

## ***Bracknell Forest Fair Access Protocol (FAP)***

### **1. Legislation**

- 1.1 The School Admissions Code (September 2021) requires the Local Authority (LA) to have a Fair Access Protocol (FAP), agreed with the schools in its area, to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place, are allocated a suitable school place as quickly as possible.
- 1.2 The protocol applies to the admission of pupils to schools in Bracknell Forest outside of the normal point of admission. Therefore, a referral to FAP is the result of a pupil requiring placement in-year and should only take place if it can be demonstrated that reasonable measures have been taken to secure a place through in-year procedures and that the pupil meets one of the prescribed categories of children eligible to be placed under the protocol.
- 1.3 This Protocol applies only to children resident in Bracknell Forest and to Bracknell Forest schools, though it may be applied to children resident in Bracknell Forest seeking a place at a school outside Bracknell Forest if the admitting authority for the school is prepared to accept this and vice versa.
- 1.4 This Protocol does not apply to children whose parents did not secure provision at their preferred schools when starting school, infant to junior or secondary transfers.

### **2. Key principles**

- 2.1 Every local authority must have a Fair Access Protocol (FAP), agreed by the majority of schools in its area, in which all schools must participate.<sup>1</sup>
- 2.2 In agreeing a protocol, 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 permanently excluded from other schools, who display challenging behaviour or who have been placed via the Protocol.
- 2.3 Referral to FAP should be seen as the last resort to secure a school place for a child. Where possible, children should be placed in school through the usual in-year admissions process in the first instance (see Appendix 1).
- 2.4 FAP is designed to ensure every child has access to a school place. It is about securing a place at a school, not about what support a child or school may need once admitted.
- 2.5 Eligibility under FAP does not limit a parent's right to make an in-year application to any school for their child which must be processed in line with usual in-year admission procedures. Admission authorities must not refuse to admit a child on the basis that they may be eligible for placement under the protocol. Parents continue to have a right of appeal for any place they have been refused, even if the child has been offered a place elsewhere under the protocol. Formal admission appeals for hard to place pupils are not required before a pupil may be admitted under this Protocol;

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<sup>1</sup> Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full.

2.6 A pupil who has been denied a place at a school by the Independent Appeal Panel may be admitted by that school if it is identified under the terms of this Protocol as being the one to admit the pupil;

2.7 Where an admission authority receives an in-year application and does not wish to admit the child because it has good reason to believe that the child has challenging behaviour, even though places are available, it must refer the case to the Local Authority for action under FAP. This will only be appropriate where the school has a particularly high proportion of either children with challenging behaviour or previously permanently excluded children on roll compared to other local schools and it considers that admitting the child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources. This provision cannot be used to refuse the admission of looked after children, previously looked after children and children with an Education Health and Care (EHC) Plan naming the school in question. Admissions authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.

### 3. Children eligible for Fair Access Protocol

FAPs are intended to act as a safety net for the most vulnerable. As such, they may **only** be used to place the following categories of children, **where a child is having difficulty in securing a school place in-year**, and it can be demonstrated that reasonable measures have been taken to secure a place through the in-year admissions<sup>2</sup>:

- a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;
- c) children from the criminal justice system;
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e) children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions;
- f) children who are carers;
- g) children who are homeless;
- h) children in formal kinship care arrangements;
- i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;
- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of The School Admissions Code;
- k) children for whom a place has not been sought due to exceptional circumstances;
- l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

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<sup>2</sup> For example, where an application has been made to at least one school and this has been refused, or the local authority has confirmed that there are no places available at any school within a reasonable distance

#### 4. Schools referring to FAP under Section 3.10 - Challenging Behaviour

To meet eligibility for referral to FAP under section 3.10 of The School Admissions Code (SAC) 2021 (displaying challenging behaviour), **ALL** of the below must apply.

- a) The application is not for a normal admission round or for a normal year of entry at any point in that year (Year 7 or Reception) (*section 3.9 SAC*), or where it is, the child in question has been permanently excluded from two or more schools and the last exclusion was within the last two years (*section 3.8 SAC*)
- b) The child in question's behaviour is such that it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency, or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment (*section 3.10, note 76 SAC*)
- c) The child in question is not Looked after, previously looked after, or have an EHCP naming the school (*section 3.12 SAC*)
- d) The school has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources (*section 3.11 SAC*)

#### **Twice permanently excluded pupils (3.8 School Admissions Code)<sup>3</sup>**

Where a child has been permanently excluded from two or more schools and the last exclusion is within the last two years, there is no need for an admission authority to comply with parental preference.

These children can only be referred to the FAP using:

Section 3.10 of The School Admissions Code 2021, where the admission authority can prove they meet the above threshold for section 3.10.

Or FAP criterion d, if they are currently being provided with alternative provision and are ready to integrate into mainstream.

If they fail to meet any of the above, they can only be referred to FAP after 4 weeks of not receiving an education under criterion I.

The following reasons on their own should **not** be grounds for considering that a child may display challenging behaviour:

- poor attendance elsewhere;
- a defined number of suspensions, without consideration of the grounds on which they were made;
- special educational needs; or
- having a disability.

Admission authorities should consider the effect of the decision of the Upper Tribunal in [C & C v The Governing Body of a School, The Secretary of State for Education \(First Interested Party\) and The National Autistic Society \(Second Interested Party\) \(SEN\): \[2018\] UKUT 269 \(AAC\) ; \[2019\] AACR 10 - GOV.UK \(www.gov.uk\)](#) about the

<sup>3</sup> The twice excluded rule does not apply to the following children: children who were below compulsory school age at the time of the exclusion; children who have been reinstated following a permanent exclusion (or would have been reinstated had it been practicable to do so); children whose permanent exclusion has been considered by a review panel, and the panel has decided to quash a decision not to reinstate them following the exclusion; and children with education, health and care plans naming the school

implications of the Equality Act 2010 when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability.

## 5. FAP Processes & Procedures

### 5.1 Referral to FAP

- 5.1.1 All in year applications received by The School Admissions Team will be processed in line with parental preference and the School Admissions Code. The team will work to ensure all children are admitted as required.
- 5.1.2 Own Admission Authority schools that process their own in year applications must also ensure all applications are processed in line with parental preference and the School Admissions Code and ensure children are admitted as required.
- 5.1.3 The admission authority/schools should work to admit every child where they have places. The child must be admitted without delay or referred back to School Admissions for consideration by FAP.
- 5.1.4 Where an own admission authority school wishes (under paragraph 3.10 of The School Admissions Code) to refuse an application of a child they must inform the LA and include a detailed reason for this decision, in order for the application to then be considered for placement under FAP. The LA must be informed as soon as the application has been refused, which must be within the **statutory maximum 15 school days** that admission authorities have to provide an outcome to a parent's application.
- 5.1.5 For community and voluntary controlled schools, where the LA has good reason to believe the child may display challenging behaviour before the application is sent to the school, an offer letter will not be sent to the parent immediately and will be withheld while the LA consult with the school.
- The school will be given a deadline to respond with any concerns and will include the maximum number of days the LA can allow, dependent on the age of the application and whilst adhering to its duty to provide a parent with their outcome within a maximum of 15 school days.
  - The LA will work to send such applications quickly upon receipt, to allow schools as much time as possible to review the application and obtain relevant information.
  - After considering the application in line with the definition in section 4 of this protocol the school can, if they wish, request that the LA considers refusing the application under 3.10 of The School Admissions Code by completing the FAP referral form and including detailed reasons for the request.
  - The LA, as the admission authority for the school, will consider such request and determine if the application meets the requirements for refusal under 3.10.
  - If the LA decides it does meet the requirements, then a refusal letter will be sent to the parent along with notification that their application will be referred to FAP.
  - If the LA decides it does not meet the requirements under 3.10, the school will be notified and required to admit without delay.
  - Where the LA does not receive a completed FAP referral form by the deadline given, an offer letter will automatically be sent to the parent and school will be required to admit.
- 5.1.6 Where an admission authority refuses an in-year application because the year group is full and it considers that the child would be eligible to be placed via the FAP i.e. they fall or may fall into one of the categories set out in this protocol, the admission authority **must** notify the LA of this. The LA will then decide

whether the child is eligible to be placed in school via the FAP.

- 5.1.7 Where a school wishes to refer a child for consideration under the FAP the school should complete the FAP Referral form and return it to the School Admissions Team within the specified deadline. The school should ensure it is fully completed with all relevant information attached.

**5.1.8 To support a referral to FAP schools must work collaboratively and share all appropriate information in a timely manner.**

- 5.1.9 The School Admissions Team will inform parents that their application has been referred to FAP and pass the FAP referral to the FAP Integration Officer for review.

## **5.2 Review of FAP referral**

- 5.2.1 The FAP Integration Officer will consider each case, liaising with the Head of Service and School Admissions Team as appropriate, and will decide whether it is appropriate to refer the case directly to a school for placement or whether the circumstances of the case warrant discussion at panel:

- Children who meet categories d) and j) within the Protocol will be referred to panel for placement. For referrals under category j) the current/previous school may be contacted to determine whether the child's behaviour meets this criteria
- Children falling within one of the other categories will generally be referred directly to a school for placement.

- 5.2.2 The FAP Integration Officer will work with all departments and teams (including but not limited to, Children's Social Care, Early Help, Education Welfare Service, Youth Justice Team) in order to obtain all relevant information regarding the child.

- 5.2.3 The FAP Integration Officer will contact the child's previous/current school in order to request background information that may be of assistance to the decision-making process.

- 5.2.4 The FAP Officer will contact the parent/child and where appropriate carry out a visit to obtain their views and any further background information. This will be shared with the receiving school and/or the FAP panel.

- 5.2.5 The FAP Integration Officer will keep records of all pupils placed under this Protocol.

## **5.3 Decision making on placement**

- 5.3.1 Where it has been agreed that a child will be considered under FAP, a school place must be allocated for that child within **20 school days**.

- 5.3.2 The FAP will be underpinned by a transparent, collaborative approach, with the best interests of the children at heart and which seeks to:

- minimise the children's time out of education;
- secure appropriate school placements of children;
- secure an equitable distribution of children across all schools;
- ensure that all schools participate and take an equitable share of children irrespective of circumstances;
- ensure that schools are held to account for not complying with decisions under the Protocol to admit children without delay.

The FAP integration Officer will nominate a school for that child based on:

- The needs of the child in question
- Parental preference
- The number of hard to place pupils that the school has recently admitted to ensure equal distribution of these pupils across all schools
- The number of permanently excluded children that each school has admitted during that academic year
- The context of each school's circumstances, evidenced as necessary
- The distance of the proposed school from the address where the child is resident<sup>4</sup>.

5.3.3 Although there is no duty to comply with parental preference when placing a child through the FAP, every effort will be made to allocate a place within a reasonable distance of a child's home to support good attendance and education achievement.

5.3.4 If a child is returning from a period of elective home education, it is expected that the child will return to their previous school, unless they have transitioned to a different phase of education, or if the panel agrees it is not in the child's best interests for them to do so.

5.3.5 Once the child has been allocated a school place, arrangements should be made for the child to start at the school as soon as possible.

## 5.4 Confirmation of placement through FAP

5.4.1 The FAP Integration Officer will:

- contact the nominated school and that school should respond within **2 school days** to avoid delay in the process.
- share all relevant information with that school to facilitate the integration and admission of the child. If the school has concerns over the admission of the child they will raise them with the FAP Integration Officer and evidence them where necessary.
- Inform parent and nominated school in writing once placement has been confirmed
- will support the child and the school **for a term** following placement. This will include, but not limited to, attendance at review meetings to discuss progress and further support if needed.

5.4.2 The receiving school will:

- arrange a meeting at the earliest opportunity to involve (at least) the child and the parent(s)/carer(s) to discuss and agree a start date. Other professionals may also be included in this meeting if appropriate. The start date must be arranged for as soon as possible (ideally within 5 school days after the receiving school has been notified of the placement).
- arrange subsequent review meetings to involve the child (if appropriate), the parent(s)/carer(s), the FAP Integration Officer and any other professionals involved with the child as necessary.

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<sup>4</sup> The FAP will prioritise placing the child at a school that is within statutory school walking distance of the child's home address. The receiving school will ideally be the closest school to the child's home address that is eligible to receive a child under the FAP. However, if none of the schools within statutory school walking distance are eligible to admit a child under the FAP a place may be offered which is further away. In such cases, the child may be eligible for home to school transport (see Bracknell Forest School Transport Policy)

- 5.4.3 A child placed under the protocol must be placed on roll and admitted to school in the first instance, where their needs can be assessed, before seeking appropriate support from the relevant agencies.
- 5.4.4 The fact that the PAN has been reached or exceeded cannot be given as a reason for not admitting a pupil under this protocol.
- 5.4.5 The Fair Access Panel cannot place a child in a school where it would breach Infant Class Size Legislation, unless such pupil meets the very limited criteria of an 'excepted pupil' as defined in section 2.16 of The School Admissions Code 2021.
- 5.4.6 An admission under the Protocol has priority over other children on a waiting list.
- 5.4.7 Schools must not require that an appeal be heard before a child is admitted under the Protocol and must not refuse a child on the basis that an appeal was previously unsuccessful.

## **6. FAP Panel**

### **6.1. Composition**

The Panel meets on a monthly basis (see Appendix 2). The Panel will be chaired by the Head of Service or a designate. Best practice would be for the panel to consist of two mainstream primary school headteachers; a special school headteacher; two mainstream secondary school headteachers; the FAP Integration Officer and a School Admissions representative. However, at each Panel meeting there may be a need for representatives from various agencies that have been involved with a child. This could be, but not limited to, professionals from Early Help, Children Social Care, Youth Offending Service, Educational Psychology.

### **6.2 Role and Responsibility of Panel**

- 6.2.1 The role of the Panel is to agree on the most appropriate placement for the child presented by the FAP Integration Officer and to have an overview of the process and journey for each child following their referral.
- 6.2.2 Any headteacher on the Panel will step out of the meeting where their school is involved in any discussions. The Panel will ensure due process has been followed and will consider safeguarding arrangements to place the child's wellbeing at the centre of all decision making.
- 6.2.3 The Panel may make recommendations on appropriate support that might be needed to ensure a successful integration for that child.
- 6.2.4 The Panel will note their discussion and decision. The notes from the panel meeting can be made available to schools upon request.
- 6.2.5 The Panel will challenge those schools not fully participating in the Protocol and where necessary direct the school to admit or advise the ESFA of non-compliance and request to admit.
- 6.2.6 The Panel will also review any request for transport arrangements if the child is placed in a school that is outside of statutory walking distance.

## **7 Directions**

- 7.1 An admission authority/school must admit a child when asked to do so in accordance with the FAP, including where the school is operating a waiting list.
- 7.2 Where an admission authority/school has failed to admit a child in accordance with the FAP, they may be directed to do so.
- 7.3 A local authority has the power to direct the governing body of a maintained school for which they are not the admission authority to admit a child in their area even when the school is full.
- 7.4 Where a local authority considers that an academy will best meet the needs of the child, it can ask the Secretary of State to intervene – the Secretary of State has the power to direct the admission of any child to any academy under the academy's funding agreement.

## **8 Funding**

- 8.1 In the case of Year 11 pupils additional support may be required to ensure they can access a suitable curriculum that enables them to access education, employment and training.

## **9 Permanently excluded pupils**

- 9.1 The school is required to inform the Local Authority as soon as possible and within 2 days of permanently excluding a pupil. The school will need to complete the PEX notification form and PEX FAP referral and email this to the FAP Integration Officer and [SEMH.Inclusion-Team@bracknell-forest.gov.uk](mailto:SEMH.Inclusion-Team@bracknell-forest.gov.uk)
- 9.2 All children who are permanently excluded will be referred to by the FAP Integration Officer for Day 6 provision.
- 9.3 Following the GBDC meeting or in the case of an appeal, after the IRP, the FAP Integration Officer will prepare and implement a plan for the education provision for the child and discuss this with the FAP Panel.
- 9.4 For permanently excluded pupils an extraordinary FAP panel may need to take place in addition to the scheduled FAP panel meetings.

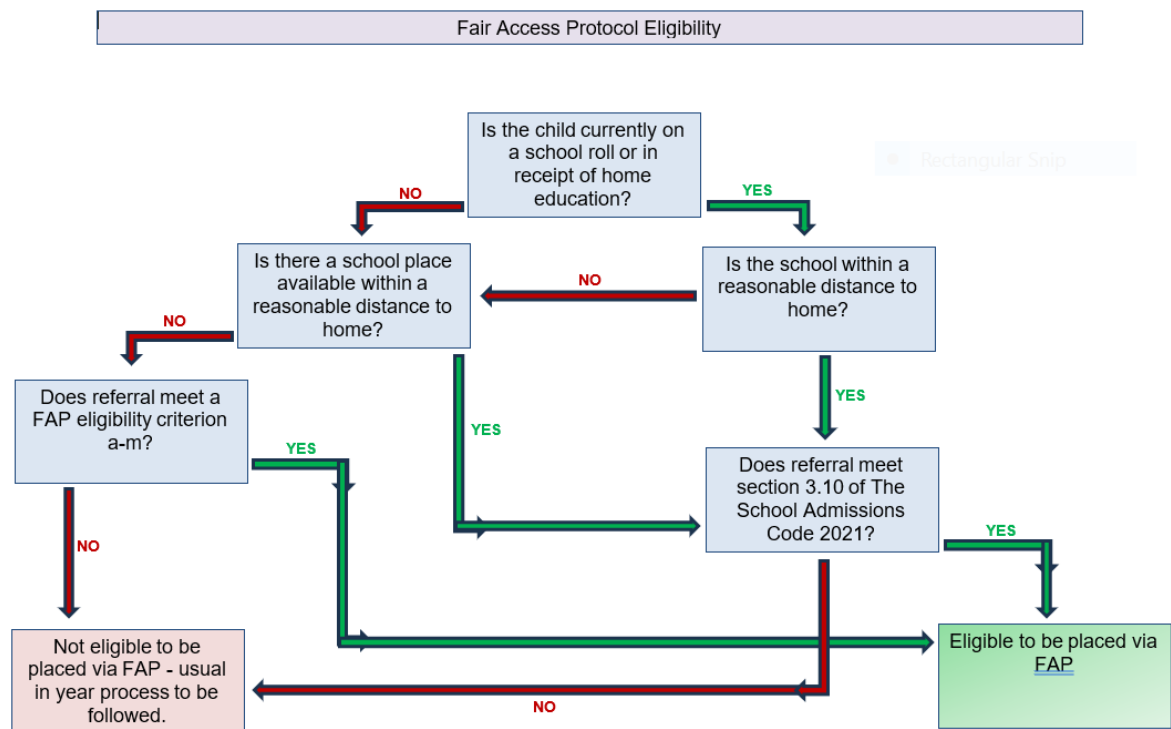
## **10 Reviewing the protocol**

- 10.1 In the event that the majority of schools in the local authority area can no longer support the principles and approach of this protocol, they may initiate a review with the local authority.
- 10.2 To trigger a review, schools must submit a request in writing via the FAP Integration Officer.
- 10.3 Any request must contain supporting signatures from over 50% of schools in Bracknell Forest. On receipt of such a request, a review will be undertaken, in conjunction with schools.
- 10.4 The existing protocol will remain binding on all schools in the local area until the point at which a new one is adopted.

**For any queries regarding the Fair Access Protocol please contact Viya Berridge, FAP Officer [viya.berridge@bracknell-forest.gov.uk](mailto:viya.berridge@bracknell-forest.gov.uk), tel: 01344 354264**



## Appendix 1 – Fair Access Protocol Eligibility



## Appendix 2 - FAP Panel Dates

FAP panel meetings are on a Thursday afternoon. Submission of referrals for consideration at panel need to be received by the FAP Officer by the Thursday before the panel meeting.

FAP Panel Dates
19/9/24
17/10/24
14/11/24
12/12/24
16/1/25
13/2/25
20/3/25
24/4/25
15/5/25
19/6/25
17/7/25