

## 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 by the majority of schools in which all schools must participate<sup>1</sup>. FAP ensures that unplaced and vulnerable children, and those who are having difficulty in securing a school place are allocated a suitable school place as soon as possible.
- 1.2 FAP is designed for the admission of pupils to Bracknell Forest schools outside the normal points of entry. It specifically applies to children who have been unable to obtain a place through the standard in-year admissions process. Referrals to FAP should only be made when it is evident that all reasonable efforts to secure a place through in-year procedures have been exhausted, and the child meets one of the defined eligibility categories under the Protocol.
- 1.3 The Protocol applies to children resident in Bracknell Forest and to Bracknell Forest schools. However, it may also be extended to children seeking places outside the borough, or to non-Bracknell Forest schools admitting such children, subject to the agreement of the respective admitting authorities.
- 1.4 The Protocol does not apply to children whose parent/carer did not secure provision at their preferred school during standard admission points, such as starting school, moving from infant to junior school or transferring to secondary school.

### 2. Key principles

- 2.1 In agreeing a Protocol, the Local Authority must ensure that when seeking to place a child through FAP, schools (including those with places available) should not be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are otherwise being placed via FAP.
- 2.2 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).
- 2.3 FAP is intended to facilitate access to a school place for every child. Its focus is on placement arrangements rather than the provision of support for the child or school following admission.
- 2.4 Eligibility under FAP does not restrict a parent's right to apply, in-year to any school. Admission authorities cannot refuse admission based solely on FAP eligibility. Parent/carer retain the right to appeal any refusal, even if the child has been placed elsewhere under the Protocol. Formal appeals are not required before admitting hard-to-place children under FAP.
- 2.5 A child 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 child.
- 2.6 If an admission authority receives an in-year application but refuses admission due to concerns about the child's challenging behaviour—despite having available places—it must refer the case to the Local Authority for consideration under FAP. This will only be appropriate where the school has:
  - i. a particularly high proportion of children with challenging behaviour or previously excluded pupils on roll, in comparison to other schools; and

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<sup>1</sup> Participation means providing an authorised representative to engage in discussions, make placement decisions under the Protocol, and admit pupils when requested—even if the school is full

- ii. it believes admitting another 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** 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 has 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:

- iii. 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
- iv. FAP category **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 category **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 Admissions authorities will process all in-year applications in accordance with parental preference and the School Admissions Code, working to ensure every child is placed without unnecessary delay.
- 5.1.2 All admission authorities and schools should work to admit every child where they have places.
- 5.1.3 Where an admission authority intends to refuse a place under paragraph 3.10 of the School Admissions, it must notify the LA immediately, providing detailed reasons for the refusal and inform the parent/carer. This must occur within the statutory 15 school days allowed to respond to an application.
- 5.1.4 For schools whose admissions are processed by the LA, if the LA has reason to believe a child may display challenging behaviour, before an application is forwarded to the school:
  - The LA will pause sending the offer letter while consulting the school.
  - The school will be given a set deadline to respond with concerns, based on how long it remains within the 15-school-day limit.
  - Schools may then request a refusal under paragraph 3.10 by completing a FAP referral form.
  - The admission authority will determine whether the application meets the criteria for refusal under Section 3.10. If agreed the parent will be notified of the refusal and referred to FAP. If not agreed, the school will be instructed to admit the child without delay.
  - If a FAP referral is not submitted by the deadline, the offer will be sent to the parent/carer and school will be required to admit.
- 5.1.5 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.
- 5.1.6 Schools referring a child for consideration under FAP must complete the FAP referral form, with all relevant documentation, by the stated deadline.
- 5.1.7 Schools must collaborate with the LA and share all relevant information promptly to support the FAP process.

### **5.2 Review of FAP referral**

- 5.2.1 The FAP Officer will review each referral in consultation with the Head of Service and the School Admissions Team, to determine whether it is appropriate to refer the child directly to a school for placement or whether the circumstances warrant discussion at panel:
  - Children who meet categories **d** and **j** within the Protocol will be referred to panel for placement.
  - Children falling within one of the other categories will generally be referred directly to a school for placement.

Referrals made under category **j** are not eligible for placement under FAP if the child is already on a school roll, as they are not considered unplaced. In

such cases, the FAP Officer will notify the parent and present the referral to the panel for information only.

- 5.2.2 The FAP Officer will liaise with relevant services (e.g., Children's Social Care, Early Help, Education Welfare) to gather background information to inform the decision. The child's current or previous school will also be contacted.
- 5.2.3 The FAP Officer will contact the parent/carers and where appropriate, carry out a home visit to obtain parent/carers and child views and any additional background information. This information will be shared with the receiving school and/or the FAP panel.
- 5.2.4 Records will be maintained for all children placed under FAP.

### 5.3 Decision making on placement

- 5.3.1 Once a referral is accepted under FAP a school place must be allocated within 20 school days.
- 5.3.2 The FAP process will be transparent, collaborative, and centered on the best interests of the child. It will aim to:
  - Minimise time out of education.
  - Secure suitable school placements.
  - Ensure fair distribution of pupils across all schools.
  - Promote shared responsibility among schools regardless of their individual circumstances.
  - Hold schools accountable for non-compliance with FAP placement decisions.
- 5.3.3 The FAP Officer will identify an appropriate school for that child based on:
  - The child's specific needs.
  - Parental preference.
  - The number of hard-to-place pupils and permanently excluded children already admitted by each school.
  - Each school's context and capacity, with supporting evidence if needed.
  - Proximity to home address<sup>4</sup>.
- 5.3.4 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.
- 5.3.5 Children returning from elective home education are generally expected to return to their previous school—unless they have moved into a new educational phase or the FAP panel agrees an alternative placement is in the child's best interests.

### 5.4 Confirmation of placement

- 5.4.1 The FAP Officer will:
  - Notify the allocated school, which must respond within **2 school days** to avoid unnecessary delay.
  - Share all relevant background information with the school to support the child's successful transition.

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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)

- Address any concerns raised by the school, which must be clearly evidenced where necessary.
- Confirm the placement in writing to both the parent/carer and the school.
- Inform relevant professionals, that may have involvement with the child, of the placement e.g. Early Help, EWS
- Provide support to both parent/carer, child and school for at least one term following placement, including attendance at review meetings to monitor progress and identify any additional support needs.

5.4.2 The allocated school will:

- Arrange an initial meeting as soon as possible with the child and parent/carer to agree a start date—ideally within **5 school days** of being notified of the placement. Other professionals should be included in the meeting where appropriate.
- Schedule follow-up review meetings involving relevant professionals, the family, and the FAP Officer as needed.

5.4.3 Children placed under the Protocol must be added to the school roll and admitted Promptly, so that their needs can be assessed before any referrals for additional support is made.

5.4.4 Reaching or exceeding the Published Admission Number (PAN) is not a valid reason for refusing admission under the 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 Children placed through FAP take priority over those on waiting lists.

5.4.7 Schools must not request 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 monthly (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 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, and Youth Justice Service.

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

- 6.2.1 The Panel is responsible for agreeing the most appropriate school placement for each child presented by the FAP Officer and to have an overview of the process and journey for that child following their referral.
- 6.2.2 If a headteacher who has referred a child to FAP is a member of the panel, they must withdraw from the meeting during any discussion of that case. 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 recommend additional support to help ensure a successful transition and integration for the child.
- 6.2.4 The Panel discussions and decisions will be recorded. Meeting notes can be shared with schools on request.

- 6.2.5 The Panel will consider transport requests where a child is placed at a school beyond statutory walking distance.
- 6.2.6 The Panel will challenge any school not fully engaging with the Protocol. Where necessary, it may direct a school to admit a child or refer non-compliance to the Secretary of State with a request for placement.

## **7 Compliance and Direction**

- 7.1 Schools and admission authorities must admit a child when instructed under FAP, including where the waiting list is in operation.
- 7.2 If a school or admission authority fails to comply with a FAP decision, they may be formally directed to admit the child.
- 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 If the local authority believes an academy is the most suitable placement, it may request the Secretary of State to intervene. The Secretary of State has the authority to direct an academy to admit a child under the terms of its 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.

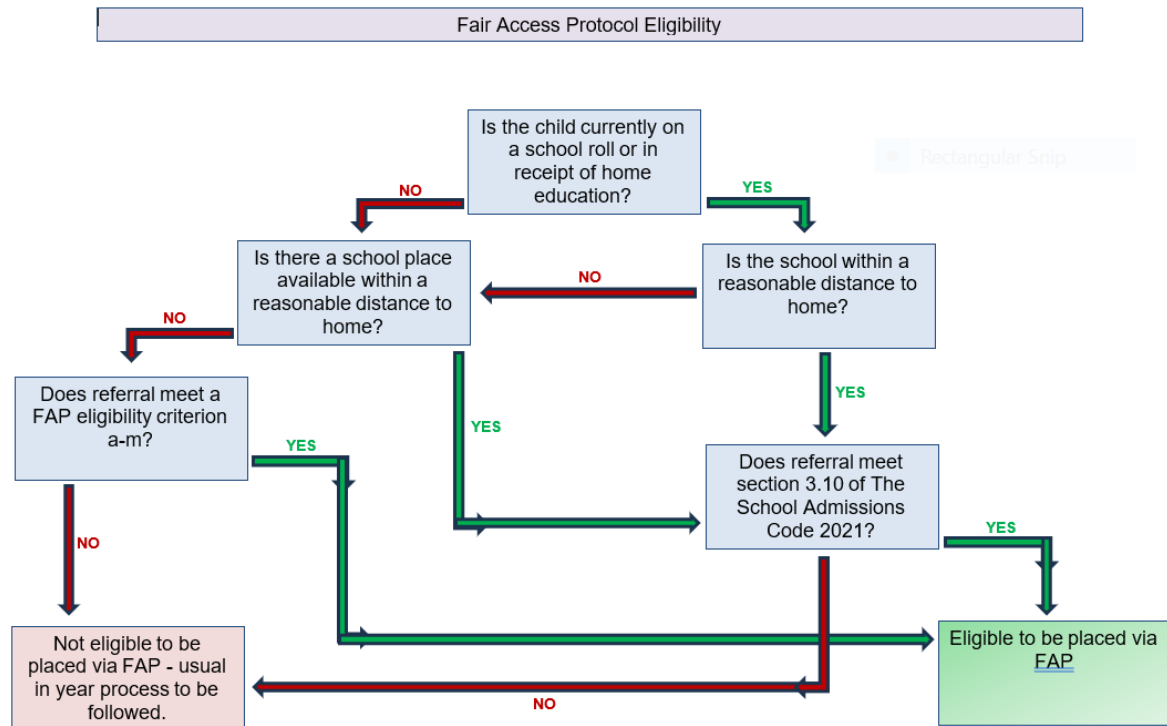
## **9 Permanently excluded (PEX) pupils**

- 9.1 The school is required to inform the Local Authority immediately following the decision to permanently exclude a pupil. The school must complete the appropriate PEX notification form which can be found on the 'Inform Us' page on CANDO.
- 9.2 All children who are permanently excluded will be referred, by the FAP Officer, to the LA's commissioned provider, Cranbury College, for Day 6 education provision.
- 9.3 The Local Authority will attend Governing Discipline Committee (GDC) meetings for maintained schools within its jurisdiction, and for academies, if invited to by the academy or the parent has requested the LA attends. If the LA is unable to attend, it will provide a statement.
- 9.4 Following the Governors Discipline Committee (GDC) meeting or in the case of an appeal, after the IRP, the FAP Officer will advise the parent to apply for a school place through the usual school admissions process. Parents have the right to apply for a school place at any point during the exclusion process. If after a reasonable time the parent/carers has not applied for a place, Cranbury College will refer the child to FAP, under category d of the protocol, for placement.
- 9.5 Cranbury College and the FAP Officer will support the child's reintegration back into a mainstream setting once a placement has been agreed.

## **10 Reviewing the protocol**

- 10.1 If the majority of schools in Bracknell Forest, no longer support the principles of this protocol, they may request a formal review with the Local Authority.
- 10.2 To initiate a review, a written request must be submitted to the FAP Officer.
- 10.3 The request must include supporting signatures from more than 50% of schools in the borough. Upon receipt, the Local Authority will carry out a review in collaboration with schools.
- 10.4 The current protocol will remain in effect for all schools until a revised version is formally adopted.

## Appendix 1 – Fair Access Protocol Eligibility



## Appendix 2 - FAP Panel Dates

FAP panel meetings are held monthly on Thursday afternoons. Referrals for consideration must be submitted no later than the Thursday of the preceding week.

FAP Panel Dates 2025-26
18 September
16 October
13 November
11 December
15 January
12 February
19 March
23 April
14 May
11 June
16 July

For all 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