that there is a fairer distribution of pupils with complex and varied needs across all the LA's schools whilst recognising that hard to place pupils should not be denied access to their catchment area, nearest or most suitable school.

### **Fair Access Panel (FAP)**

The FAP [Annex 1] will consider applications under the Protocol and agree on the placement of children. It will also consider the circumstances of cases where placements have not been secured within the timescales and work to support the successful placement of pupils using a range of strategies and resources. The panel will also be responsible for providing information and feedback to all relevant parties on the effectiveness of the policies and procedures which manage admissions within the LA.

The provision of monthly statistics to Headteachers on school-based data on placements through the Protocol and an annual report for further analysis will ensure that there is full transparency to the Protocol.

<p>The Protocol applies equally to all Community, Voluntary Controlled, Voluntary Aided, Foundation and Trust schools and Academies within Wakefield. This is a requirement of the statutory code of practice.</p>
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### **Fair Access Protocol**

The Protocol overrides the current over subscription criteria of an individual school's admission policy.

Pupils who are admitted via this protocol will receive priority above other young people seeking admission to a school.

### General Principles

The following principles have been agreed by Headteachers and Governing Bodies and underpin the Local Authority's approach to admissions:

- All children of all ages should be educated as close to their family and community as possible. All children should therefore attend their local school wherever possible.
- The admissions system should be seen to be transparent and equitable, serving the best interests of children and minimising the amount of time children spend out of school.
- The educational interests of young people in all but the most exceptional circumstances are best served by full time mainstream schooling; all involved will work together to ensure that access is maximised, and consistent with the needs of the individual child.
- Headteachers and the LA will do all they can to minimise mid year transfers within the District.
- Secondary School Headteachers agree that there will be no movement of pupils within Year 11 within Wakefield Schools except in exceptional circumstances. Feeder schools agree to discuss with parents the detrimental impact such a move would have on their child's educational attainment.
- All schools will agree to share responsibility for the education of children with challenging behaviour and will work together to ensure there is a fair distribution of such children across all schools, consistent with the statutory admissions framework.
- The LA believes that schools are in general best placed to deliver behaviour support to pupils and the LA will devolve funding for this purpose, subject to retaining sufficient resources to allow its statutory responsibility for the education of children otherwise than at school to be fulfilled.
- Permanent exclusion has a significant effect on the further engagement and progress of the pupil concerned. It should only be used where no other courses of action are available or appropriate. It has been agreed that Schools and the LA will work in partnership and explore opportunities to minimise permanent exclusion and will seek to engage parents and other agencies to work with them to achieve this aim.
- No child will be excluded other than by way of the formal procedures.
- It is expected that a child will be permanently resident in Wakefield and meets the usual residential checks undertaken by the School Admissions Team.

The Protocol aims to:

- Ensure that the educational needs of pupils who are not on the roll of any school, are addressed quickly, sympathetically and appropriately;
- Reduce the time that pupils who fall within the scope of the Protocol spend out of school;
- Ensure that all schools contribute to meeting the needs of pupils who have complex personal and educational needs;
- Ensure that challenging pupils are distributed fairly around all schools in the District; and
- Be fair and transparent, and to have the confidence of all schools;

## The protocol – ground rules

By signing up to this agreement, all schools agree to share collective responsibility so that children with complex and varied needs are found a school place with a minimum disruption to their education and the overall work of the receiving school. The LA promotes access to education for all young people and seeks to ensure, that where appropriate, all children and young people in Wakefield have access to an appropriate school place.

For the protocol to be successful:

- All schools will continue to admit local pupils who apply for an available place, under normal admission arrangements.
- All schools (both primary and secondary) will take part, and have signed up to the implementation of the protocol.
- No school will use oversubscription as a reason to refuse admission of a pupil who falls within the definition of this protocol and high need pupils, as defined in this document, will be given priority for admission over any others on a waiting list or awaiting an appeal.
- Schools will respond **within 10 school days** to requests for admission so that admission of the pupil is not unduly delayed. The pupil should be entered on the register of a school as soon as possible following agreement between the Local Authority and the Headteacher of the school concerned. Schools will aim to place pupils on roll within 10 school days of notification by the School Admissions Team, however, it is recognised that the placement of these pupils can be complex and this is not always possible. For admissions under this Protocol, particularly where the pupil has been out of schooling for some time, a phased attendance pattern may be necessary although, unless there are exceptional circumstances, full time attendance should be in place within 4 weeks of entry on the register.
- Schools within the Wakefield area will provide up to date information on the pupil to be admitted to another school. The gathering of information to enable a pupil to be placed successfully in a school is a joint responsibility between the School Admissions Team and the school where the child had previously been placed as follows:
  - The LA will be responsible for contacting the school where the child was previously placed to request the pupil information as soon as possible;
  - The school where the child was previously placed will be responsible for providing up to date information to the LA within 5 school days

The Headteacher or designate of the receiving school will always be consulted prior on any admission and have an opportunity to express any

views or concerns. A lack of information should not be used to delay the admission; however, it is recognised that a balance must be drawn between a lack of information and concerns that a school may have with regard to admitting the pupil.

- The outcome of any relevant appeal will not be used to delay admission by schools.
- Schools will work with the LA to provide quick and easy access for LAC.

### Administrative Procedures

If a mid term application is received by the School Admissions Team from a parent, the Admissions Team will assess whether or not the child meets the criteria of this Protocol.

If the child does not meet the Protocol then normal school admission arrangements are applied and a place is sought through the usual channels.

Once the Admissions Team has determined the application meets the Protocol criteria the application will be sent to the school(s) for their consideration. If the school wishes the application to be referred to the next meeting of FAP then they will outline why to the School Admissions Team. The School Admissions Team will form the agenda of cases to be considered prior to the FAP meeting so that FAP might consider any exceptional reasons behind the application or the school referred to. At the Panel meeting, the receiving school should raise any issues that they might identify in making the placement.

Once the FAP have agreed a school place it will be referred back to the Admissions Team who will formally refer the application to the agreed school.

For secondary aged children who are permanently excluded the appropriate Pupil Referral Unit (PRU) will meet with the parents and complete an admissions application form. This will be forwarded to the School Admissions Team.

It should be noted that a Pupil Referral Unit (PRU) is not to be regarded as long-term provision. Therefore, all permanently excluded pupils attending a PRU will have a mainstream school identified where it is anticipated they will attend at the point where the PRU, in discussion with the identified mainstream school, feels that the pupil is ready to begin the transition back into mainstream provision.

The School Admissions Team will refer the application to the next Panel meeting who will allocate an appropriate mainstream school. Where the Panel do not meet preference the parent will be offered their right of appeal against

this decision. The PRU and allocated school will work together with the child and their parents in agreeing a start date at the school.

Children that are on Elective Home Education (EHE) (this only applies to Secondary Schools not Primary Schools)

- Children returning to education following a period of EHE must apply for a school place;
- The child will be placed back on roll at the last school they attended before EHE, only where this is a Wakefield school. Where the school in question is full the student will be placed back on roll over the school's PAN;
- If they wish to return to their previous school these applications will be under Fair Access, however, they do not go to the Panel or count against the school's quota for the school re-admitting;
- Should the parent/carer preference any alternative schools above their previous school these applications will be referred to the next Fair Access Panel for a decision. If they are admitted to a different school these children will count against Fair Access quotas for the admitting school; and
- If a school place is agreed at a new school then the child will transfer to that school and come off roll at the original school.

Categories of pupils and the Fair Access Protocol

A pupil placed under this Protocol is not necessarily a "challenging" pupil. Any child in this category is however potentially a vulnerable child as long as an appropriate educational placement has not been secured.

Wakefield has considered DfE guidance and the categories of children covered by the local FAP are agreed as follows:

- Children who have been permanently excluded from another school and require either an alternative mainstream place immediately or reintegration into mainstream following specialist work. A recommendation will be made following appropriate assessment and consideration of all the information available, that the pupil is ready to return to mainstream school. The pupil may be dually registered for a term, as part of a re-integration package. For primary aged pupils, it may be appropriate for them to access provision at one of the specialist Behaviour resources for a period of time. Secondary aged pupils could be dually registered at the appropriate Pupil Referral Unit, or alternatively, could attend a local Step Out centre, providing the receiving secondary school has signed up to the Service Level Agreement for this provision;
- Children at risk of permanent exclusion or withdrawn from school by their family because of a risk of permanent exclusion, following fixed term exclusions and unable to find another place; to include where a

child is at risk of permanent exclusion, for whom a managed move is agreed by all stake holders as the best way forward;

- Children who have an attendance figure of 80% or less and have had a referral to an Education Welfare Officer;
- Children with either current, or within the last 12 months, active involvement with outside “agencies” or who have been convicted of a criminal offence. Examples of other agencies include Youth Offending Team, the Police. Social Services, CAMHS;
- Children returning from the criminal justice system
- Homeless Children;
- Children who are carers;
- Children with special educational needs and on the Special Needs Register but without a statement/EHCP (old school action and school action plus);
- Children with disabilities or medical conditions;
- Children of Gypsy, Roma or Traveller Families who are new into District;
- Children where a place has not been sought due to significant difficulties within the family;
- Refugees and asylum seekers;
- Children on the Child Protection Register;
- Children who have been out of education for longer than one term or have had a period of Elective Home Education \*;
- Children whose parents have been unable to find them a place after moving to the area, because of a shortage of places;
- Children placed in alternative accommodation due to domestic violence;
- Children of UK service personnel and other Crown Servants; and
- Applications to transfer schools with no house move where the student is in Y11.

\* Elective Home Education (EHE) is where a child, for a range of reasons, is being educated at home and/or in the community by parents, guardians, carers or tutors, and are **NOT** registered full time at mainstream schools or other educational establishments. The child must be registered with the LA as EHE.

The allocation of pupils who are placed under the FAP will be as follows (there may be exemptions to this under Challenging behaviour / schools in a category):

- The pupil will be placed in his/her local catchment area school unless that school has already admitted, and maintained on roll, two (Fair Access Protocol) pupils (or 1% whichever is the greater) within the same year group in the last twelve months.
- In such cases, the pupil will be admitted to the next nearest school as measured by a straight-line distance from the pupil’s home. Again, if that school has admitted two such pupils within the last twelve months he/she will be referred to a third school and so on.

In all cases the pupil will be entered on the receiving school register within ten school days of notification by the LA. Managed Moves will only be considered for Fair Access children and any Managed Move must be agreed by the FAP in-line with the Managed Move Protocol.

Any decisions made by the FAP will be final.

### Parental preference

The duty to recognise parental preference, within the context of the LA admissions policy and for school's whose Governing Body is the admissions authority, is generally not relieved under the Fair Access Protocol. Where the preference is made for a faith-based school any placement will be discussed with the school and the school's admissions policy will be taken into consideration.

For twice excluded pupils there is no duty to comply with the preference of parents or offer an appeal. This category of pupils will normally be considered by this Protocol.

Where the admissions authority has determined that a child should not be offered a place at a particular school, the parent will have a right of appeal to the Independent School Admissions Appeals Panel. Children refused a place at FAP is absolute and these children will therefore not be placed on that school's waiting list unless FAP agree otherwise.

Parent/Carers may refuse the placement agreed for their child and retain the right of appeal directly to another school. If refused by the school, the parent/carer retains the right to appeal.

If an appeal is successful this decision overrules the FAP decision and schools must admit the child.

### Challenging behaviour

The LA considers challenging behaviour to be aggressive or violent behaviours exhibited by students which create serious disruption and which may place themselves and others at risk within the educational setting. Such behaviours are usually displayed on a persistent and regular basis. However, this may also include children who take a disproportionate amount of teaching time than most children.

The Code stipulates that no school will be expected to take a greater proportion of children who have been excluded from other schools or who have challenging behaviour or who are known to have a history of behavioural problems, including schools which are undersubscribed. Such pupils should

be distributed fairly around all schools so one school does not take more than its fair share.

A school may wish to present evidence to the Panel to demonstrate that they already have a disproportionate\* number of such children on roll in their school. The Panel will consider this when placing pupils under this Protocol and may agree not to place a child in a school with places. It should be noted that if this is agreed by the Panel then this does not affect the parent's right of appeal and an alternative offer must be made either in line with one of the parent's preferences or within a reasonable travelling distance of the child.

The Panel will need to have the school demonstrate:

- 1) The school has active involvement of support services to address issues in respect of challenging behaviour.
- 2) Where schools have more than one class, they have given serious consideration to take reasonable steps to try to accommodate the pupil.
- 3) The admission of this pupil would have a significant adverse effect on a particular pupil already in the school which would need to be taken considered by the Panel.
- 4) Have taken a high proportion of challenging children and/or have such children in the year group in question
- 5) That the school have taken a "fair share of Fair Access children already.

The School Admissions Code of Practice also gives the admissions authority the provision to refuse admission in particular circumstances, even though there are places available.

Each case must be considered individually and refusal of a place will normally only be appropriate where a school:

- Already has a particularly high concentration of pupils with challenging behaviour, or a child is particularly challenging and that the admission of the pupil in question would be detrimental to the school's efforts to improve.

The Panel will be sympathetic where a school has temporary changes in circumstances where they feel it is unable to operate at its published admission number, an example of this may be where the school has had a fire or physical accommodation has been removed.

The impact of persistent absentees added to the school roll mid-year shall be identified where appropriate as affecting attendance figures.

#### Exemptions to the protocol

- SEN Pupils. Children with statements of special educational needs or EHCP. Separate arrangements apply for the admission of children with SEN where there are difficulties in securing an appropriate placement

- Looked After Children or Previously Looked After. Section 50 of the Education and Inspection Act 2006 creates a new power for LAs to direct admission authorities to admit looked after children to the best suited school to his or her needs. The School Admissions Team, on behalf of the LA, and in consultation with other relevant parties, will make a final decision concerning what represents the child's best interest. In this situation the LA will use its statutory powers to direct the admission of individual pupils.

There are main reasons for children being in local authority care or previously Looked After are:

- Children who are subject to a care order made by the courts under section 31 of the Children Act 1989 (about 65% of all looked-after children) - for the courts to grant a care order they have to be satisfied that a child is suffering or would suffer 'significant harm' without one
  - Children who are accommodated by the local authority on a voluntary basis under section 20 of the Children Act 1989 (about a third of all looked-after children)
  - Children who are previously Looked After but ceased to be so because they were adopted (under the terms of the Adoption and Children Act 2002), became subject to a residence order (under section 46 of the Children Act 1989) or special guardianship order (under section 14A of the Children Act).
- Looked After Children will be counted against a school's "quota". If this has been reached and it is felt that a young person should be admitted to a particular school, then these quotas can be exceeded in these circumstances. It should be noted that appeals to these directions are to be made to the Schools Adjudicator not the LA.
  - Any placement will have to comply with the Infant Class Size legislation.

#### Appeals against allocation of a pupil

The LA will establish an administrative body known as the Fair Access Panel to hear all placements of children under the Fair Access.

All schools will be expected to admit pupils who have been duly assigned to their school by the FAP.

If a school is identified by FAP as the one to admit a pupil and it refuses to do so the LA will mediate with the school concerned to resolve the matter. It is expected that the matter should be resolved locally, however, should this not be possible then the LA would consider a direction for the maintained school or approaching the Secretary of State for a direction to an Academy.

#### Provision of transport

Transport assistance will be available, if necessary, for any pupil who has to travel in excess of three miles to the designated school, in line with the normal home to school transport policy.

#### Monitoring and review

The FAP will monitor and evaluate the effectiveness of all admissions policy and procedures within the LA and will provide data, feedback, amendments and reports as set out in its terms of reference, to all relevant parties, including governing bodies, in the autumn of each year.

## Annex 1

### Wakefield Fair Access Panel

#### Terms of Reference

- To secure effective access to appropriate and high-quality education for all pupils in Wakefield
- To decide on the allocation of schools for children who meet the criteria of the Fair Access Protocol.
- To coordinate support that facilitates the placement of pupils with significant needs whether placed via normal admissions or via the Fair Access Protocol
- To monitor work of the panel, including producing reports
- To implement change and improvement in performance of Panel
- To hear appeals covered by the Fair Access Protocol

**The Panel will be used where there has been a failure to place a pupil using the existing mechanisms, through both normal admissions arrangements and through use of the Fair Access Protocol.**

The panel will meet monthly and members will commit to their or their representative's attendance at every meeting.

All decisions of the panel will be binding on schools. Where a decision of Panel is disputed, the case will be referred by the LA to the Director of Children and Young People. A final decision will then be made and a school in this situation may be directed to admit the pupil concerned.

The panel will circulate all its decisions monthly to schools including relevant data, which indicates the developing profile of its work and the pupils placed in schools, as the year progresses.

**All Panel members must be able to contribute to supporting a successful placement, when appropriate and in the light of the circumstances of each case, either individually or by working together.**

A separate Primary and Secondary Panel will operate with the following membership:

- Team Manager (Admissions and Transport) (Chair)
- Nominated Secondary Headteacher Representative
- Nominated Primary Headteacher representative
- Nominated Special School representative
- Team Manager (Education Welfare Officer)
- Clerk

The following professionals may be invited to attend the meeting where appropriate:

- A Representative from the Police Service
- SEN Officer – SENART
- A representative of the Youth Offending Team (YOT)
- Connexions
- Complex Care
- Social Inclusion team
- Parent Partnership representative
- PCT / CAMHS
- Representative of Wakefield Association of School Governors