



## LEAD MEMBER FOR EDUCATION AND INCLUSION, SPECIAL EDUCATIONAL NEEDS AND DISABILITY

**DECISIONS** to be made by the Lead Member for Education and Inclusion, Special Educational Needs and Disability,  
Councillor Bob Standley

**MONDAY, 7 JULY 2025 AT 2.30 PM**

**REMOTE MEETING VIA MICROSOFT TEAMS**

### **AGENDA**

1. Decisions made by the Lead Cabinet Member on 2 June 2025 (*Pages 3 - 6*)
2. Disclosures of interests  
Disclosure by all Members present of personal interests in matters on the Agenda, the nature of any interest and whether the Member regards the interest as prejudicial under the terms of the Code of Conduct
3. Urgent items  
Notification of items which the Lead Member considers to be urgent and propose to take at the end of the appropriate part of the Agenda
4. Proposed specialist facility at Chailey St Peter's CE Primary School (*Pages 7 - 14*)  
Report by Director of Children's Services
5. East Sussex Fair Access Protocol 2025 (*Pages 15 - 58*)  
Report by Director of Children's Services
6. Any urgent items previously notified under agenda item 3

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27 June 2025

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NOTE: *As part of the County Council's drive to increase accessibility to its public meetings, this meeting will be broadcast live on its website. The live broadcast is accessible at:*  
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## **LEAD MEMBER FOR EDUCATION AND INCLUSION, SPECIAL EDUCATIONAL NEEDS AND DISABILITY**

DECISIONS made by the Lead Member for Education and Inclusion, Special Educational Needs and Disability, Councillor Bob Standley, on 2 June 2025 at Committee Room, County Hall, Lewes

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Councillors Cross, Denis, Maples and Milligan spoke on item 4 (see minute 5)

Councillor Murphy spoke on item 5 (see minute 6)

### 1. DECISIONS MADE BY THE LEAD CABINET MEMBER ON 29 APRIL 2025

1.1 The Lead Member approved as a correct record the minutes of the meeting held on 29 April 2025.

### 2. DISCLOSURES OF INTERESTS

2.1 There were none.

### 3. URGENT ITEMS

3.1 There were none.

### 4. REPORTS

4.1 Reports referred to in the minutes below are contained in the minute book.

## 5. RESPONSE TO PETITION REGARDING HOME TO SCHOOL TRANSPORT PROVISION

5.1 The Lead Member considered a report by the Director of Children's Services.

5.2 Ms Charlotte Strong, Lead Petitioner for the petition calling on the County Council for a bigger school bus to transport the rural children of Barcombe safely to and from Chailey Secondary School' spoke to highlight safety concerns regarding rural children from Barcombe walking across fields unaccompanied by a parent or carer in order to get to and from school, the policies suitability in order to determine whether the routes are safe and requesting that the Council works together with families from Barcombe who are affected, to find safe routes to and from their nearest local school.

### DECISIONS

5.3 The Lead Member RESOLVED to advise the petitioners that:

(1) The home to school transport policy (HTST policy) has not changed, and is being consistently applied to families across the county; and

(2) Parents and carers of children who are not entitled to transport assistance can appeal via a two-stage process; and

(3) The possibility of combining current services into a supported bus service available to fare-paying passengers is being explored. Should this be successful, children who do not qualify for transport assistance would be able to travel by bus on payment of the appropriate fare.

### REASONS

5.4 The HTST policy aligns with the Education Act 1996 and has remained substantially unchanged. ESCC policy has been able to provide transport only to children whose available walking routes to their local school are further than the statutory walking distance of three miles, unless they are medically unfit to walk to school or qualify under extended rights for low-income families.

5.5 Where walking routes have been assessed as unavailable, transport assistance is supplied. Transport assistance is withdrawn if alternative routes are found to be available and within the statutory walking distance. In this case a route safety report was requested following an application for transport from a family living on the route, as the previous assessment was out of date.

5.6 Routes may be re-assessed at any time and it is possible that the above situation may change, should routes become available as a result of improvements to infrastructure and/or measuring systems.

5.7 The petition sets out that there are four families with six children affected in this case. East Sussex County Council (ESCC) considers it reasonable to expect these families to work together to ensure that the children are able to make the home to school journey in reasonable safety.

5.8 The possibility of combining current services into a supported bus service available to fare-paying passengers is being explored. Should this be successful, children who do not qualify

for transport assistance would be able to travel by bus on payment of the appropriate fare and petitioners will be notified.

5.9 The HTST policy has not changed and is being consistently applied to families across the county. Parents whose children are not entitled to transport assistance are able to appeal via a two-stage process.

## 6. GROVE PARK SCHOOL

6.1 The Lead Member considered a report by the Director of Children's Services.

### DECISIONS

6.2 The Lead Member RESOLVED to approve a proposal to change the type of need catered for by Grove Park School with effect from 1 September 2025 to include Autistic Spectrum Disorder and Severe Learning Difficulties in addition to its current designation of Profound and Multiple Learning Difficulties.

### REASONS

6.3 In accordance with the EIA 2006 and the 2013 Regulations, the Local Authority, as the responsible body, is required to determine the statutory proposal within 2 months of the end of the representation period. The Regulations set out the options the decision-maker must consider when making a decision, or the proposal must be referred to the Schools Adjudicator. The decision-maker can:

- reject the proposal
- approve the proposal without modification
- approve the proposal with modifications, or
- approve the proposal, with or without modification, subject to certain conditions being met.

6.4 Over a number of years Grove Park School has accepted pupils with a broader range of need than Profound and Multiple Learning Difficulties (PMLD), including pupils with Autistic Spectrum Disorder (ASD) and Severe Learning Difficulties (SLD). The Interim Executive Board's proposal to change the type of need catered for by Grove Park School to include ASD and SLD in addition to its current designation of PMLD with effect from 1 September 2025 will more accurately reflect the needs of the school's cohort of pupils. This means that any new admissions to the school would be considered against this new designation, and the school would be able to plan its curriculum and support to ensure it meets the needs of these pupils. There would be no impact on the placement of current pupils at the school, regardless of their need they would continue at the school.

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**Report to:** Lead Member for Education and Inclusion, Special Educational Needs and Disability

**Date:** 7 July 2025

**By:** Director of Children's Services

**Title of report:** Proposed specialist facility at Chailey St Peter's CE Primary School

**Purpose of report:** To seek Lead Member approval to publish a statutory proposal to establish a new specialist facility at Chailey St Peter's CE Primary School.

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## **RECOMMENDATIONS:**

The Lead Member is recommended to:

- 1) approve publication of a statutory proposal to establish a specialist facility for up to 12 pupils at Chailey St Peter's CE Primary School; and
  - 2) delegate authority to the Director of Children's Services to amend the proposal prior to its publication if required.
- 

## **1. Background**

1.1 Local authorities have a statutory duty to ensure there are sufficient school places for all pupils, including for those with Special Educational Needs and Disabilities (SEND). The Local Authority's SEND forecasts provide clear evidence that the Local Authority will continue to see an increase in the number of pupils with SEND in the coming years.

1.2 The overall numbers of children and young people with an Education, Health and Care Plan (EHCP) have been rising steeply. In 2023/24, the number of school aged children (aged 4-18) in East Sussex with an EHCP stood at 3,989. Over the next 4 years, the Local Authority forecasts that overall numbers of school-aged children with EHCPs will grow, by around 34%, to stand at approximately 5,400.

1.3 The number of children identified as autistic is growing year on year and is translating into rapidly increasing numbers of EHCPs issued with a primary need classification of Autistic Spectrum Disorder (ASD). Autism diagnoses will likely continue to be the biggest driver of rising EHCP numbers in the coming years.

1.4 In recent years, the Local Authority has been implementing its strategy to provide SEND places in the county. This includes the development of more specialist facilities in mainstream schools. The Local Authority would like to establish a facility with a designation of ASD at Chailey St Peter's CE Primary School as the latest phase in its strategy. The new facility would accommodate up to 12 pupils with autism and associated needs.

## **2. Supporting information**

### Specialist facilities

2.1 Specialist facilities are located within a mainstream school and provide specific support to a limited number of pupils with an EHCP naming a specific primary special educational need. Pupils within the facility are on the roll of the mainstream school and are in addition to the published admission number. The school receives additional funding from

the local authority to support the child. Placements are determined by the local authority and may be drawn from a wider geographical area than the school's usual catchment.

2.2 Specialist facilities promote an ethos of inclusion and help integrate their pupils into the mainstream school for as much of their learning time as their needs allow. Specialist facilities also provide access to a base within the school for more intensive learning and support when required. The expertise of staff within specialist facilities provides significant benefits to the rest of the school and other schools in the local area to support all pupils with a special educational need and create a fully inclusive learning environment.

2.3 Pupils in the facility have their special educational needs reviewed regularly in discussion with parents and/or carers and professionals to ensure that the facility remains the most appropriate placement to meet these needs.

2.4 The school and the Local Authority have identified the former dining room building on the school playground as suitable to accommodate the new facility. Some adaptation work would be required to the building which the Local Authority would fund from its approved capital programme. The Local Authority would work closely with the school to ensure these are completed in time for the facility to open.

#### Statutory process

2.5 Between 25 April and 23 May 2025, the Local Authority undertook a period of consultation with the Chailey St Peter's CE Primary School community, local schools, and key stakeholders on the proposed changes. The consultation was available on the Local Authority's [consultation hub](#).

2.6 By the close of the consultation period 46 responses had been received. Appendix 1 provides a summary of the consultation responses.

2.7 The Local Authority has considered the reasons given by respondents for not supporting the proposal. In response to the concerns raised:

- The proposal to establish a specialist facility at Chailey St Peter's is part of a broader strategy which is developing specialist facilities in schools across the county, so that pupils in East Sussex can access specialist provision. The expansion of specialist facilities is in line with the government's inclusion agenda. The school will benefit from the expertise of staff that will support all pupils at the school.
- The proposed location of the facility is at the rear of the school site, away from the road. The facility would have its own dedicated building and fenced outside space to keep children safe.

2.8 Full consultation responses are available for Members to view in the Cabinet and Members' Rooms at County Hall.

2.9 In accordance with Section 19 (1) of the Education and Inspections Act 2006 (EIA 2006) and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the regulations) and following the consultation, the Local Authority is required to publish a statutory proposal to provide interested parties with a further opportunity to comment on or object to the proposal. It is intended that the statutory proposal would be published on the Local Authority's consultation hub and in the local newspaper in July 2025. Publication would trigger a 4-week period of representation during which interested parties could comment on the proposal.



2.10 The Local Authority has a duty to determine the proposal within 2 months of the end of the representation period. It is anticipated that a final decision on the proposal would be taken by the Lead Member at his decision-making meeting in October 2025.

### **3. Conclusion and reasons for recommendations**

3.1 In conclusion, the Local Authority has a strategy to deliver more specialist facility places in mainstream schools across the county, particularly for the growing number of children with autism. To support its strategy, the Local Authority would like to establish a specialist facility for up to 12 pupils at Chailey St Peter's CE Primary School from 1 January 2026.

3.2 Feedback from the consultation was overwhelmingly positive, with 41 out of 46 respondents (89%) supportive of the proposal. For this reason, the Lead Member is recommended to:

- 1) approve publication of a statutory proposal to establish a specialist facility for up to 12 pupils at Chailey St Peter's CE Primary School; and
- 2) delegate authority to the Director of Children's Services to amend the proposal prior to its publication if required.

#### **CAROLYN FAIR Director of Children's Services**

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LOCAL MEMBER  
Councillor Matthew Milligan

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## Consultation Summary Report

**Consultation on a proposal to establish a specialist facility with a designation of Autistic Spectrum Disorder at Chailey St Peter's CE Primary School. The facility would accommodate up to 12 pupils with autism and associated needs.**

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### 1. Consultation

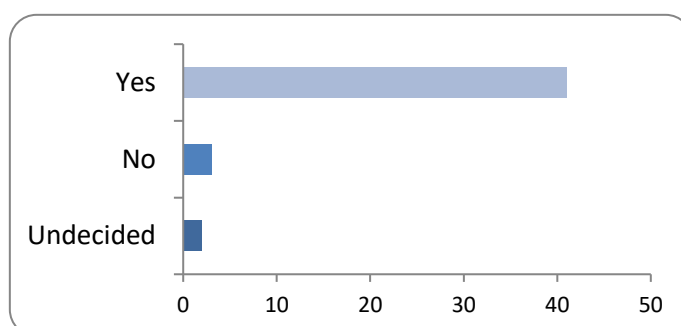
1.1 The consultation ran from 25 April 2025 to 23 May 2025. The consultation was available on the East Sussex County Council's consultation hub.

### 2. Consultation responses

2.1 A total of 46 responses were received to the consultation.

2.2 In response to question 1 'Do you support the proposal to establish a specialist facility with a designation of Autistic Spectrum Disorder at Chailey St Peter's CE Primary School for up to 12 pupils with autism and associated needs?

- 41 (89%) supported the proposal
- 3 (7%) did not support the proposal
- 2 (4%) were undecided



2.3 Question 2 provided respondents with the opportunity to comment on the proposal. The following summarises the common themes that emerged in the responses submitted.

#### 2.3.1 Respondents who supported the proposal

##### **Addressing the needs of children with Special Educational Needs and Disability (SEND) children**

Respondents commented that many children with a range of SEND needs currently struggle in mainstream settings or have been denied appropriate Education Health and Care Plans (EHCPs). Respondents felt that the specialist facility would provide a tailored, supportive environment enabling children to thrive academically, socially and emotionally.

##### **Alleviating pressure on mainstream schools and staff**

A consensus among respondents was that a dedicated specialist facility would reduce the strain on mainstream school resources and staff, allowing for more focused and effective support for children. It was considered that this would benefit both children with and without additional needs by improving overall teaching quality and staff capacity.

**Local accessibility and reduced travel stress**

Respondents considered that the facility would provide much-needed places closer to home. This would reduce travel times and related stress for children and families. Those in support of the proposal also felt that many existing specialist facilities are oversubscribed or located far from where children live.

**Positive Impact on school and community**

The specialist facility is seen as a valuable addition that will enhance the school and the local community and supporting provide opportunities for integration without isolation for the children at the school."

**Improved transition and early support**

Respondents considered that early intervention and specialist support at primary level are expected to improve transitions into higher education and adulthood. Respondents also noted the benefits of early access to tailored support for better long-term outcomes.

**General endorsement of the proposal**

Parents and professionals expressed confidence in the school's leadership and staff expertise to successfully deliver a high-quality specialist provision.

**2.3.2 Respondents who did not support the proposal:****Staffing and resource strain in existing schools**

Respondents highlighted significant challenges faced by current schools, which are reported to be understaffed and operating with extremely stretched class sizes due to low pupil numbers. There is concern that pupils with additional needs already enrolled receive prioritised support, potentially disadvantaging other pupils. The addition of a specialist facility within a small and struggling school was questioned, with suggestions that such provision would be more beneficial if established within larger, better-resourced schools.

**Need for more specialised SEN schools**

Several respondents expressed the view that the proposal falls short of addressing the broader needs of the SEND community. There is a strong call for more special schools that cater comprehensively to all types of need, not just autism. Criticism was also directed at the prevailing policy of inclusion within mainstream schools for SEND pupils, which some respondents argue causes significant emotional and sensory distress to children whose needs may not be met effectively in such environments.

**Safety and location concerns**

Concerns were raised regarding the suitability and safety of the proposed site. The location, adjacent to a busy road with minimal fencing and in proximity to a nursery, was described as unsafe and potentially overwhelming for children due to sensory overload. Additionally, respondents questioned the rationale for locating the facility in this area, pointing to other parts of the county experiencing significant housing development.

**2.3.3 Respondents who were undecided**

Concern was expressed about lack of information on how the facility would operate and training for staff. It was felt that the facility should cater for more than 12 children due to the level of perceived need. Insufficient support for SEN pupils, lack of trained staff, and inadequate current provision were all quoted as concerns. One respondent shared a negative experience, highlighting a lack of timely support and difficulties accessing EHCPs.

2.4 Question 3 asked 'which of the following best describes you?'

Option	Total	Percent
<b>Pupil at Chailey St Peter's CE Primary School</b>	0	0%
<b>Parent / carer of a child at Chailey St Peter's CE Primary School</b>	11	24%
<b>Member of staff at Chailey St Peter's CE Primary School</b>	1	2%
<b>Governor at Chailey St Peter's CE Primary School</b>	1	2%
<b>Member of the local community</b>	21	46%
<b>Other (please specify) *</b>	15	33%
<b>Not Answered</b>	0	0%

\*Three respondents who selected 'other' also selected 'Member of the local community'

Respondents who ticked 'Other' classified themselves as:

- Member of wider community
- SENCO of other local education establishment
- Staff member at nearby local school
- Potential parent of a child that would use this new setting
- Local headteacher
- Parent of past pupils of the school
- Wider community area
- SENCO in a pre-school nursery
- Church Warden at St Peter's Parish Church, Chailey
- Diocese of Chichester
- Parent of autistic child locally who is unable to access in-school education
- Parent of 2 children in East Sussex

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<b>Report to:</b>	<b>Lead Member for Education and Inclusion, Special Educational Needs and Disability</b>
<b>Date:</b>	<b>7 July 2025</b>
<b>By:</b>	<b>Director of Children's Services</b>
<b>Title of report:</b>	<b>East Sussex Fair Access Protocol 2025</b>
<b>Purpose of report:</b>	<b>Update on Fair Access Protocol consultation and adoption from September 2025</b>

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## ***RECOMMENDATION:***

**The Lead Member is recommended to approve the East Sussex Fair Access Protocol 2025 as set out at Appendix 1, to be adopted from 1 September 2025 following agreement and endorsement from the majority of East Sussex schools.**

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## **1. Background**

1.1 The Fair Access Protocol ('the Protocol' or FAP) aims to ensure that all children and young people in East Sussex have equitable access to educational opportunities, particularly those who are most vulnerable. It will be used to place children who have been unable to secure a place through the usual In Year Admission process.

1.2 The FAP is designed to provide fair access to schools for children who may be disadvantaged due to various factors, including socio-economic status, children who are electively home educated (whose elective home education (EHE) has been deemed unsuitable) and now seeking to return to school, or previous exclusions.

1.3 The protocol emphasises the importance of partnerships among schools, local authorities, and organisations to facilitate timely and effective placements for children in need.

1.4 It is important to ensure that the framework for identifying children who fall within the categories set out within the protocol aligns with the School Admissions Code 2021 and the Local Authority's statutory duties under the Education Act 1996, particularly in relation to placing children in schools in a fair and non-discriminatory manner.

1.5 The Protocol was last reviewed in 2021 and adopted from November 2021. The Protocol states that the Protocol will be reviewed every 5 years. However, an early review was requested by a number of schools and the Secondary Board. Following review, the new Protocol will replace the current 2021 East Sussex FAP.

## **2. Supporting information**

2.1 East Sussex County Council as the Local Authority, has worked closely with school leaders and stakeholders across this academic year to provide opportunities to discuss all areas and mechanisms within the Protocol and to develop a new FAP reflective of the local area's needs and challenges.

They include:

- Setting up and developing a FAP working party (established in October 2024) with stakeholders from area groups, primary schools, Trust leads, local authority officers and external advisers.
- Facilitating Area Group (AG) (Secondary) and Team Around the Education Improvement Partnership (EIP) (Primary) discussions in October 2024 and February 2025, to discuss and develop further key elements of the FAP including proposed local agreements.
- Presentations to the Primary and Secondary Boards in November 2024 and March 2025.
- Setting up and chairing an extraordinary meeting with AG chairs and EIP Executives held in February 2025.

2.2 A consultation period of the draft FAP ran from 28 March 2025 to 16 May 2025. The draft FAP was then updated following feedback from school leaders. A consultation summary document (Appendix 2) is appended to this report. The Local Authority received some additional feedback after the consultation had closed from a small number of academy principals; there has been direct dialogue with these school leaders on the points raised. 17 responses were received to the consultation. Feedback was largely positive with some useful suggestions, some of which have been incorporated into the final document.

2.3 The draft East Sussex FAP was shared for final approval, in early June 2025 and was signed off by the Primary and Secondary board on the 24 June 2025.

2.4 The new FAP introduces a Fair Access Panel for Primary and Secondary with an independent chair appointed. This will ensure there is transparency and a collegiate approach with all headteacher/principals and allowing for representatives from each geographical area to be part of panel discussions monthly. Other changes are chiefly to update terminology and clarify responsibilities following the restructure of teams involved.

2.5 The protocol is in accordance with:

- Education Act 1996
- School Standards and Framework Act 1998
- School Admissions Code 2021 and School Admission Appeals Code 2022
- Children Act 1989/2004

### **3. Conclusion and reasons for recommendations**

3.1 In conclusion, the Fair Access Protocol represents a key commitment by East Sussex County Council and schools to uphold the right to education for all children, fostering an inclusive community, where every student can thrive.

3.2 The anticipated outcomes of the Fair Access Protocol include improved educational attainment for vulnerable students, increased school retention rates, and an inclusive school environment across East Sussex. Regular stakeholder feedback will be sought through the FAP panels, will be integral to ensuring its effectiveness.



3.3 Feedback from the consultation was overwhelmingly positive with 89% of respondents supportive of adopting the new Fair Access Protocol from 1 September 2025.

3.4 The new Protocol will provide a clear framework for school leaders and ensure that the most vulnerable children can be guaranteed a school place within a clear timeframe that meets statutory requirements as set out in the Admissions Code of Practice, 2021. The Lead Member is therefore recommended to approve the East Sussex Fair Access Protocol as set out at Appendix 1, to be adopted from 1 September 2025.

**CAROLYN FAIR**

**Director of Children's Services**

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LOCAL MEMBERS

All

BACKGROUND DOCUMENTS

None

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# East Sussex County Council Fair Access Protocol

Adopted from 1<sup>st</sup> September 2025

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## Executive Summary

The Fair Access Protocol (FAP) aims to ensure that all children and young people in East Sussex have equitable access to educational opportunities, particularly those who are most vulnerable. This summary outlines the key processes of the Fair Access Protocol, its objectives, and the collaborative strategies employed by East Sussex County Council, schools, and partner organisations to support the Protocol. It will be used to place children who have been unable to secure a place through the usual In Year Admission process.

### Key Objectives:

1. **Equitable Access:** The FAP is designed to provide fair admissions to schools for children who may be disadvantaged due to various factors, including socio-economic status, children who are electively home educated (whose [EHE](#) has been deemed unsuitable) and now seeking to return to school, or previous exclusions.
2. **Collaboration:** The Protocol emphasises the importance of partnerships among schools, local authorities, and organisations to facilitate timely and effective placements for children in need.

### Actions:

- To ensure that the framework for identifying children for the protocol aligns with the School Admissions Code (2021) and the Local Authority's statutory duties under the Education Act 1996, particularly in relation to placing children in schools in a fair and non-discriminatory manner.
- Establish an independent panel that will streamline the process for schools to ensure a consistent and fair approach and to facilitate access to resources and support for students, where applicable, under the FAP.

**Outcome:**

- The anticipated outcomes of the Fair Access Protocol include improved educational attainment for vulnerable students, increased school retention rates, and an inclusive school environment across East Sussex. Regular stakeholder feedback through the FAP panels, will be integral to ensuring its effectiveness.
- In conclusion, the Fair Access Protocol represents a key commitment by East Sussex County Council and schools to uphold the right to education for all children, fostering an inclusive community, where every student can thrive.

## Aims of the Protocol

The aim of the Protocol is to:

1. Provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable, to include:
  - Every child, irrespective of their background, should have access to a school place.
  - Vulnerable children, including those with challenging circumstances, should be prioritised.
  - Including, every effort must be made to secure a timely school place for all children in accordance with their needs,
  - Schools cooperating with the LA to admit children under this protocol, ensuring that their admissions policies do not conflict with the principles of fairness and equity.
2. Provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable children by admitting children placed via the Fair Access Protocol. This includes supporting children who have been permanently excluded from other schools or who face barriers to accessing mainstream education, ensuring placements are made based on need rather than limiting factors such as prior exclusions or [challenging behaviour](#).
3. Ensure that vulnerable children have fair access to a school placement under the FAP and that no school can refuse placement based on concerns about their existing cohort.
4. Recognise the need for appropriate support for children with a history of challenging behaviour, ensuring they are placed in schools equipped to meet their needs. Ensure fair access to a mainstream school place for all our vulnerable children of compulsory school age living within the county of East Sussex, where they have not been able to secure a school place through the normal [in year admissions \(IYA\)](#) process.
5. Act with a sense of urgency to minimise a pupil's time out of education - allocating appropriate school places to vulnerable children **within 20 school days** of them being identified as requiring FAP support.

6. Work together restoratively in an open and honest way, offering constructive support and challenge to each other.
7. Ensure that strategies are developed to reduce unnecessary school moves whilst recognising the legal duty to place children under the FAP if they do not have a suitable school place. Where children already have a mainstream school place which they can reasonably continue to attend, they will not be placed via the Fair Access Protocol.
8. Ensure that there is a supportive reintegration process for pupils who are eligible under the protocol.

## Equality Duty

The FAP does not replace the usual in-year admissions process. Parents can make an in-year application at any time and are entitled to have that preference met wherever possible, as well as the opportunity to appeal a decision when a place is not offered and be added to any waiting lists. The School Admissions Code outlines that schools are subject to the Public Sector Equality Duty and therefore must have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations in relation to people who share a relevant protected characteristic and people who do not share it.

Admission authorities who have chosen to go over PAN to accommodate children who could have been placed in another local school will not be exempt from admitting children via the Protocol. If this happens, it will be assumed that the school in question has planned to accommodate this number and is able to continue to do so for the duration of that cohort's attendance, unless unforeseen circumstances prevent this. Should this be the case, the admissions authority will need to update the Local Authority accordingly.

Every effort (within the boundaries of the law) will be made to identify cases needing to be placed via the Protocol, however, it is accepted that these cases will not always be apparent in advance, and some will only be identified as qualifying to be placed under the Protocol after they have started at the school, particularly where these cases have arrived from another Local Authority area.



Once an offer of a school place has been made, it cannot be withdrawn. However, the school will be entitled to **retrospective FAP credits** for such admissions to enable numbers of FAP admissions to be monitored.

In considering whether to refuse admission on grounds of ‘challenging behaviour’ (paragraph 3.10 of the Code), admission authorities **must** be mindful of their duties under the Equalities Act 2010, ‘when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability’.

The DfE guidance clarifies that, ‘all schools have a duty to make reasonable adjustments for students with disabilities. Schools should be aware that a child who displays challenging behaviour may do so as a result of their disability or any unmet needs. Schools must therefore consider whether any reasonable adjustments can be put in place to support the needs of a particular child when considering whether admission should be refused on these grounds’. In this context, a refusal is only appropriate if it is likely that the behaviour would still be considered ‘challenging’ once all reasonable adjustments have been made.

## Legalities

The protocol is in accordance with:

- **Education Act 1996**
- **School Standards and Framework Act 1998**
- **Schools Admissions Code (2021) and School Admission Appeals Code (2022),**
- **Children Act 1989/2004.**

## The School Admissions Code 2021 ('the Code')

Every Local Authority area is required by law to have a Fair Access Protocol, '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 soon as possible', and all admission authorities in the area must participate in it.

The Code, which carries the force of law, says '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' (paragraph 3.15).

The Protocol must be consulted upon and developed in partnership with all schools in the Local Authority area. Once agreed, the Code is clear that, 'the existing Fair Access Protocol will remain binding on all schools in the local area until the point at which a new one is adopted', (3.22). The process for reviewing the Protocol is set out in the section 'Application of the Protocol' below.

The Protocol must only be used to place those children who are not able to be placed via the usual in year admissions process. It does not apply to those who are applying as part of the normal admissions round.

**Children who already have a suitable offer of a mainstream school place do not qualify for placement under the Protocol.** Unnecessary transfers between schools are strongly discouraged and schools are expected to work with children and their families to prevent these where possible. **The Local Authority recommends that**

**direct contact is made between school settings to ensure timely information is shared.**

Only the categories of children listed as a to m below qualify to be placed in this way. This is set out in the Code.

Children with an EHCP are not placed via the Protocol and cannot be refused a place at the school named in the plan.

Given that children being placed via the Protocol do not have EHCPs and are mainstream-appropriate, it is expected that any mainstream school will be able to make reasonable adjustments to meet the child's educational needs.

In year applicants not able to be offered a place at the preferred school must be offered the right to appeal, whether placed under the Protocol or otherwise.

## **Fair Access Protocol categories**

The following children may be considered under the FAP if they **are without a school place** and have difficulty securing one through the normal 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 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 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.
- m. previously looked after children for whom the Local Authority has been unable to promptly secure a school place.

## School Admissions Code

### In Year Admissions

The Code is clear that, ‘a parent can apply for a place for their child at any school, at any time’ (2.23), and that admission authorities receiving an application ‘**must** process it in accordance with its own in-year admission arrangements’ (2.25).

Should there be more applicants than vacant places at any given time, admission authorities **must** allocate places on the basis of the oversubscription criteria in their determined admission arrangements only’ (2.29).

If an application for in-year admission (IYA) is received by a school, there are only two grounds for refusing:

- i) The year group is at capacity and to admit any further students would prejudice efficient education at the school or the efficient use of resources; or
- ii) The admission authority, ‘has good reason to believe that the child may display challenging behaviour’ (3.10) (defined in the ‘terms and definitions’ section below), and 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.’ (3.11)

This second ground cannot be used to refuse admission to looked after children, previously looked after children, or children with an EHCP naming the school. Nor can it be used to refuse admission to a child in the normal intake year (reception, year 3 of a junior school or year 7 of a secondary school).

The Code is clear that ground ii) must not be used ‘to 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’ (3.13).

The Code requires that admission authorities consider their duties under the Equalities Act 2010, ‘when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability’.

**Refusal Process:** In all cases, where a child is to be refused on ground ii), following this refusal, the refusing school should complete, Primary Challenging behaviour refusal form (being drafted) and or for [Secondary Challenging behaviour refusal form](#) to enable the Local Authority to take such action as may be necessary under the Fair Access Protocol.

This should be done within **five school days** of the decision being reached. The law also requires that the admission authority to convey the decision in writing to the parent or carer, giving reasons for the decision and detailing the right of appeal and how to exercise it.

**FAP credits:** Where a child is admitted to a school via the **in-year admissions** process and is known, or subsequently found, to fall into one or more of categories **a-m** above, schools should send a secure email to, [fair.accessprotocol@eastsussex.gov.uk](mailto:fair.accessprotocol@eastsussex.gov.uk), giving the child's name, year group and date of enrolment, to enable the school to be credited with this admission.

## Application of the Protocol: Role for schools

Schools should inform the Local Authority if they believe an in-year admission applicant may meet the criteria for the Fair Access Protocol. Final determination of FAP eligibility will be made by the Local Authority once a school place has been formally offered and accepted through the in-year admissions process, it cannot ordinarily be withdrawn, except in cases of error, fraud, or misrepresentation, in line with the Code (2.13)

Retrospective credit should be requested by emailing [fair.accessprotocol@eastsussex.gov.uk](mailto:fair.accessprotocol@eastsussex.gov.uk) giving the child's name, year group and FAP category. It is important schools update the Local Authority **monthly** with this information as it will inform the decision making for allocation of future challenging FAP cases. This data helps the LA monitor the equitable distribution of vulnerable children across school.

If IYA applications fall into a FAP category and the school cannot offer a place, by reason of challenging behaviour or lack of space, the school should notify their admissions contact at the Local Authority within **five school days** and [fair.accessprotocol@eastsussex.gov.uk](mailto:fair.accessprotocol@eastsussex.gov.uk) to ensure that the child is identified as needing to be placed via the Protocol .

If the school believes an applicant's behaviour raises significant concerns, they should submit a challenging behaviour form by the appropriate deadline, and the Local Authority will consider whether placement through the Fair Access Protocol is appropriate. This would then be brought to the Fair Access Panel. If the information on the form does not demonstrate that the criteria for refusal have been met, clarification will be sought ahead of the meeting. If this is not forthcoming, the Panel is likely to place the child at the refusing school.

If the refusal is due to challenging behaviour, then evidence needs to be provided at the same time (of both behaviour and school context) using the challenging behaviour form, so that this can be considered when the child is placed.

This applies even if the child is already in an appropriate placement, as it is important to ensure that the correct procedures are being followed in all cases, and for the Local Authority to be aware of the reasoning should there be challenges from

the parent or carer. The form can also be used to evidence the validity of the decision-making to an Independent Appeal Panel if the family lodge an appeal. It is important to understand that the right of appeal applies to these cases, and that Independent Appeal Panels can override the decision of the Fair Access Panel should they feel that circumstances warrant this (see paragraph 3.23 of the School Admissions Appeals Code 2022).

When a school is allocated a child via the Protocol, the school must admit the child without delay. Children being allocated by the Protocol are some of the most vulnerable in the county and it is essential for them to have the protective factors a school place offers, and their admission should be prioritised above others.

## Reintegration process and support

It is accepted that schools may need a short period to arrange timetables, reintegration programmes, and appropriate support. **However, children must be placed on roll within ten school days** and begin their reintegration plan promptly to ensure compliance with the duty to provide education without undue delay.

For reasons of, 'challenging behaviour', a period of reintegration support and planning can be supported by the Local Authority from the Team Around the School and Setting and this will be determined, if appropriate and necessary, at the Fair Access Panel. If agreed, the Team Around the School and Setting, Senior Manager will contact to arrange a multi-agency meeting with the receiving school.

If a school does not feel able to comply with the requirement to admit a particular child who has been allocated via the Protocol, due to a serious safeguarding concern with respect to attendance at that school of which the panel were not aware, this should be raised with the Service Manager: Admissions and Transport within **three school days** following the allocation.

If a safeguarding concern is raised, the Local Authority will investigate the matter thoroughly, considering the child's best interests, the legal duties under the Fair Access Protocol, and the evidence provided. In exceptional cases, if the concern is substantiated, an alternative placement may be considered. An extraordinary meeting of the Fair Access Panel may be convened to support this process.



## East Sussex Fair Access Panel for placing children with ‘challenging behaviour’

The guiding principles of the panel is to provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable, by admitting their fair share of children being placed via the FAP. This includes supporting those children who have been permanently excluded from other schools and those who display challenging behaviour.

The independent chair will ensure there is fair access to a mainstream school place for all vulnerable children of compulsory school age living within the county of East Sussex, where they have not been able to secure a school place through the normal in year admissions process.

The panel will act with a sense of urgency to minimise a pupil's time out of education - allocating appropriate school places to vulnerable children within **20 school days** of them being identified as requiring FAP support.

Membership of the panel will support working together restoratively in an open and honest way, offering constructive support and challenge to each other.

An unplaced child generally should be placed via the panel if their behaviour or circumstances meet the criteria set out in paragraph 3.17 the School Admissions Code and the definition of ‘challenging behaviour’, [set out in footnote 76](#) of the Code and admission to school would require arrangements over and above those already made.

- 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 (**category d**)
- Children from the criminal justice system (**category c**)
- 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 Code (**category j**)

## Operation of Fair Access Panels

- a. Fair Access Panels will be administered and chaired by an independent chair.
- b. Fair Access Panels will discuss and consider all the evidence and decide whether a pupil meets the criteria for placement under the Fair Access Protocol and where the child will be placed.
- c. Final placement decisions will rest with the Local Authority.
- d. Placements of 'challenging behaviour' cases under the Fair Access Protocol will be made by the separate Primary Phase Fair Access Panel and the Secondary Phase Fair Access Panel.
- e. Fair Access Panels will meet monthly during term-time, to adhere to the 20 school-day timeframe for placing children under the Fair Access Protocol. Where no such cases are submitted prior to the deadline, the meeting will be cancelled.
- f. East Sussex Admissions and Transport Team will identify cases that need to be considered under the Fair Access Protocol but cannot legally research the child's circumstances.
- g. Letters will be sent to inform parents of referral under the Fair Access Protocol.
- h. A pupil generally should be placed via the panel if their behaviour or circumstances meet the criteria set out in paragraph 3.17 the School Admissions Code and the definition of 'challenging behaviour' set out in footnote 76 and admission to school would require arrangements over and above those already made. \* Please note: Pupils are only placed in this way if the preferred school refuses the in-year admission. The FAP local agreement means, if it is a green or amber year group and the school has space, then the child should be offered a place via the IYA process.
- i. The panel also places categories c) and d)
- j. Membership of the monthly panels will consist of: Independent chair, East Sussex Officer(s), London South East Academy Trust (LSEAT) representative, on a rotational basis, Secondary Headteacher's, one per Area Group (Secondary panel only), Primary Headteacher's (Primary panel only - representing the EIP group). Any potential receiving schools will be invited to attend the panel(s) alongside the existing home school, as appropriate.

k. The discussion and decision on allocation of a school place by panel will consider all the following criteria and factors:

- Accessibility of the school to child's home: Distance
- Red RAG year\* (x 1 only visual on sheet)
- Parental preference and pupil's best interests
- % FAP allocated to school
- % IYA across academic year
- Amber RAG year\* (2 x only visual on sheet)
- Number EHCP % (census to capture data)
- Any further information submitted by the parent or carer

Primary only:

- Infant class size \*primary only
- Where siblings currently attend \*primary only

\*Ragging reviewed by schools three times a year.

## 2. Fair Access Panel Outcome

School representatives will have delegated powers to make decisions for the school(s) they are representing. The decisions of the Panel are binding, and school representatives should be supported by the school(s) they represent in their capacity as Panel members.

Decisions will be sent by the ESCC Admissions Team, to the receiving school by email on the day of the meeting where possible, or on the following school day. ESCC will inform the parent or carer by email on the fourth school day following the meeting, giving appeal rights where the preferred school has not been offered.

## 3. Local Authority as the final decision maker

The purpose of any panel meeting is to identify the school place the vulnerable child will be offered, and all schools are required to attend the panel with this objective in mind.

If the Panel cannot agree on an appropriate school place, the Local Authority, as the final decision maker, will determine the appropriate placement based on the principles outlined above and in accordance with the legal framework. If necessary, the Local Authority may direct a school to admit the vulnerable pupil.

## **Application of the Protocol: Role of the Local Authority**

### **Admissions and Transport:**

- within **five school days** of an IYA application being received, the team will notify the relevant school, if the child has a history of challenging behaviour that the Local Authority is aware of, has been permanently excluded, or is currently attending Alternative Provision, where this information is known.
- where a school can **evidence** a refusal to admit a child on the grounds of challenging behaviour, the team will consider this information and, where appropriate, the case will be discussed at the East Sussex Fair Access Panel and the child to be placed via the Protocol. [See pages 16-17.](#)
- where a school has refused on the grounds of challenging behaviour and the case is referred to the Fair Access Panel, the parent or carer will be notified by email of the date of the meeting and offered the opportunity to submit further information in support of the placement if they wish.
- the Admissions team will convey the decision of panel to the school (within one school day) and to the parent (within five school days) after the meeting.
- where a school is non-compliant with the Protocol, the Admissions team will escalate to the Strategic Lead, Education Improvement, who will refer to the school for a follow up discussion.

### **Local Authority Powers of Direction:**

- If a school refuses to admit at this stage, the Local Authority will consider pursuing a formal direction in line with the [School admissions code 2021](#).
- 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. See paragraphs 3.23 to 3.25 of the Code.
- Where a Local Authority considers that an academy will best meet the needs of any 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. See paragraphs 3.29 of the Code.

## **Application of the Protocol: Referral and criteria for FAP placement**

The Code is clear that where a child who falls into one or more of categories **a to m** [listed above](#) is unable to be placed through the normal in-year admissions process, they must be placed under the Fair Access Protocol.

Once a child is identified as qualifying to be placed this way, a place must be made available within **twenty school days**. This means that, should a school be unable to offer a place to such a child, they must notify their admissions contact at the Local Authority as soon as the decision is reached, so that the placement process can be triggered.

Where a child falls into categories **a, b, e, f, g, h and i** above, they will be placed via the normal in year process, where there is a space available at a preferred school or one within a reasonable travelling distance.

If there is no space available at any school within a reasonable distance, a school will be identified by the Admissions & Transport Service and asked to admit the child over numbers.

Children falling into **category k**, will have a school identified by the Admissions and Transport service, which will normally be the nearest school suitable to the child's age, aptitude and abilities where a place can be made available unless they are returning from Elective Home Education when education has been deemed unsuitable by the EHE team, as [set out below](#).

Children who fall into **category l**, will have a school place identified by the Admissions & Transport Service. In areas served by only one school, this will normally be the school serving the area, unless there is a parental preference for an alternative which could reasonably accommodate the child.

In areas served by more than one school, this will be one of the local schools, considering parental preference, distance from home to school, sibling attendance,

numbers on roll and previous allocations under the Protocol.

Children falling into categories **c, d, and j**, will be placed by a panel using the placement criteria set. [See page 16.](#)

## **Application of the Protocol: Elective Home Education returners (including School Attendance Orders)**

Where the Elective Home Education (EHE) has been deemed ‘unsuitable’ by the Local Authority, the EHE team will support the family to apply for a school place. In this case, the child will be treated as a normal in year admission although a retrospective FAP credit can be applied where appropriate.

If the family does not make an application within a reasonable timescale, the child will fall into **category ‘k’**. If the application is made, but is unsuccessful, the child will fall into **category ‘l’**. In both cases they will have a school identified by the Admissions and Transport service. Admissions and Transport will inform the Children Missing Education Team (CME) of the allocation of the school. The CME team will notify both the school and the family of the decision to initiate the School Attendance Order process, should the child remain without suitable education.

This SAO will normally name the last school attended (previous home school) unless this is no longer suitable by reason of distance, age or other exceptional factors, in which case it will be the nearest school suitable to the child’s age group at which a place can be made available. The CME team will issue a School Attendance Warning Letter to the school and Governing body. The school will have **3 working days** to submit any ‘exceptional factors’ of concern, to the Admissions Team.

**It is important to understand that children whose EHE is ‘unsuitable’ are entitled to apply for a place at a different school under the normal in-year process and must be offered a place unless one of the grounds for refusal applies. [See page 6.](#)**

Children who are not EHE returners but still require a School Attendance Order, e.g. those who have moved to East Sussex and not sought a school place, will fall into

category 'k' and will be placed in the nearest school suitable to the child's age group at which a place can be made available. If this happens the school will be awarded a FAP credit, but the child will not be placed by the FAP panel unless they also fall into 'c', 'd' or 'j' as well.

The Children Missing in Education team will offer reintegration support to children who are within this category.

## **Application of the Protocol: Alternative Provision**

The commissioned Alternative Provision provider for permanently excluded children will work with the child and family ensuring appropriate assessments have taken place in preparation for the child returning to an educational setting with success. They will present the case at the Fair Access Panel when the child is ready for allocation at a mainstream setting.

## **Application of the Protocol: Safeguarding**

Where there may be safeguarding concerns with children being managed through the FAP process, it is imperative that receiving schools are aware of any concerns at the earliest opportunity. The Local Authority recommends that direct contact is made between school settings to ensure timely information is shared and that schools are transparent about the behaviour, attendance and level of support that has been provided. The draft [Student Transition Information template](#) has been developed to ensure clarity of information shared.

The following guidance outlines Information Sharing Advice for practitioners providing safeguarding services for children, young people, parents and carers: [Information sharing advice for safeguarding practitioners](#).

Keeping Children Safe in Education (KCSiE) is clear that: *DPA and UK GDPR do not prevent the sharing of information for the purposes of keeping children safe and promoting their welfare. Fears about sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare of children.*

KCSiE goes on to state timeframes for sharing information but makes it clear that schools can share information with a new school in advance of the child leaving, to help the new school put support in place for the child. In that respect, schools must share safeguarding information in a timely way within the FAP process to support all schools with making informed decisions and developing suitable plans to keep children safe.

- *Where children leave the school or college (including in year admission) the designated safeguarding lead should ensure their child protection file is transferred to the new school or college as soon as possible, and within 5 days for an in-year admission or within the first 5 days of the start of a new term.*
- *Receiving schools and colleges should ensure key staff such as designated safeguarding leads and special educational needs co-ordinators (SENCOs) or the named person with oversight for SEND in colleges, are aware as required.*
- *In addition to the child protection file, the designated safeguarding lead should also consider if it would be appropriate to share any additional information with the new school or college in advance of a child leaving to help them put in place the right support to safeguard this child and to help the child thrive in the school or college.*

Where a child is known to have a history of safeguarding concerns or complex current circumstances, this is not reason enough for schools to not comply with the requirement to admit a child, who has been allocated via the Protocol.

A serious safeguarding concern which may preclude admission could be where a child has a history of harm with a particular child already on roll of a school or setting. Therefore, to bring them both into the same school environment would not be in either of their best interests.



## **Application of the Protocol:**

### **Funding Information - Permanently Excluded children (only)**

If a school or academy permanently excludes a child, the principles, as agreed at the Schools Forum include:

- that funding shall follow pupils and therefore be transferred between schools, academies and the Local Authority unless the pupil is from outside of East Sussex.
- where a pupil is permanently excluded, the school will passport to the LA the remainder of the age weighted pupil unit (AWPU) for that financial year, based on the calculation set out within the School and Early Years Finance (England) Regulations 2012.
- where the exclusion occurs after the October census the school or academy will also be required to pay the following year's full year AWPU.
- where a pupil transfers within the same financial year to another school or academy, the amount that the new school receives, will be calculated in accordance with the School and Early Years Finance (England) Regulations 2012.

## **FAP Review Process**

The Protocol will be reviewed annually. Should the Protocol prove untenable to most schools/admission authorities in East Sussex, an early review will be triggered. This should be raised through the Primary and Secondary Boards.

The current Protocol will remain binding on all schools/admission authorities in East Sussex until a new one is agreed.

# Appendices

## Resources

- a) School Admissions Code 2021: [School Admissions Code 2021 \(gov.uk\)](#)
- b) DfE FAP guidance: [Fair access Protocol s: advice for local authorities and school admission authorities \(publishing.service.gov.uk\)](#)
- c) East Sussex County Council admissions information: [Apply for a school place | East Sussex County Council](#)

## Terms and definitions

**Admissions & Transport:** the team within East Sussex County Council which is responsible for co-ordinating admissions and assessing entitlement to home to school transport and free school meals.

**‘Challenging behaviour’ (footnote 76):** this is defined in the School Admissions Code 2021 as ‘For the purposes of this Code, behaviour can be described as challenging where 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 pupil’s education or jeopardise the right of staff and pupils to a safe and orderly environment’. While it is recognised that the Admissions Code uses the term ‘Challenging Behaviour’, this is not in line with East Sussex’s Therapeutic Thinking approach to behaviour. Where this document refers to ‘Challenging Behaviour’, this refers to what we would call difficult or dangerous behaviour. Where this behaviour results from a disability, this will be factored into the decision-making process.

**CME:** child missing education. This is a child without a school place available, or whose whereabouts are unknown to the current school, not a child who has a school place but is refusing to access it (or whose parents are refusing on their behalf). East Sussex County Council has a CME team responsible for tracing these children and ensuring their return to education.

**CME Team:** If a child is open to the team, a reintegration package is offered to support the child when returning to a school setting. This includes failed EHE where a School Attendance Order has been issued and children who have been missing in education for more than 4 weeks.

**Cohort:** a given year group in each school.

**Direction:** where an admission authority refuses to accept a child placed under the Protocol despite no safeguarding concerns having been raised and/or accepted, Admissions & Transport will request a direction from the Secretary of State and/or the funding agency.

**EHE:** Elective home education. In East Sussex, when a family withdraws a child from a local school to home educate, an agreement is in place stating that the child's previous school will offer them a place if home education is discontinued or deemed unsuitable by TLP. However, if home education is found to be unsuitable, parents also have the right to apply for a place at a different school.

**Exceptional factors:** in the context of a proposed SAO this can only be a severe school specific safeguarding concern. If the safeguarding concern would apply in other local schools, then the school will be expected to formulate an appropriate plan to manage the risk and admit the child.

**Fair Access Panel:** Placements under the Fair Access Protocol will be made by the separate Primary Phase Fair Access Panel and the Secondary Phase Fair Access Panel. Fair Access Panels will meet monthly, to adhere to the 20 school-day timeframe for placing children under the Fair Access Protocol. Fair Access Panels will be administered and chaired by an independent chair. The panel shall consider all the evidence presented to determine whether a pupil qualifies to be placed via the Fair Access Panel.

**In year admission:** admission of a student outside the normal timescale for admitting children at the beginning of term 1 of the intake year. This does not include staggered starts for reception admissions if these places were allocated via the annual admissions exercise.

**Inclusion Partnership:** Each area group has its own inclusion partnership which is made up of representatives from all the secondary schools in its area as well as Local Authority officers. It shares best practice, supports inclusion and discusses complex cases.

**PAN:** published admission number. This is the number of children each school expects to admit in its annual intake each year. Where the admission authority decides to admit above PAN in its intake year, schools and admission authorities will still be expected to admit children under the Protocol, returning from EHE or children for whom there is no space available within a reasonable travelling distance, unless this is impossible by reason of class size legislation.

**RAG rating:** each school is asked to rate every cohort in their school three times a year as red, amber or green based on the level of challenge/need in that year group, not places available. This is to enable panels to estimate the likely difficulties each school would face in admitting an additional child with ‘challenging behaviour’. RAG ratings can be altered up to three times in an academic year to reflect possible changes in the circumstances of the cohort (e.g., previously red year group may have settled, previously amber/green year group may have experienced trauma). Where a school has mixed age teaching, RAG rating will still need to reflect the cohort rather than the class.

**Refusal on grounds of ‘challenging behaviour’:** In the context of refusing children with ‘challenging behaviour’ for in year admission under category ‘j’, this either needs to be a red year group or a safeguarding issue specific to this allocation (i.e. an issue that would not present if this child attended another local mainstream school). It is unlawful to refuse a looked after child, a previously looked after child, or any child in the normal year of entry for this reason.

**Relevant Accommodation:** (as used in category b): A safe place to stay for victims and their children fleeing domestic abuse. This can include, but is not limited to, refuges, specialist safe accommodation, sanctuary schemes and second stage accommodation.

**Retrospective FAP credit:** where a child is admitted to a school via the in-year admissions process and is then identified as falling into one of the FAP categories set out in paragraph 3.17 of the School Admissions Code 2021 (and reproduced above), schools should send a secure email to [fair.accessprotocol@eastsussex.gov.uk](mailto:fair.accessprotocol@eastsussex.gov.uk) detailing the child’s name, year group and date of admission together with evidence of the FAP category applicable in their case. This information will then be added to the record of FAP admissions for that school used to place challenging behaviour children at the Fair Access Panel.

**SAO:** School Attendance Order. This is an order naming a school at which a child who is currently out of education must be enrolled within a given timescale. If a school is named in the order, they must make a place available, and the parent must enrol their child or make suitable alternative provision for their child’s education within the timescale in the order.

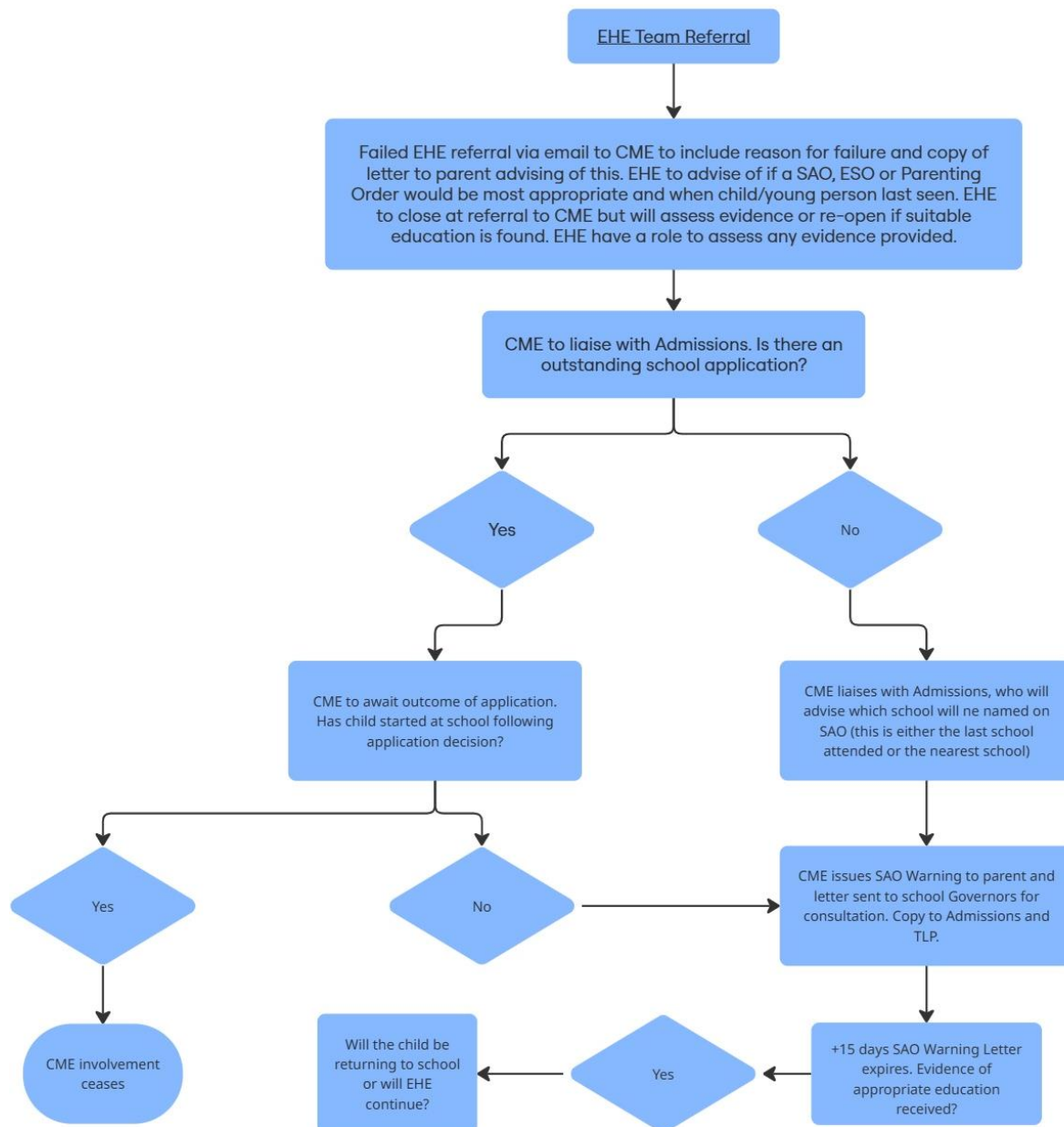
### [Student Transition Information Form add link](#)

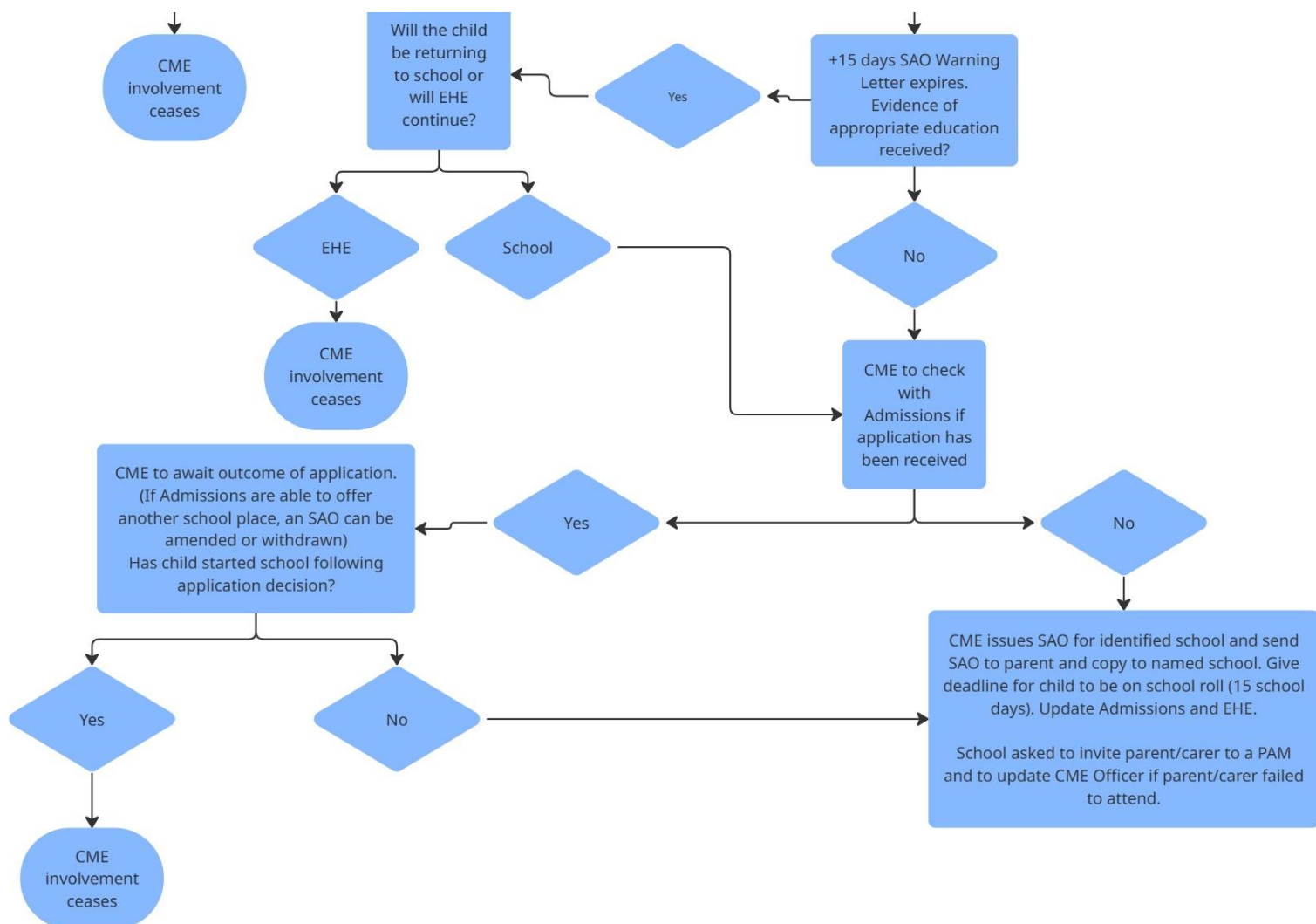
**TLP:** the team within East Sussex County Council responsible for Teaching and Learning Provision for children who are unable to attend school for health reasons. This team is also responsible for monitoring EHE provision.

## **Forms, flowcharts and linked documents**

- a) [Challenging behaviour refusal form](#)
- b) East Sussex Fair Access Panel Process criteria and Terms of Reference
- c) Elective Home Education - School Attendance Orders (only) flowchart.
- d) In Year Admissions flowchart

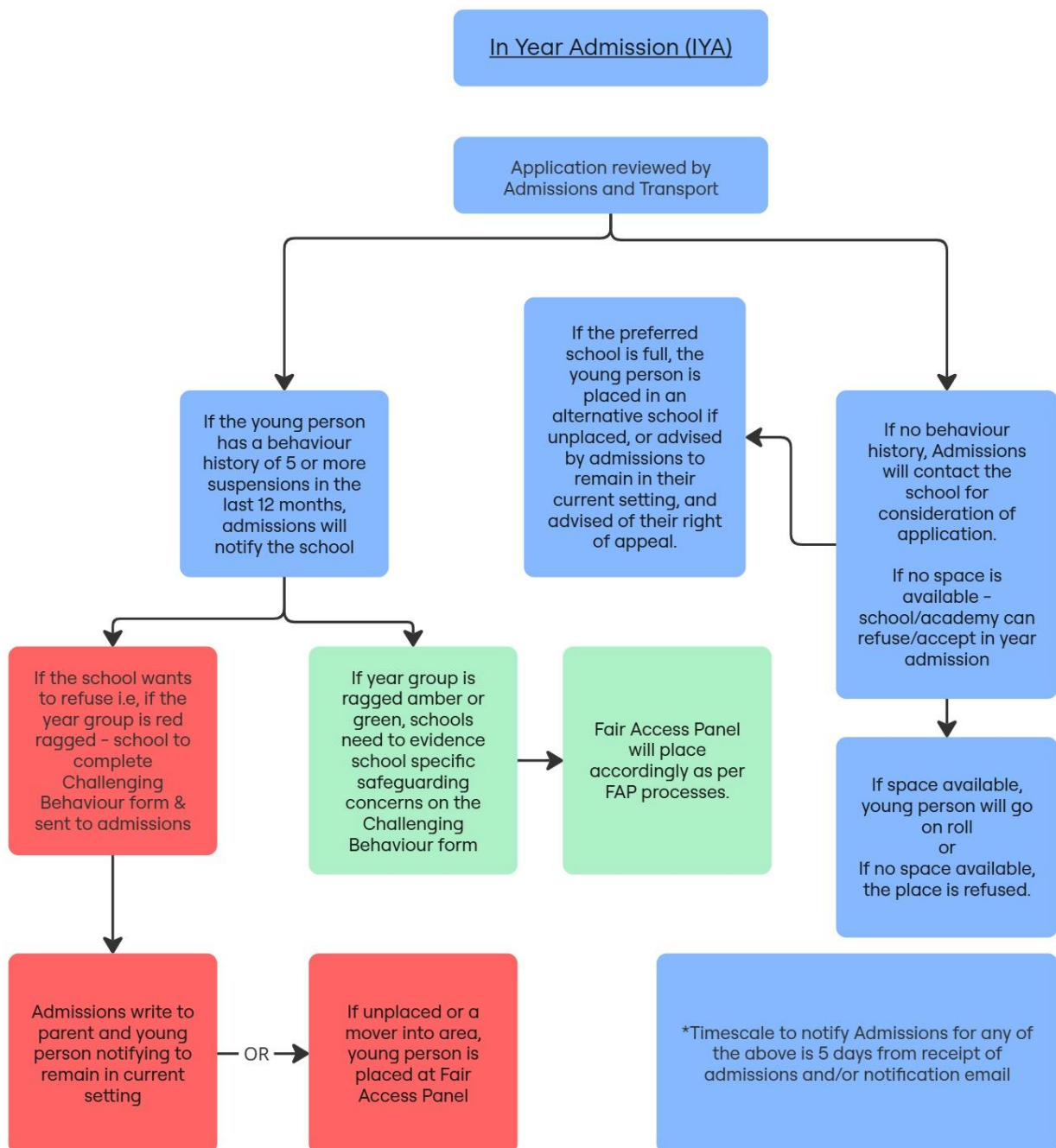
## Elective Home Education - School Attendance Orders (only)







## In Year Admission Flow Chart



## Draft Student Transition Information Form

### Fair Access Protocol

#### Section A: Student Details

Full Name:

Date of Birth:

Current Year Group:

Current School:

Unique Pupil Number (UPN):

#### Section B: Reason for Referral via Fair Access Protocol

Brief description of the reason for the transition:

--

#### Section C: Educational Information

Current Attainment Levels / Grades attach latest tracking / reporting document:

Attached: ☐ Yes ☐ No

Attendance (this academic year): \_\_\_\_\_ %

Punctuality concerns: ☐ Yes ☐ No      If yes, provide details:

--

SEN Status: ☐ No SEN ☐ SEN Support ☐ EHCP

If EHCP, attach latest plan and specify primary need: Attached: ☐ Yes ☐ No

Additional support provided in current school:

## Section D: Behaviour and Safeguarding

Behaviour Concerns: ☐ Yes ☐ No

If yes, describe concerns and attach relevant evidence (e.g. behaviour logs,

exclusions):

Safeguarding Concerns: ☐ Yes ☐ No

If yes, confirm if DSL is aware and details are shared securely: Confirm ☐ Yes ☐ No

## Section E: Support from Education Services (if applicable)

Involvement of External Agencies (tick all that apply):

☐ Educational Psychologist

☐ CAMHS

☐ Social Care

☐ Youth Offending Team

☐ Other (please specify): \_\_\_\_\_

Key Contacts:

Name: \_\_\_\_\_

Role/Agency: \_\_\_\_\_

Contact Info: \_\_\_\_\_

Summary of Support Received:

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## Section F: Parent/Carer Engagement

Parental engagement level: ☐ High ☐ Medium ☐ Low

Have parents/carers been informed of the transition? ☐ Yes ☐ No

If yes, date of conversation: \_\_\_\_\_

Summary of discussion:

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## Section G: Transition Planning

Suggested support strategies for transition:

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Key considerations for receiving school:

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Has a transition meeting been arranged? ☐ Yes ☐ No

Proposed date: \_\_\_\_\_

## Section H: Supporting Documents Checklist

☐ Latest school report

☐ Attendance record

- ☐ Behaviour log
- ☐ SEN plan / EHCP (if applicable)
- ☐ Risk assessments (if applicable)
- ☐ Agency reports / referrals

Other relevant evidence: \_\_\_\_\_

## Declaration (To Be Completed by Current School)

Name:

Position:

Signature:

Date:

DSL Signature (if safeguarding information shared):

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Theme	You asked	We did
<i>School contexts including parity of data and sharing information.</i>	<ul style="list-style-type: none"> <li>Professionals placing the child should have a better understanding of the child's needs and the context which would work best.</li> <li>For a strong reinforcement that safeguarding information must be shared swiftly and that safeguarding concerns must not prevent fair admission (unless extreme).</li> <li>To consider the % of SEND needs within the school as a whole and the class for the FAP pupil.</li> </ul>	<p>The role of the Primary and Secondary FAP panels will be to look at all the information and ensure there is transparency and equity with placements.</p> <p>Consideration of school profiles, including the number of EHCPs, will be a consideration for the panel.</p> <p>Development of Student Information sheet for schools to use to share key information.</p>
<i>Criteria and Refusal Process and panels</i>  <div>Page 55</div>	<ul style="list-style-type: none"> <li>To consider the order of the criteria at the panel to include school mobility of schools when placing pupils.</li> <li>Development of a Challenging behaviour form for primary.</li> <li>To ensure clear criteria and evidence that the FAP is being applied fairly across all school types, all reporting is very transparent.</li> <li>Where will FAP credits be published and how will they be shared.</li> <li>To ensure transparent mechanism for reviewing placement data regularly and ensuring fairness across all schools – particularly in high-pressure localities.</li> <li>To include expectation of school-school sharing of information, potentially before, during and after a request.</li> <li>Useful to have data when FAP is requested on schools in the locality have admitted FAP children to ensure that this is being considered fairly</li> </ul>	<p>Membership of the panel will include, Independent chair, East Sussex Officer(s), London South East Academy Trust (LSEAT) representative, on a rotational basis - Secondary Headteachers, one per Area Group (Secondary panel only), Primary Headteachers (Primary panel only - representing the EIP group). Any potential receiving schools will be invited to attend the panel(s) alongside the existing home school.</p> <p>The Primary panel is replacing the HPPP.</p> <p>The processes within the FAP panel will ensure a consistent and robust approach is taken to the use of the challenging behaviour form and will consider, through discussion, the profile and geographical landscape - to include mobility and IYA.</p> <p>Primary challenging behaviour form being drafted. Secondary form being updated.</p> <p>The home school will be invited to the panel to present any challenging behaviour cases. Receiving schools also to be able ask questions. Schools who repeatedly do not provide current information will be flagged to local authority officers.</p> <p>The FAP allocation will be considered based on a panel discussion, considering all the criteria listed. There is no hierarchical order to the criteria.</p> <p>Panel minutes will be anonymized and will be shared monthly via EIP chairs and AG chairs, alongside the FAP allocation sheet. This will support transparency and provide leaders with rationale for allocations.</p>

		The Schools Admissions code states that parental preference must be taken into consideration as part of the FAP. <b>Paragraph 3.19 states</b> , ‘There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, but parents’ views should be taken into account’.
<p><i>Returning Elective Home Education pupils</i></p> <p>Page 56</p>	<ul style="list-style-type: none"> <li>To amend the FAP to remove failed EHE from Category K, clarify that in-year admissions must be attempted first, and only if relevant FAP categories are met can a placement be made.</li> <li>To consider the impact and context of EHE pupils placed directly back in their previous school, if not meeting ‘exceptional circumstances.’</li> </ul>	<p>‘Unsuitable’ EHE does not override parental preference. If the family are engaging with the CME process, then the IYA will determine the school the child returns to.</p> <p>‘Unsuitable’ EHE returners are encouraged to apply but if they are unable or unwilling to do so, or the preferred school is not able to offer a place, they will qualify as FAP- not all of them are treated as category k. Those who don’t apply are category k. Others are likely to be category I, although other categories may apply as well.</p> <p><b>The wording the FAP has been amended to make this clearer.</b></p> <p>In relation to ‘exceptional circumstances’, this should be an <b>extreme case</b> where the child’s return to the school would be detrimental.</p> <p>The school will need to notify the CME team of their concerns and complete an evidence form outlining the <b>significant and exceptional circumstances</b> and how they relate to the school context and will not be replicated in other settings.</p> <p>This will be an area for the FAP panel to discuss and agree.</p>
<i>Equality Duty and legalities</i>	<p>Precondition for FAP Placements (Paragraph 3.17)</p> <p>To improve clarity of the legal requirement under Paragraph 3.17 and Footnote 80 of the School Admissions Code, which states that children may only be placed via FAP where reasonable measures have been taken to secure a place via in-year admission procedures. This precondition must be clearly stated and consistently applied.</p>	<p><b>This has been made clear in the Executive Summary.</b></p> <p>There are cases whereby the parent is unwilling or unable to apply and, in those circumstances, the child will be placed under the Protocol but not by the panel. To note: Protocol placements are not all done via the panel, and most of the <b>category k</b> ones are placed by the criteria in the protocol and not taken to panel, as they are not known to have challenging behaviour.</p>



		The Code states: 3.17 - Footnote 83, ‘It is for the local authority to decide whether a child qualifies to be placed via the Protocol on this basis, based on the circumstances of the case’.
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