



Rutland County Council

Fair Access Protocol

Academic year 2023-2024

1. Introduction

- 1.1. The purpose of a Fair Access Protocol is to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.
- 1.2. This Protocol is written in accordance with the School Admissions Code 2021 and is referred to specifically within paragraphs 3.14 to 3.22 of the Code.
- 1.3. This Protocol should be read in conjunction with Department for Education (DfE) and local authority guidance on school admissions and children missing education.
- 1.4. The operation of the Fair Access Protocol is outside the arrangements of the co-ordinated admissions process and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures.

2. Principles of the Fair Access Protocol (FAP)

- 2.1. A FAP must not be used in place of the usual in-year admissions process and should be seen as the last resort to secure a school place for a child. A parent has the right to apply for any school place at any time and must not be refused the opportunity to make an application. Where a parent is refused a school place, they must be offered the right to appeal to an independent appeal panel.
- 2.2. Every local authority must have a FAP in place. Once it is agreed with the majority of schools in its area, all admission authorities must participate in it.
- 2.3. A FAP must only be used for unplaced children that meet the prescribed categories set out in paragraph 3.17 of the Code, which are listed below in paragraph 4.1.
- 2.4. Admission authorities, school leaders and local authorities should work collaboratively in making decisions under the FAP. They should take into account the needs of the child and the views of the school where the child might be placed.
- 2.5. When seeking to place a child through the FAP, no school (including those with places available) should 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 the FAP.
- 2.6. Admission authorities must admit children when asked to do so in accordance with the FAP. Where an admission authority fails to comply with the FAP, they may be directed to do so.

3. Aims of the Protocol

3.1. The Fair Access Protocol aims to:

- a) quickly and sympathetically identify the needs of vulnerable children and children whose behaviours have been evidenced as disruptive to learning, including those who are not on the roll of any educational establishment;
- b) reduce the time that vulnerable children and children with social emotional and mental health (SEMH) needs or behaviour that is evidenced as disruptive to learning are out of school and may miss out on education or become at risk of not being protected;
- c) ensure that all schools/academies admit vulnerable children and children with needs or behaviour that is evidenced as disruptive to learning is on an equitable basis;
- d) be fair and transparent, and build the confidence of all schools/academies, in the placement decisions made.

4. Children included in the Fair Access Protocol (FAP)

4.1. The FAP may only be used to place the following groups of vulnerable and/or hard to place children, where they are 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 usual in-year admissions process:

- 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 FAP;
- b) children living in a refuge or in other relevant accommodation at the point of being referred to the FAP;
- 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 FAP 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.

4.2. The FAP will not apply to a child looked after, a child previously looked after or a child with an Education, Health and Care Plan naming the school in question, as these children must be admitted.

4.3. Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to the following children:

- a) children who were below compulsory school age at the time of the permanent exclusion;
- b) children who have been reinstated following a permanent exclusion (or would have been reinstated had it been practicable to do so);
- c) children whose permanent exclusion has been considered by a review panel, and the review panel has decided to quash a decision not to reinstate them following the exclusion; and
- d) children with an Education, Health and Care Plan naming the school.

5. Prevention

5.1. Prior to consideration of permanent exclusion, it is expected that all schools will have adhered to the agreed graduated response and accessed early intervention services, including the School Support Partnership and Rutland County Council Inclusion Team.

5.2. Children who remain vulnerable to permanent exclusion will be referred to the Rutland Education Access Board. The aim of this board is to ensure children and young people remain in education or have access to a suitable school place as quickly as possible.

6. Application of the Fair Access Protocol (FAP)

6.1. The FAP will be implemented only when an eligible child has not secured a school place through the in-year admission process or following the permanent exclusion of a child from full time education, where there are no school places available within

a reasonable distance from the home address. There is no duty to comply with parental preference when allocating places through the FAP.

6.2. All admission authorities must participate in the fair access process and must engage in discussion and decision making on placing children through the fair access process and admit their fair share of children when asked to do so in accordance with the FAP.

6.3. Where it has been agreed that a child will be considered under the FAP, a school place must be allocated for that child within 20 school days. Once they have been allocated a school place via the FAP, arrangements should be made for the child to start at the school as soon as possible.

6.4. Looked after children or previously looked after children allocated a place at a school in accordance with the FAP must take precedence over those children on the school's waiting list.

6.5. Once a child has been identified to be considered within the FAP, the following process will apply (please see appendices for relevant flowcharts):

6.6. Admission to primary school

Figures in brackets refer to Appendix A: Primary School In-Year Admissions Flowchart:

- a) The admissions service will review the in-year application process undertaken. This will include obtaining written evidence, from the school to the parent, confirming that their formal application has been declined. The admissions service will then challenge any school that it feels has not provided suitable evidence to support a refusal of a school place and recommend that the school reconsiders their decision (A7 / A7.1).
- b) If no place is available at any of the preferred schools, the admissions service will check that the parent has also applied to schools identified as having a place available. If an application has not been submitted to schools that have a place available, the parent will be advised to submit an application. (A8.1).
- c) If no places are available at any Rutland school, the admissions service will contact the nearest Rutland school to the child's home address, in writing, to request that the school admits the child. Any places offered under the FAP must not lead to the necessity for any school to breach infant class size legislation (see section 7.2). The school will be required to respond to this request within 5 school days (A8.2.1).
- d) When applying the FAP, the local authority will take into consideration previous admissions made to Rutland schools via the FAP to ensure that admissions are shared equally across all Rutland schools. No school will be asked to take a disproportionate number of children through the fair access process.
- e) Should a child still be without a school place following the primary school fair access process, the local authority will consider implementing the powers of direction as set out in the School Admissions Code paragraphs 3.26 to 3.28 for

maintained schools and paragraph 3.29 for academies (A10.1 / A10.2). See Appendix C for Direction Process Flowchart.

6.7. Admission to secondary school

Figures in brackets refer to Appendix B: Secondary School In-Year Admissions Flowchart:

- a) The admissions service will review the in-year application process undertaken. This will include obtaining written evidence, from the school to the parent, confirming that their formal application has been declined. The admissions service will then challenge any school that it feels has not provided suitable evidence to support a refusal of a school place and recommend that the school reconsiders their decision. (B7 / B7.1)
- b) If no place is available at any of the preferred schools, the admissions service will check that the parent has also applied to schools identified as having a place available. If an application has not been submitted to schools that have a place available, the parent will be advised to submit an application. (B8.1).
- c) If no places are available at any Rutland school, the admissions service will contact all three Rutland secondary schools in writing to request that the school reconsiders the application. The school will be required to respond to this request within 5 school days (B8.2).
- d) When applying the fair access process, the local authority will take into consideration previous admissions made to Rutland schools via this process to ensure that admissions are shared equally across all Rutland schools. No school will be asked to take a disproportionate number of children through this process.
- e) Should a child still be without a school place following the secondary school fair access process, the local authority will consider implementing the powers of direction as set out in the School Admissions Code paragraph 3.29 for academies (B9). See Appendix C for Direction Process Flowchart.

7. **Additional information**

7.1. Where an excluded child is admitted to a school through the fair access process, the local authority will consider what support is appropriate to enable the successful reintegration of a child. This may include the school completing an Early Help Assessment, application for high needs funding and involving the local authority and other agencies in a team around the family process.

7.2. A place offered under the fair access process must not lead to the necessity for any school to breach infant class size legislation. A place will not be offered if it results in the school having an infant class size greater than 30, except where the following apply:

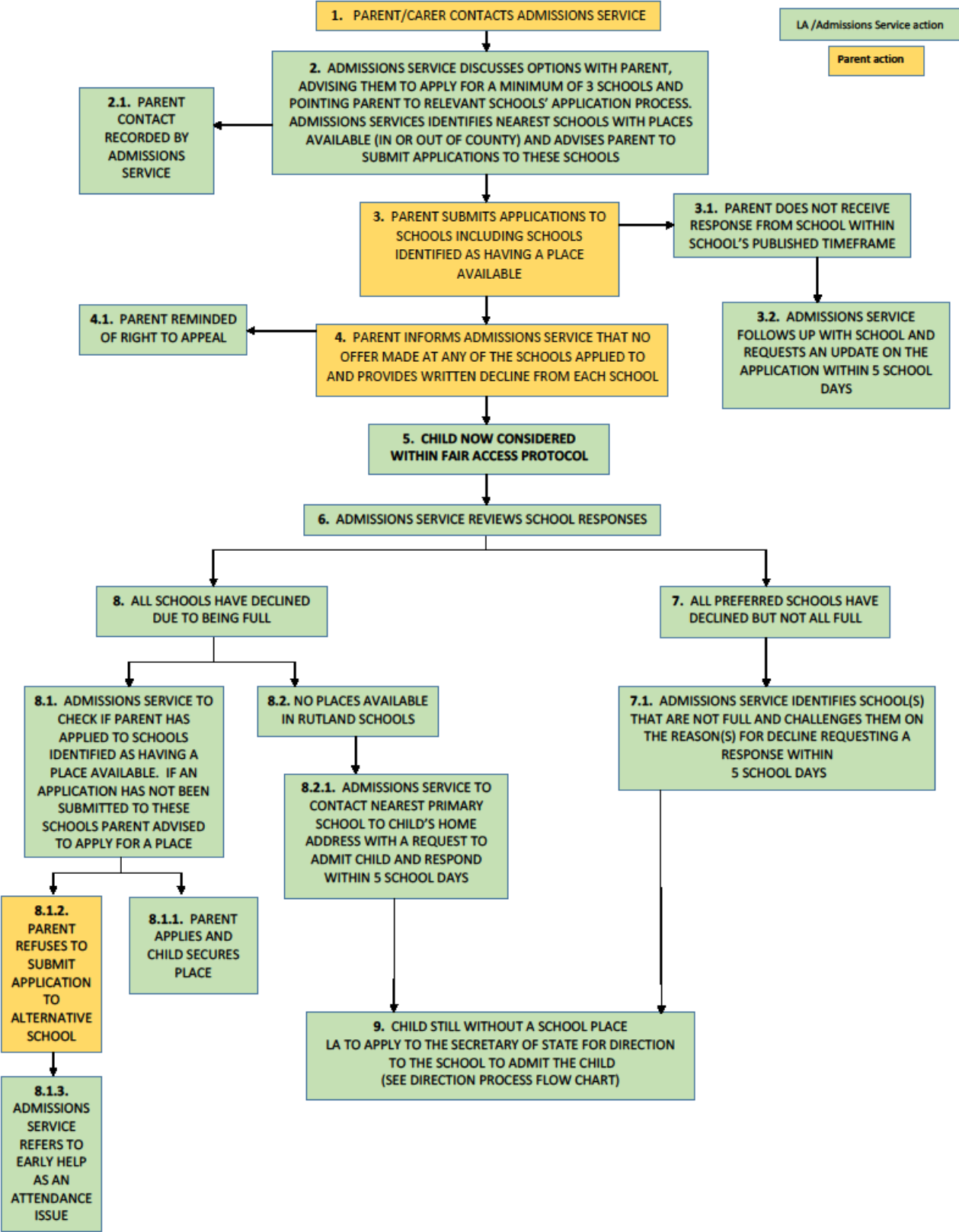
- a) If a school is named in a child's Education, Health and Care Plan;
- b) If the child is a Child Looked After or Previously Looked After by the local authority;

- c) Where there are no other schools that could provide suitable education within a reasonable distance of the child's home address.

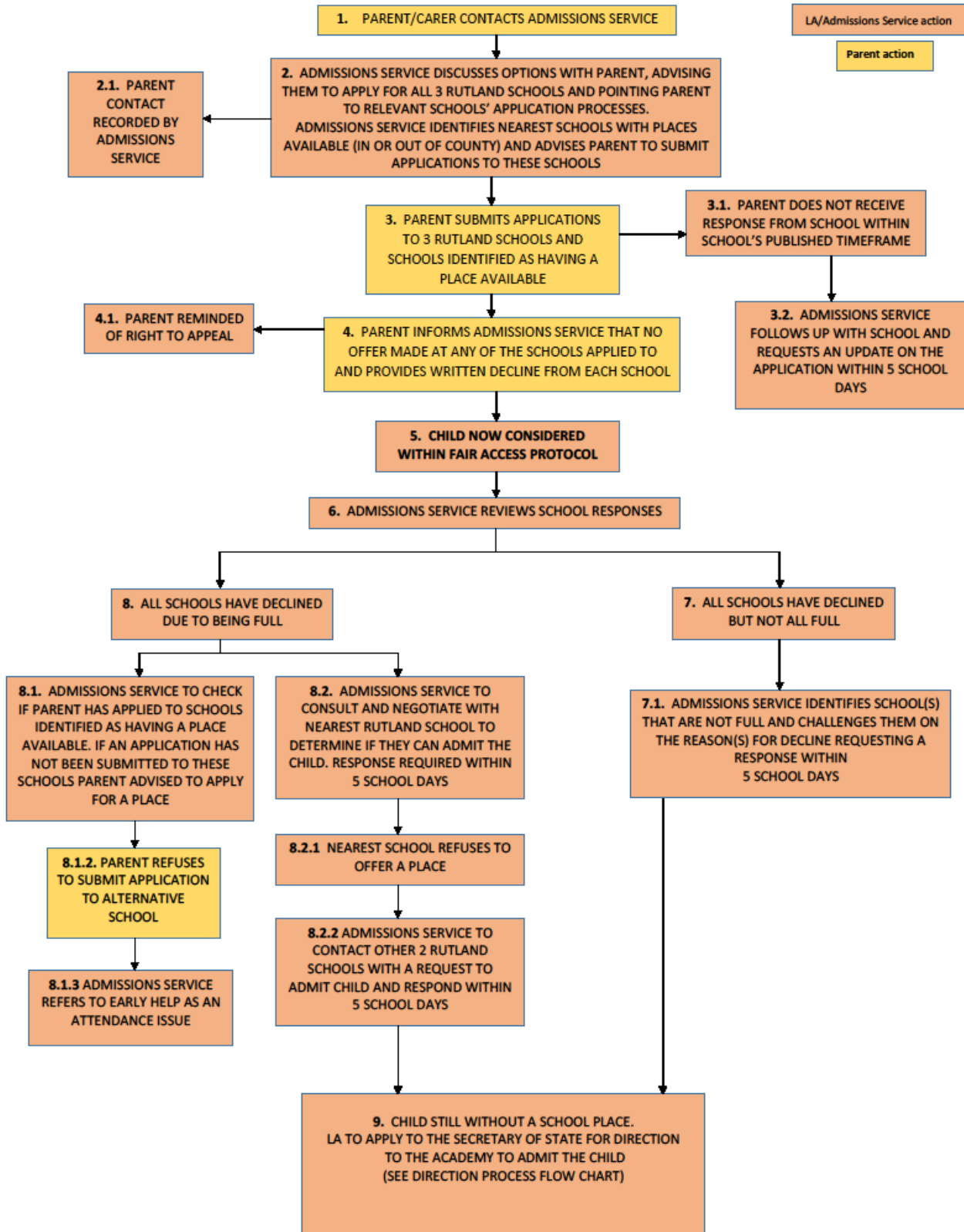
Any child falling within the above three categories would be classed as an 'excepted pupil' under the current regulations and a class greater than 30 would be allowed for the remainder of the academic year.

- 7.3. Children with special educational needs or a disability, but without an EHC Plan, will be treated in the same way as all other children or young people according to the relevant admission authority's published admission arrangements and according to the FAP. However, should it be identified prior to offering a place that there is a need for particular support or reasonable adjustments to be made for special educational needs or disabilities, the local authority will support schools to plan to make those reasonable adjustments so that children may take up their place as quickly as possible.

PRIMARY SCHOOL IN-YEAR ADMISSIONS / FAIR ACCESS PROCESS



SECONDARY SCHOOL IN-YEAR ADMISSIONS / FAIR ACCESS PROCESS



FAIR ACCESS PROTOCOL – DIRECTION PROCESS

