

**NORTH SOMERSET COUNCIL
DECISION**

**DECISION OF: COUNCILLOR JAN BARBER, EXECUTIVE MEMBER
FOR CHILDREN AND YOUNG PEOPLE SERVICES
WITH ADVICE FROM: SHEILA SMITH, DIRECTOR OF PEOPLE AND
COMMUNITIES
DIRECTORATE: PEOPLE AND COMMUNITIES**



DECISION NO: PC57 (2017-18 SCHEME)

SUBJECT: FAIR ACCESS PROTOCOL

KEY DECISION: YES

BACKGROUND:

Each Local Authority must have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that - outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. 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 excluded from other schools, or who have challenging behaviour. The protocol must include how the Local Authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met.

DECISION:

The Executive Member to agree and adopt the attached Fair Access Protocol to take effect from 1 March 2018.

REASONS:

Each Local Authority must have a Fair Access Protocol, agreed with the majority of schools in its area.

OPTIONS CONSIDERED:

It is a legal requirement to have a Fair Access Protocol.

FINANCIAL IMPLICATIONS:

No direct financial implications to the council of adopting this policy.

Costs

None.

Funding

None.

LEGAL POWERS AND IMPLICATIONS

School Admissions Code, December 2014, Sections 3.9 – 3.15 dictate the requirements of admission authorities to set and follow a locally agreed Fair Access Protocol.

CONSULTATION

Details of the proposed Fair Access Protocol for 2019-20 school year have been circulated to the following groups for consultation:

- North Somerset Councillors
- Local Members of Parliament
- Head Teachers and Chair of Governors of all mainstream schools in North Somerset
- Neighbouring Local Authorities
- The Diocese of Bath and Wells, the Clifton Diocese and the Methodist Church
- Armed Forces Advice and Support in North Somerset
- Travellers Advisory Service
- The general public via: newsletters of all mainstream schools in North Somerset, NS Life, North Somerset Council's website, Facebook and twitter, notification to all Early Years settings.

7 responses to the consultation have been received and considered. The majority of responses were regarding the timescales being in calendar days and not school days. We have been unable to amend the policy as timescales are set by the DfE in Fair Access Protocols: Principles and Process.

RISK MANAGEMENT

Legal requirement to be set. Failure to set would mean we are in breach of the school admissions code.

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? No

The FAP specifically works to enable all children, especially those in vulnerable groups, to be offered a school place.

CORPORATE IMPLICATIONS

The council has a duty to ensure the best possible educational outcomes can be achieved for children and young people and that local resources are used effectively across the whole district.

BACKGROUND PAPERS

None.

SIGNATORIES:

DECISION MAKER(S):

Signed: *Chris J. B.L.*

Title: *Exec Member CYP*

Date: *19-2-18*

WITH ADVICE FROM:

Signed: Sheela Dand

Title: Director, People & Communities

Date: 19.2.18

Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable:

FAIR ACCESS IN NORTH SOMERSET

FAIR ACCESS PROTOCOL

1. Introduction

Each Local Authority **must** have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that - outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. 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 excluded from other schools, or who have challenging behaviour. The protocol **must** include how the Local Authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met.

The Fair Access Protocol is written in line with the School Admissions Code and Fair Access Protocols: Principles and Process.

2. Principles of the Fair Access Protocol

2.1 The Fair Access Protocol will apply to all admission requests outside the normal admission round with the exception of:

1. a child with a statement of Special Educational Need (SEN) or Education Health Care Plan (EHCP) which names the school in question;
2. a looked after child or a previously looked after child.

Paragraph 3.12 of the School Admissions Code 2014 directs that such children must be admitted to the school in question and that the principles of Fair Access do not apply to such cases.

2.2 Admission 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.

2.3 The operation of Fair Access Protocols is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures.

2.4 All admission authorities **must** 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, although, parents' wishes will be taken into account.

2.5 The Protocol encourages the Local Authority and schools to work together in partnership to ensure children are placed in the most appropriate placement as soon as possible. This protocol incorporates guiding principles against which to place children who may have difficulty securing a school place outside the normal admissions round.

2.6 Paragraph 2.9 of the School Admissions Code 2014 states that Admission authorities must not refuse to admit child solely because:

- a) they have applied later than other applicants
- b) they are not of the faith of the school in the case of a school designated with a religious character
- c) they followed a different curriculum at their previous school;
- d) information has not been received from their previous school; or
- e) they have missed entrance tests for selective places.

3. The North Somerset Context

- 3.1 This protocol covers all admission requests outside the normal admissions round and applies to all North Somerset maintained schools including Academy, Community, Foundation, Free Schools, Voluntary Controlled and Voluntary Aided schools.
- 3.2 In line with the requirements set out in paragraph 3.15 of the School Admissions Code 2014 the following criteria will be used for a North Somerset resident child of statutory school age that is being considered for allocation under this protocol:
- Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
 - Children who have been out of education for two months or more;
 - Children of Gypsies, Roma, Travellers, refugees and asylum seekers;
 - Children who are homeless;
 - Children with unsupportive family backgrounds for whom a place has not been sought;
 - Children who are carers;
 - Children with special educational needs, disabilities or medical conditions (but without a Statement or EHCP).
- 3.3 Whilst it is recognised that children that fall into the categories identified above **may** be vulnerable, not all children meeting a particular criterion will be vulnerable and require assistance to access a school place. The majority of children will be dealt with through standard admission procedures. Other children not listed above may also experience difficulties in attaining a school place, the majority of whom will also be admitted through routine admissions procedures operated by admission authorities or their agents. This Protocol will work as a failsafe for a minority of children who, for whatever reason, may find it particularly difficult to access a school place.
- 3.4 In addition to children who are listed in 3.2 above, admission authorities can refer an application to the Out of School Panel to be considered exceptionally within this protocol if they believe their school has already admitted a pupil that now falls under the Fair Access Protocol or has challenging behaviour which could affect further admissions to a class or year group in their setting.

Children considered to have challenging behaviour will be defined as:

- serious criminal behaviour resulting in a conviction or a police caution within the previous two years preceding the request for a school place;
 - behaviour resulting in a permanent exclusion within the last two years preceding the request for a school place;
 - behaviour resulting in a significant number of fixed term exclusions e.g. one per term or one significant incident (or other evidenced and accepted in-house alternative intervention) 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;
 - children with additional needs that have presented one of the above behaviours, who are being assessed for an EHCP.
- 3.5 Children who have been out of education for 2 months or more are defined as children who have had no access to any education provision for a period of time. Children who have previously been Electively Home Educated (EHE) or attending an alternative provision have had access to education and so cannot be considered under this criterion.

- 3.6 Where a child has attended mainstream school and parents have opted to Electively Home Educate, the child will be removed from roll. Where possible, children who have been EHE and are now requesting to go back into mainstream school, a placement will be sought at the child's most recently attended school.
- 3.7 Schools cannot refer to oversubscription of school places as a reason for not admitting a pupil under a Fair Access Protocol. Equally, no school, including those with places available, is asked to take a disproportionate number of children in each year group who have been excluded from other schools or who have challenging behaviour or who are known to have a history of behavioural problems.
- 3.8 As stated in the Fair Access Protocols: Principles and Process advice from November 2012, all parties will act with a sense of urgency to identify a school place for a child who falls under the Fair Access Protocol.

Schools must notify the Local Authority of a Fair Access Protocol Referral within maximum of **7 calendar days** of receipt of the application, so that the admission of the pupil is not delayed. Schools cannot insist on an appeal being heard before admitting a child under this Protocol.

Please note: Calendar days is both within term time and school holidays.

- 3.9 Where a Governing Body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it must refer the case to the School Admissions Team for action under the Fair Access Protocol. This will normally only be appropriate where a school can provide evidence that it has a particularly high proportion of children with challenging behaviour and that evidence is supported by the School Admissions Team. In such cases, the School Admissions Team will refer the case for consideration to the Fair Access Panel. Any children that are without any form of education will be referred to the Out of School Panel.
- 3.10 Wherever possible, pupils with a religious affiliation should be matched to a suitable school (which could result in the school being asked to admit over PAN). As per section 2.14 of the School Admissions Code, a place allocated in accordance with the Fair Access Protocol must take precedence over other children on the waiting list. If relevant, infant class size legislation will still apply and children admitted in accordance with the Fair Access Protocol are not excepted pupils.

4. Standard In-Year Admission Procedure

- 4.1 Most applications will be considered under the usual admissions procedures. Applications will be considered up to PAN or another agreed limit. Looked after children and previous looked after children will be admitted to the preferred school even if the school is above PAN or other agreed limit as long as the admission does not prejudice provision of efficient education or the efficient use of resources.
- 4.2 A school should confirm a decision to the admission request within seven calendar days to parents/carers and the School Admissions Team. Section 2.22 of the School Admissions Code states: Own admission authority schools must, on receipt of an in-year application, notify the local authority of both the application and its outcome, to allow the local authority to keep up to date figures on the availability of places in the area. The admission authority must also inform parents of their right to appeal against the refusal of a place.

5. In-Year Admission Procedure for Identified Fair Access

- 5.1 The Local Authority will ensure that no school is asked to admit a disproportionate number of unplaced children with challenging behaviour and will not expect a school to automatically take another child with challenging behaviour in the place of a child excluded from the school (paragraph 3.14 School Admissions Code 2014).
- 5.2 Pupils will be allocated to both under and over-subscribed schools on a fair, equitable and consistent basis.
- 5.3 All managed moves will be reported and monitored through the Out Of School Panel. A representative of the school is invited to attend the bi-weekly meetings (term time) to provide updates.
- 5.4 A scoring system will be used to assist in making decisions about where to place children whilst also ensuring compliance with section 3.9 of the School Admissions Code. Complex cases will include managed transfers, admissions via the Fair Access Protocol, and complex admissions of children with challenging behaviour agreed by the Out of School panel. Each individual case will be considered at the Out of School Panel. The Panel will determine which admissions are to be listed as complex cases and included in the scoring system.

The higher the score, the higher the proportion of complex cases that the school cohort has in relation to their percentage share of the cohort. The colour shading is automatically generated based on the score. Dark red is the highest score and green the lowest.

The data is calculated by taking into account the total number of places in the a cohort across the whole of North Somerset (PAN/admission level), how many children are currently on roll in any year group by school and calculating the percentage of the overall cohort in each school as compared with the whole of North Somerset.

The number of complex cases at the school will also be taken into account and this will be divided by the percentage of overall cohort in North Somerset to calculate a score.

For example, for school A, that has a PAN of 100, with 93 pupils on roll in year 7, they have 7 vacancies and 12.8% of the total number of year 7 children in North Somerset, in their school. Having 2 complex cases in the year group is 20% of the complex cohort and equates to a score of 15.6. Based on this, and the option of three schools with a lower score rating, school A would be less likely to be asked to admit the child.

An example of the scoring system is set out below:

| Year Group 7 | | | | | | Current number of complex cases | Rating |
|--------------|------------|----------------|----------|----------------------------------------------|---------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| School | PAN | Number of roll | Spaces | School's % of total cohort in North Somerset | % of total complex cohort in North Somerset | (Managed Transfers / Fair Access / Agreed Complexity cases attending school with a start date within the last 6 months) | (current number / % of cohort) |
| A | 100 | 93 | 7 | 13% | 20% | 2 | 15.6 |
| B | 150 | 154 | -4 | 21% | 20% | 2 | 9.4 |
| C | 200 | 201 | -1 | 28% | 10% | 1 | 3.6 |
| D | 100 | 99 | 1 | 14% | 30% | 3 | 22 |
| E | 180 | 180 | 0 | 25% | 20% | 2 | 8.1 |
| Total | 730 | 727 | 3 | 100% | 100% | 10 | |

6. Reintegration into Mainstream Schools

- 6.1 Pupils should not be reintegrated to mainstream schools unless they are ready and schools should not be required or pressured into taking a pupil until their behavioural problems have been assessed, suitably addressed and they are ready to take the step back into a mainstream setting. Reintegration cases from a Pupil Referral Unit will be considered at the Out of School Panel. In addition, some pupils may benefit from an early start in a further education college or other setting.
- 6.2 As an over-arching principle in placing pupils, North Somerset Council will balance the requirement to consider the circumstances of the individual pupil with finding a place quickly. Depending on the circumstances, admissions requests for children dealt with by this protocol will normally be resolved within 15 calendar days of the date of the recommendation from schools.

Note: The desire to meet this timescale should not override a comprehensive consideration of the needs of individual pupils and a subsequent decision about which school or setting will be best able to meet their needs.

7. Transport

- 7.1 Transport will be considered on an individual basis as part of the decision.

8. Parental Preference

- 8.1 There is no duty to comply with parental preference when allocating places through the Fair Access Protocol, but the wishes of parents are taken into account. A parent can apply for a place as an in-year admission at any point and is entitled to an appeal when a place is not offered.

9. Decisions

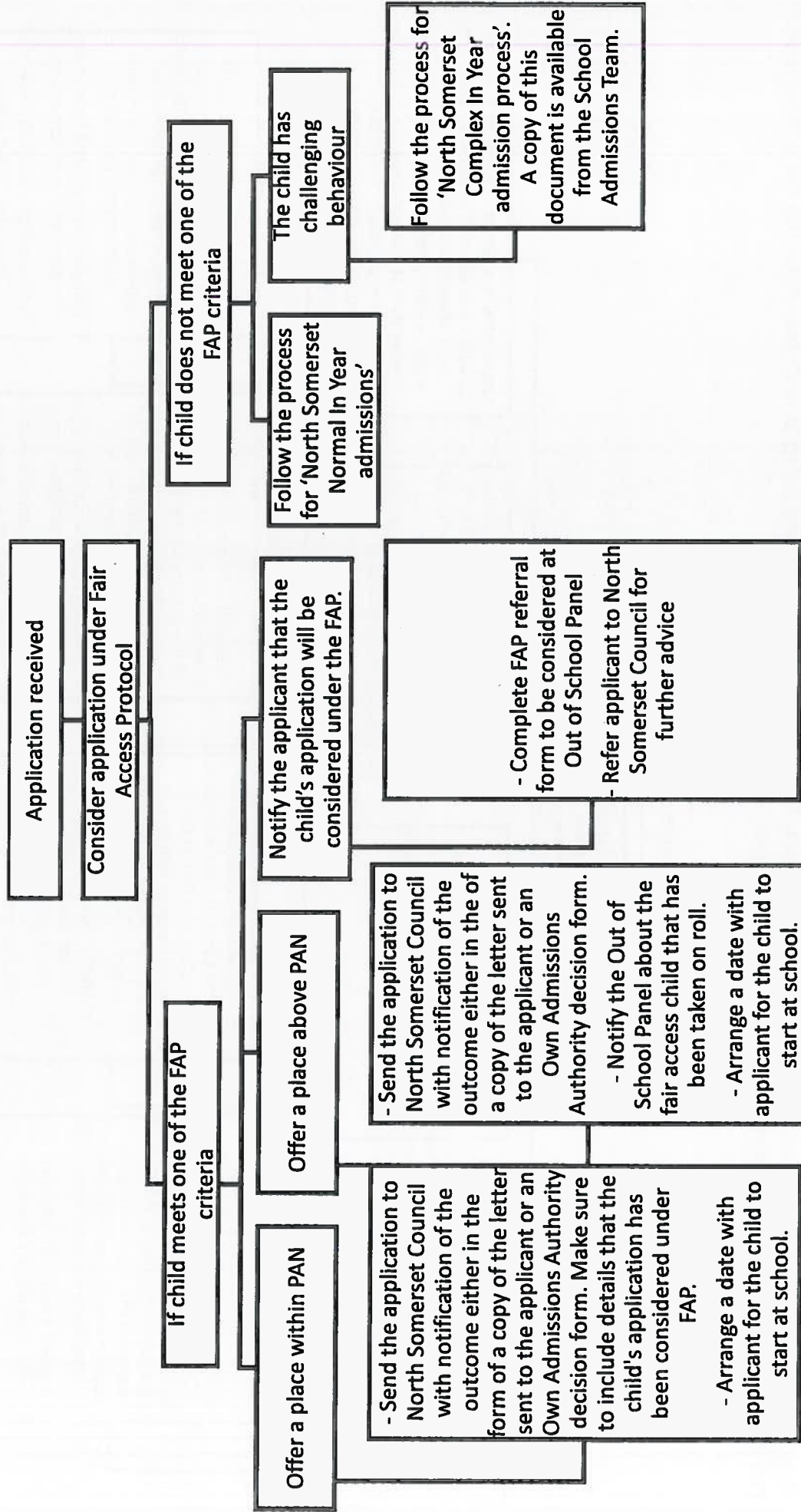
- 9.1 Decisions will be made in a two-step process.
Step one is for panel to consider the Fair Access Protocol referral and either agree or decline the individual case to be considered under Fair Access Protocol.
Step two will be for the Out Of School panel to determine a suitable placement for the child.

10. Review

- 10.1 North Somerset Admission arrangements will be subject to regular consultation and review. The Education Excellence and Partnership Board will monitor the effectiveness of the Protocol and consider how well existing and proposed admission arrangements serve the interests of children and parents in North Somerset.**

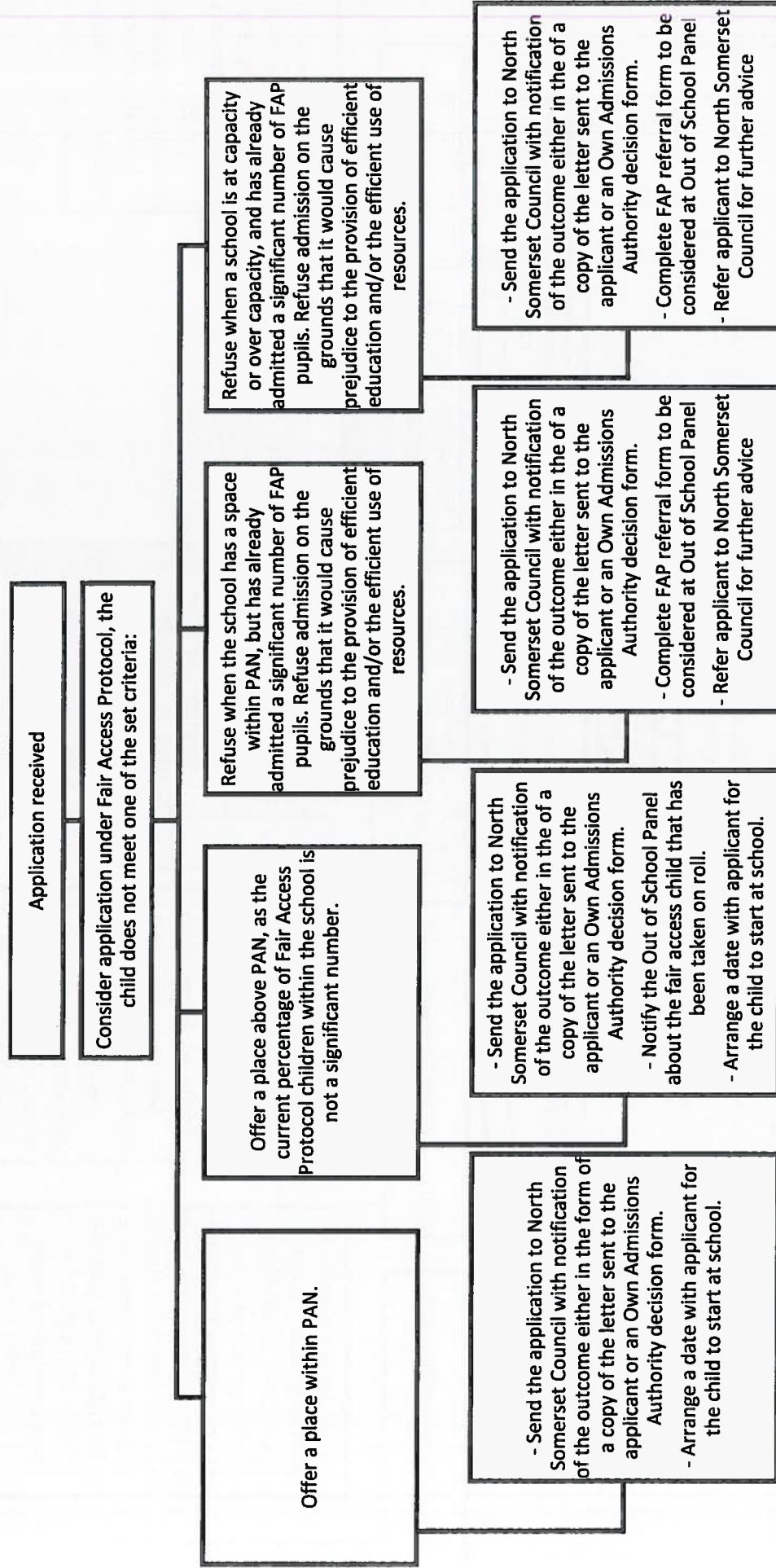
Fair Access Protocol Cases Scenario 1 – when a child meets Fair Access criteria

All admission authorities must contact the parent/carer to notify them that their application is being considered under the fair access protocol and that this is a separate process from the normal admissions procedures.

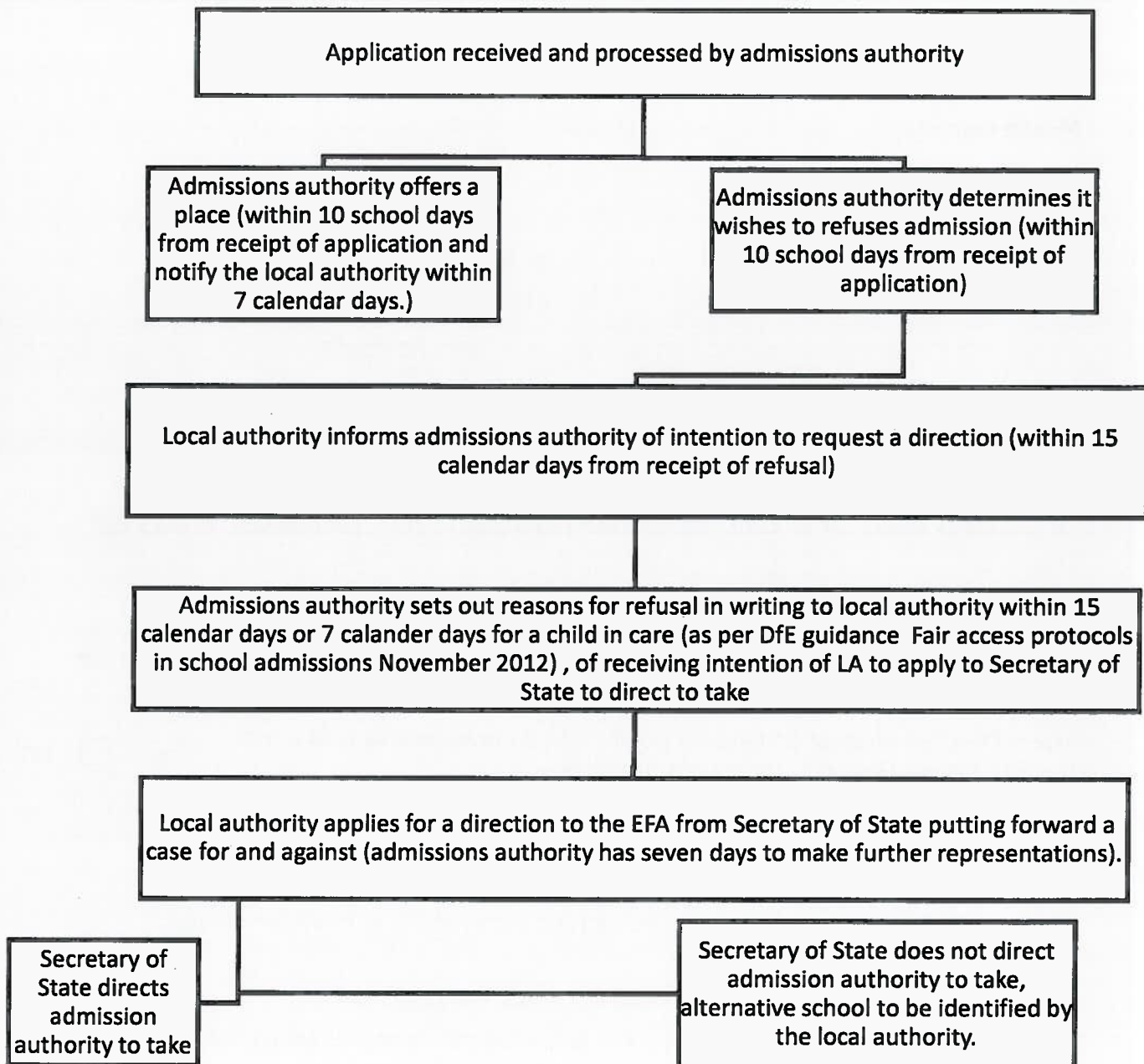


Fair Access Protocol Scenario 2 – child doesn't meet Fair Access criteria but admitting them would mean that the school has taken a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour.

All admission authorities must contact the parent/carer to notify them that their application is being considered under the fair access protocol and that this is a separate process from the normal admissions procedures.



Below is the process the local authority will follow when they decide to direct an own admission authority school to admit a child.



Fair Access Protocol Form

Please be aware that parents can ask to see any information supplied, and if it was agreed not to admit this pupil, this information could form part of the school appeal paperwork.

1. Child's details

First name (s)

Middle name (s)

Last name

Date of birth

Year Group

Address

Postcode

Last school/education provision attended

Please give details of any agencies involved with this child/family
(e.g. locality team, social care, educational psychology, YOT, connexions, EOTAS etc.)

2. Reason for referral

The school is unable to admit a pupil that you believe falls under the Fair Access Protocol

Yes No

The school has already admitted a pupil that you now believe falls under the Fair Access Protocol (for record purposes)

Yes No

Have the parents been informed about this referral

Yes No

3. Full report

Please attach a full report, and any supporting information, to this form stating:

- a) Why you feel your school should not admit this pupil, **OR**
- b) If you have already admitted the pupil, what outcome you would like to see?

Please note that this could be shared with parents if you haven't already discussed your report with them.

4. Fair access protocol criteria

Please tick which of the following issues currently affect this pupil that mean, in your opinion, they come under the Fair Access Protocol.

- Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education.
- Children who have been out of education for two months or more.
- Children of Gypsies, Roma, Travellers, refugees and asylum seekers.
- Children who are homeless.
- Children with unsupportive family backgrounds for whom a place has not been sought.
- Children who are carers.
- Children with special educational needs, disabilities or medical conditions (but without a Statement or EHCP).

5. Referred by

| | |
|-----------|--|
| Name | |
| Job title | |
| School | |
| Date | |

6. Completed forms

Please return your completed form to the School Admissions Team.

Email admissions@n-somerset.gov.uk
Postal address North Somerset Council, School Admissions, Walliscote Grove Road,
Town Hall, Weston-super-Mare, BS23 1UJ.

The panel decision will be shared with the referrer, parent, Vulnerable Learners Service and School Admissions Team.

