

# **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 either the Primary or Secondary Inclusion 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;
- 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 Schools must notify the Local Authority of a Fair Access Protocol Referral within the nationally prescribed timeframe 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 (aka via the Primary or Secondary Inclusion Panel). Any children that are without any form of education will be referred to the Primary or Secondary Inclusion Panel for an alternative placement to be found.
- 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 ten school 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 Primary and Secondary Inclusion Panels. 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 Primary or Secondary Inclusion Panel. Each individual case will be considered at the Primary or Secondary Inclusion 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
<b>Total</b>	<b>730</b>	<b>727</b>	<b>3</b>	<b>100%</b>	<b>100%</b>	<b>10</b>	

## **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 Primary or Secondary Inclusion 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.
1. Panel to consider the Fair Access Protocol referral and either agree or decline the individual case to be considered under Fair Access Protocol.
  2. Panel to determine a suitable placement for the child.

The decision from Panel will be shared with the school in writing, confirming if the referral has been upheld or dismissed.

If the referral is upheld, meaning the school is not required to admit the child, the Panel will seek an alternative placement.

If the referral is dismissed, meaning the school is required to admit the child, the admissions authority will have 7 calendar days to confirm the child's start date. An update will then need to be provided at the following Panel to confirm the child is on the school's roll and has started.

In line with the School Admissions Code, any decision of Panel is binding on all parties and there is no right to appeal.

All admission authorities must participate in the Fair Access Protocol and must not refuse to admit a child thought to be potentially disruptive or likely to exhibit challenging behaviour on the grounds that the child must first be assessed for special educational needs.

The local authority is the admissions authority for North Somerset Community and Voluntary Controlled schools and can direct these schools to admit the child.

If an own admissions authority school (VA or Foundation/Trust) does not agree with the decision from panel and therefore refuses admission to a child against the Panel's decision, the School Admissions Team will follow its powers to direct the governing body to admit in line with sections 3.16 and 3.17 of the School Admissions Code. The governing body can appeal by referring their opposition to a potential direction to the Schools Adjudicator within 15 days. The Adjudicator's decision is binding.

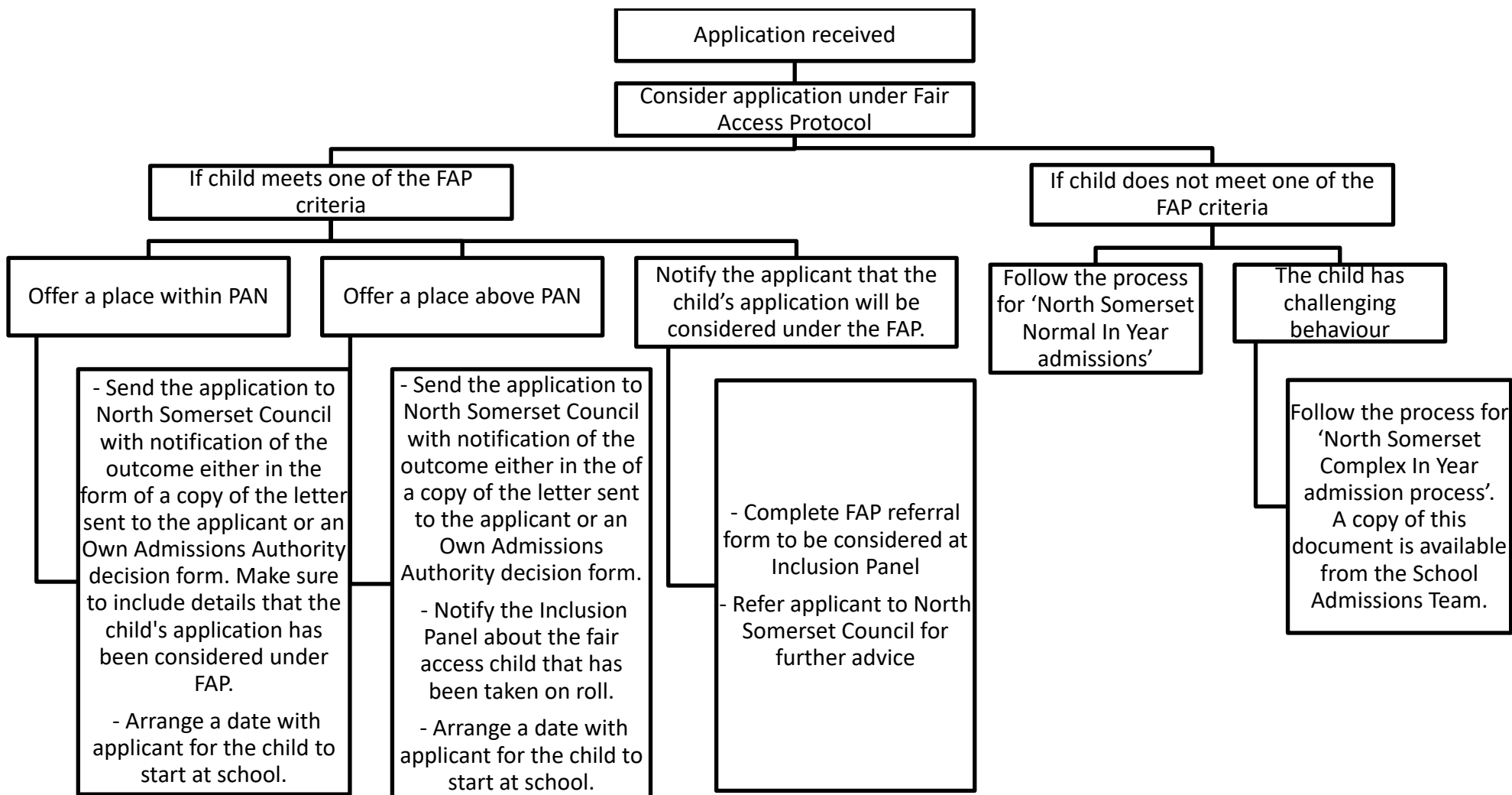
Where a local authority considers an Academy should admit the child, in line with Section 3.22 of the School Admissions Code, it can apply for a direction to the Secretary of State.

## **10. Review**

- 10.1 North Somerset Admission arrangements will be subject to regular consultation and review. PHANS and SHINS or EEPB 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

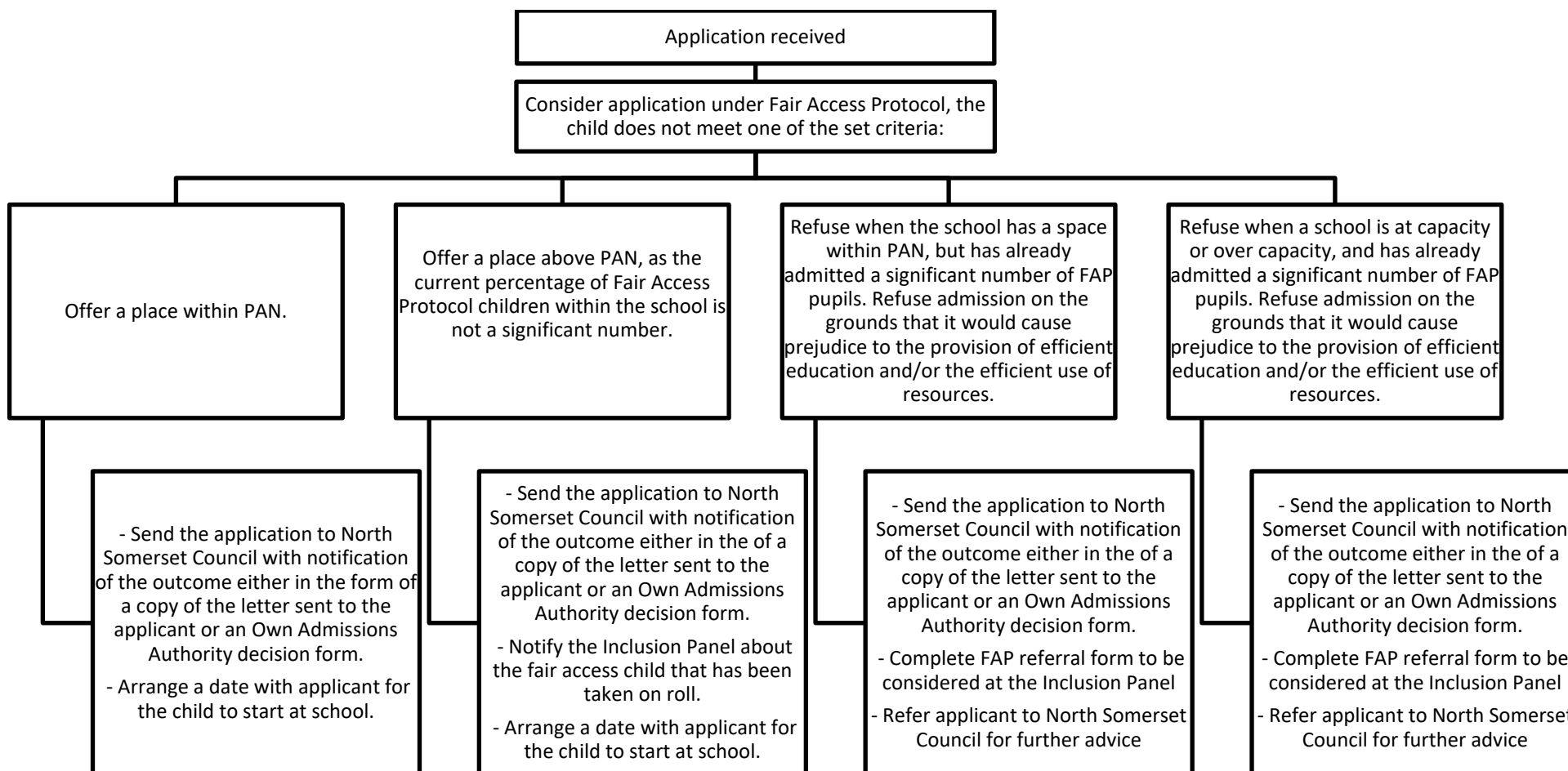
All admission authorities must contact the parent/carer to notify them that their application is being considered under the fair access protocol and that this is a separate process from the normal admissions procedures.



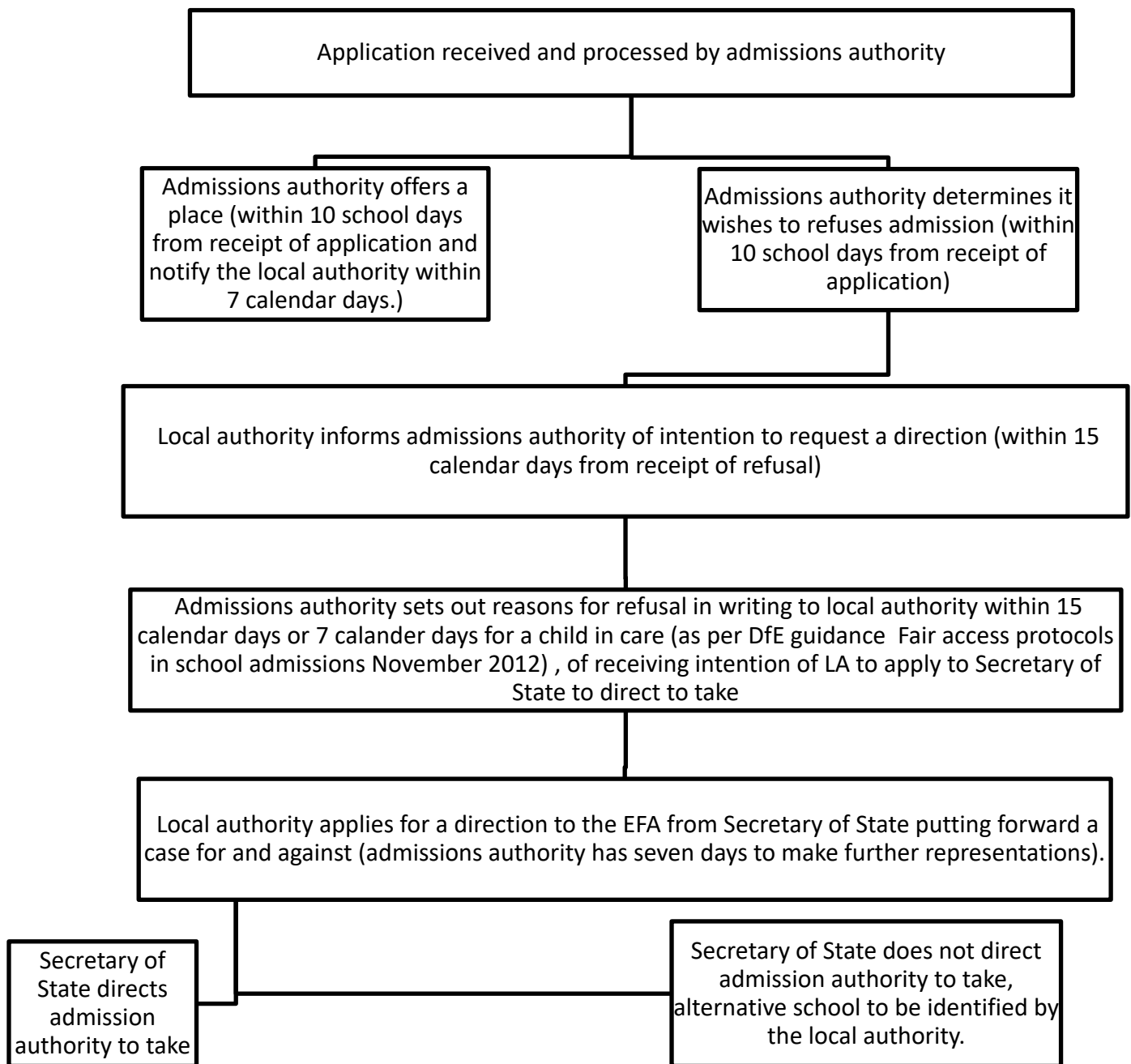


**Fair Access Protocol Scenario 2 – child doesn't meet Fair Access criteria but admitting them would mean that the school has taken a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour.**

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 (FAP) Form

Please be aware that parents can ask to see any information supplied, and if it is agreed for a school 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

**a)** Admissions Authority believes the child falls under the Fair Access Protocol criteria:

- Children from the criminal justice system or Pupil Referral Units who needs 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)

**OR**

**b)** Admissions Authority believes the child does not fall under one of the FAP criteria above, but is aware that the child has challenging behaviour under the following definition:

- Serious criminal behaviour resulting in a conviction or a police caution within the previous two years
- Behaviour resulting in a permanent exclusion within the last two years

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 the last year

**If none of the above criteria in a) or b) can be selected, the admissions authority should not submit a FAP referral and should admit the child if there is space within their admission level.**

### 3. Confirmation to applicant

Please tick to confirm the admissions authority have informed the applicant about this referral

### 3. Full report

Please provide details of the unique circumstances at the school, which provides the reasoning for the admissions authority to make this referral under the Fair Access Protocol

### 5. Referral made by:

Name

Job title

School

Date


The decision from Panel will be shared with the school in writing, confirming if the referral has been upheld or dismissed. In line with the School Admissions Code, any decision of Panel is binding on all parties and there is no right to appeal.

### 6. Completed forms

Please return your completed form to the School Admissions Team.

Email [schooladmissions.officer@n-somerset.gov.uk](mailto:schooladmissions.officer@n-somerset.gov.uk)

