



**WOKINGHAM  
BOROUGH COUNCIL**

# **FAIR ACCESS PROTOCOL (FAP)**

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## 1. Context

1.1 This protocol is underpinned by national legislation and guidance as well as Local policies and procedures:

- [School admissions code 2021 \(publishing.service.gov.uk\) \(September 2021\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [Fair access protocols: advice for local authorities and school admission authorities \(publishing.service.gov.uk\) \(August 2021\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [The Education \(Pupil Registration\) \(England\) Regulations 2006](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [The Education \(Pupil Registration\) \(England\) \(Amendment\) Regulations 2016](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [School Standards and Framework Act 1998](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [The School Admissions \(Admission Arrangement and Co-ordination of Admission Arrangement\) \(England\) Regulations 2012](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [CME Policy](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [Exclusion Guidance](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)
- [Wokingham Borough Council School Admission Arrangements](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/school-admissions-code-2021.pdf)

***This protocol applies to all Wokingham Borough admission authorities (i.e., maintained schools, voluntary aided schools, academies, and free schools). The term 'schools' should be taken to mean the aforementioned educational settings. The term 'parents' should be taken to mean parents, carers, or those with parental responsibility for the child.***

1.2 The School Admissions Code (September 2021) requires the Local Authority (LA) to have a Fair Access Protocol (FAP), agreed with the schools in its area, to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place, are allocated a suitable school place as quickly as possible.

1.3. The protocol applies to the admission of pupils to schools in Wokingham outside of the normal point of admission. Therefore, a referral to FAP is the result of a pupil requiring placement in-year and should only take place if it can be demonstrated that reasonable measures have been taken to secure a place through in-year procedures and that the pupil meets one of the prescribed categories of children eligible to be placed under the protocol.

1.4. The protocol aims to ensure that all schools are treated in a fair, equitable and consistent manner and that no school – including those with available places – is asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the

protocol. Whilst parent's wishes are recognised, there is no duty to comply with parental preference when allocating places through FAP.

- 1.5.** The protocol will also determine how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.
- 1.6.** The FAP can only be used to place the following prescribed categories<sup>1</sup> of children of statutory school age where they are having difficulty in securing a school place:
- a) Children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or 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<sup>2</sup>;
  - 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 have been referred to the protocol.
  - 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 not accepted.
  - m) previously looked after children for whom the local authority has been unable to promptly secure a place.
- 1.7.** As other legislation and processes are in place, accessing FAP is not possible if:
- the child has an Education Health and Care Plan (EHCP)
  - the child is a looked after child (LAC)

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<sup>1</sup> As defined in the School Admission Code, 2021, paragraph 3.17

<sup>2</sup> As evidenced by child arrangements order not relating to either birth parent or a special guardianship order.

- 1.8. It is also expected that previously looked after children (PLAC) or previously looked after children from state care outside of England (IPLAC) would not be required to be referred to FAP as they would normally be considered on the same basis as Looked After Children. The provision within the prescribed categories for these children should only be necessary if a school place has not been secured promptly.
- 1.9. There is a presumption that pupils with SEND should have their needs met, including reasonable adjustments, in mainstream settings. Referrals to FAP should only be in exceptional circumstances and where strong evidence suggests an EHCP process should ordinarily have been pursued.

## 2. Responsibilities for and monitoring the Fair Access Protocol

- 2.1 Wokingham Borough Council's Principal Education Welfare Officer and the School Admissions Team are responsible for leading and monitoring placements made under the Fair Access Protocol (FAP) and the operation of the Fair Access Panel, to ensure an equitable decision-making process.
- 2.2 A termly record of decisions made under the FAP will be maintained by Wokingham Borough Council's Education Welfare Service and reviewed annually. This record will form part of Wokingham Borough Council's termly reporting process of school performance to the Children's Services Leadership Team and schools, via the Schools Forum.
- 2.3 The Fair Access Panel will receive an annual report on in-year admissions for each academic year, which will include the number of admissions made under the FAP. This report will be publicly available – therefore the identities of individual children will be anonymised.
- 2.4 An annual report on the number of children admitted under the FAP, produced by Wokingham Borough Council's Education Welfare Service, will also be made available to the Office of the Schools Adjudicator (OSA).

## 3 Publication and Review of the Fair Access Protocol

- 3.1 The Fair Access Protocol will be published on the Admissions page of Wokingham Borough Council's website and will form part of the admissions arrangements for all state-funded mainstream schools in Wokingham. It will also be published on the [Wokingham Schools Hub](#).
- 3.2 The FAP will be reviewed annually. Reviews will be led by Wokingham Borough Council's Principal Education Welfare Officer, in consultation with all schools across the Borough. Any changes to the FAP will be consulted on with all schools (requiring

51% of schools to approve), before being submitted to the Children's Services Leadership Team for approval.

- 3.3** If most schools can no longer support the principles and approach of the local FAP (for example, if they believe it is not operating fairly or effectively), they may request that it is reviewed. The mechanism for invoking a review will be to submit the request in writing to the Assistant Director of Learning and Achievement Partnership and the existing FAP will remain binding on all schools in the area until a new one is adopted.

## 4 The Fair Access Panel & Procedures

### 4.1 Safeguarding due diligence is required for all cases.

- 4.1.1** Safeguarding due diligence will be carried out by the referrer on each case to ensure full understanding and needs of the individual and their specific circumstances prior to submitting a referral to FAP.
- 4.1.2** Where complex and local contextualised safeguarding needs are found, relevant stakeholders and schools will be invited to attend a multi-disciplinary panel (MDP) meeting to discuss the complexities and needs of the specific pupil, and the potential impact on any local receiving schools. The outcomes from these meetings will be discussed at FAP following a referral.
- 4.1.3** All referrals will be triaged by the LA upon receipt to ensure criteria of FAP have been met and all necessary safeguarding and due diligence assessments have been carried out to mitigate risks.
- 4.1.4** *Where the LA have recognised and found complex and local contextualised safeguarding needs, they will convene an MDP immediately to support the placement of the pupil.*

### 4.2 Process

- 4.2.1** There will be two sections within each panel meeting, one to discuss primary school cases and one to discuss secondary school cases. These two sections will alternate on a half termly basis.
- 4.2.2** Wokingham's Fair Access Panel consists of a minimum quorum of school representation as below, Principal Education Welfare Officer, one (or two) representatives from Wokingham Admissions Service, and a PRU representative. School members from establishments under consideration for FAP panel placement will be invited to attend and their attendance will be required if they want to make representations to influence placement outcomes.
- 4.2.3** If a meeting is not quorate, it will be cancelled.

- 4.2.4** There is an expectation that all mainstream secondary schools will be represented at their panel meetings. To be quorate, 5 will be required to attend. For the primary school panel meetings, 5 representatives will be required to be quorate. To support objectivity there should be 2 representatives from a primary school at a secondary panel and vice versa.
- 4.2.5** FAP Admin will be pro-active in ensuring prior to meetings that they will be at least quorate.
- 4.2.6** School attendees should be the Headteacher or their representatives who have been designated to make decisions on behalf of the school. Schools should diarise FAP panels and notify the clerk to FAPP of expected attendance upon receipt of the FAP agenda, so that quorate can be guaranteed prior to a meeting. Schools will be notified of attendees once confirmed. Offering periodic attendance would be an expectation, and any schools which have not attended a FAP panel regularly, or not at all, may be invited to do so at times across the year, in the interest of fairness. Additionally, if there is deemed not to be a fair representation of schools, then additional schools will be invited to support objectivity.
- 4.2.7** Other contributors to panel may include further colleagues from the Local Authority such as:
- Governor support
  - School Improvement Team
  - SEND Team
  - Pupil Place Planning
  - Integrated Early Help Service/Social Worker
  - CME Officer
  - EAL Advisory Officer
- 4.2.8** These officers would typically attend in an advisory role, and they would not vote in any decisions taken<sup>3</sup>.
- 4.2.9** In the event of a split decision, where a 51% majority vote is not achieved, and where the vote is tied, further discussion will take place to reach a majority vote but if this is not possible the Independent Chair of panel will make a casting vote.
- 4.2.10** The Chairing of panel is a neutral role to facilitate effective decision-making and is undertaken by a person independent of the Education Welfare Service and School Admissions Service; the panel will elect a vice chair from within its membership. Where the Chair and Vice Chair are unable to attend a panel meeting, a temporary chair will be elected for that meeting.

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<sup>3</sup> Panel members would be notified in advance of the meeting when a colleague has been requested to attend in an advisory role for any specific case.



**4.2.11** Clerking facilities, including all administrative duties, remain the responsibility of the LA and are undertaken by the clerk to the FAP and include:

- Inform the parent that the application has been referred to FAP.
- Ensure that the application form has been fully completed and returned by the current/previous school /Admission Authority if applicable.
- Ascertain whether the pupil is known to other agencies such as SEND, YOS or CSC.
- Request further information, if necessary. The papers will be prepared on the understanding that more information will facilitate naming the most suitable school.
- Ascertain whether there is a potential conflict of interest and, if so, to discuss with the panel member and seek an alternative panel member if both agree a conflict exists.
- Ensure that appropriate schools are represented (whereby if a referring school is required to attend and / or possible receiving school and outside of regular panel members.

**4.2.12** For pupils being referred to FAP, FAP Admin will:

- **Circulate the paperwork to the panel members 7 school days in advance of the meeting. This will give schools the opportunity to respond if any contextual safeguarding issues are known to them. A MDP meeting should have taken place however before a referral so any safeguarding issues should have already been highlighted.**
- **Circulate the agenda 3 school days in advance of the meeting.**

**4.2.13** FAP meetings are scheduled every 2 weeks during term time. Panel members should make all FAP meetings a priority. A summarised referral agenda will be sent to designated school email addresses 3 school days in advance of the meeting and a further email, confirming key decisions made and any required actions, will be issued the next working day after panel have met.

**4.2.14** FAP Referral Forms should be completed by the referrer and emailed to FAPP.admin@wokingham.gov.uk. The referral form can be found in APPENDIX A.

**4.2.15** To ensure the Fair Access Panel has a full picture of the equitable way that all schools are working together, cumulative data of in-year admissions and FAP placements will be available ahead of each meeting. This information will be collated by the LA Clerk to FAP and presented at each meeting.

**4.2.16** Information regarding previous failed off-site directions and permanent exclusions will be available and presented in writing by the PEWO at each meeting.

**4.2.17** The statistical data listed below will be provided to the panel for each school, some of which is based on the last census data:

- The number of pupils on the school roll.
- Number and percentage of pupils admitted to the school via the in-year admission process since the beginning of the school year.
- Number of pupils in each year with Education, Health and Care Plans.

- Number and percentage of permanent exclusions in each year group during the last school year.
- Number of pupils admitted to schools via the in-year process since the beginning of the school year because the pupil meets the definition of challenging behaviour.
- The number of confirmed off-site directions since the beginning of the school year.
- The number of pupils admitted to schools via the Fair Access Protocol under all of the categories.

**4.2.18** Parents are not permitted to attend Fair Access Panel meetings but may submit a representation for consideration by the Panel if they wish to do so.

## 5 Referral to Fair Access Panel

**5.1** Admission Authorities must consider all formal in year applications submitted and must not refuse to admit a pupil unless to do so would prejudice the provision of efficient education and efficient use of resources in the school. In the exceptional circumstance that a school, who has an available place, feel the admission of an individual pupil would prejudice the efficient delivery of education and efficient use of resources and that pupil meets one of the prescribed categories, the admission authority/school are required to inform the School Admissions Team & [FAPP.admin@wokingham.gov.uk](mailto:FAPP.admin@wokingham.gov.uk) in the Local Authority by submitting a FAP referral and the application may be presented for consideration by Wokingham Fair Access Panel, if eligible.

**5.2** When submitting the FAP referral, the school/Admission Authority should confirm which prescribed category the pupil meets and provide factual information about the pupil and their own setting as evidence of why they consider placement would not be appropriate. This may include any other documentation received from the child's current or previous school and information gathered from contact with the parent/carer or other professionals involved with the pupil or professionals involved with the pupil.

## 6 School referrals for Excessive Challenging Behaviour

**6.1** Where an admission authority does not wish to admit a child because there is evidence of excessive challenging behaviours, they must refer the child to FAP. It is expected that any admission authority will only use this provision if it can demonstrate that it already has a particularly high proportion of children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and admitting another child will thus prejudice the provision of efficient education or the efficient use of resources<sup>4</sup>. When considering refusing admission on these grounds, admission authorities must consider their duties under that Act. Admission authorities should also consider the effect of the decision of the Upper Tribunal in [C & C v The Governing Body](#)

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<sup>4</sup> The Admission Code defines behaviour 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 and significantly interfere with the pupils/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.

[of a School, The Secretary of State for Education \(First Interested Party\) and The National Autistic Society \(Second Interested Party\) \(SEN\): \[2018\] UKUT 269 \(AAC\) ; \[2019\] AACR 10 - GOV.UK \(www.gov.uk\)](#) when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability.

**6.2** Admission authorities cannot make referrals on the grounds of challenging behaviour in respect of the following pupils:

- looked after children (LAC) and previously looked after children (PLAC).
- children who have an Education, Health and Care Plan naming the school.
- children applying in the normal admissions round or at any point in the normal year of entry (unless the child has been excluded from two or more schools with the most recent exclusion being within the last 2 years).

**6.3** If an admission authority presents a case that demonstrates a high proportion of children with challenging behaviour or previously permanently excluded pupils on roll, this will remain a valid case for the remainder of the school term in which it is presented in relation to all subsequent referrals.

## 7 Referrals for reintegration from a Pupil Referral Unit (PRU)

**7.1** Foundry College (Wokingham's Pupil Referral Unit) can refer to panel any pupils who are of single registration at the PRU but are considered ready for mainstream reintegration. This may include pupils who have been permanently excluded or those who have previously been placed at the PRU by Fair Access Panel at a time when that pupil was not considered ready to access mainstream provision.

**7.2** Any pupil allocated a mainstream school placement from Foundry College will be via an offsite direction for a period of 8 weeks, with flexibility to extend on a case-by-case basis. Schools will be supported onsite with a transition package from Foundry College in order to increase the likelihood of a successful placement. The transition package will consist of;

- **Week 1** = 5 hours of on-site support
- **Week 2** = 3 hours of on-site support
- **Week 3** = 2 hours of on-site support
- **Week 4** = 1 hour of on-site support
- **Week 5 to 8** = No on-site support but advice available from Foundry if needed with a view to extending the placement for a further 6 weeks if required

- 7.3** Throughout the second 4-week period, supplementary support can be obtained through Foundry College outreach or alternative provision.
- 7.4** These pupils will be discussed every two weeks as an update to the panel on their progress.
- 7.5** Failure of the fixed term off site direction will only be through an act that is deemed to warrant a permanent exclusion, or where multiple suspensions have been given, which shows that the placement is not in the best interests of the pupil. This will be discussed and confirmed during a FAP meeting.

## **8 Local Authority referrals for unplaced pupils and Children Missing Education (CME)**

- 8.1** Local Authorities have a duty to make arrangements to identify children in their area who are not registered pupils at a school and are not receiving suitable education otherwise and to act on this. Without parental engagement (i.e. the completion of an in-year application form to actively seek a school place) the LA may progress with a School Attendance Order (SAO). The Local Authority will name a school on the order based on schools with places in that school year and within reasonable distance from the pupil's residence. If this is not possible then a referral to FAP will be made under the criteria (I) and may include pupils registered as EHE but for whom the LA has deemed education delivery as unsuitable<sup>5</sup>. Pupils receiving EHE in accordance with parent choice, will NOT be eligible for FAP referral if EHE is deemed suitable by the LA Officer.
- 8.2** The panel should, where appropriate and safe to do so, return a pupil who is returning to a mainstream setting within a year following being electively home educated, to their last provision. This does not invalidate the normal admissions process and parents can still submit a parent led school place application.
- 8.3** The Local Authority monitors in-year transfer applications and may refer an application to panel for a placement decision if the pupil is an unplaced Wokingham resident and a place has not been secured through the typical in-year application process in a timely manner (i.e. more than 10 school days). This could include where an application has been made but parental preference cannot be met due to oversubscription. In these cases, panel may be asked to discuss and agree an alternative placement offer to be made to the pupil<sup>6</sup>. The appeals process is independent from the FAP. Where a child has been referred to the FAP, their parents retain the right to make further in-year applications and appeal against the refusal of a school place as normal.

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<sup>5</sup> The provisions stated within 8.1 and 8.2 is intended to ensure that no single school is asked to take a disproportionate number of pupils being placed via the protocol (see also 9.7).

<sup>6</sup> The provisions stated within 8.3 would typically only be used if the child meets a prescribed category.

- 8.4** Admission authorities should be aware that where they refuse a child a school place and subsequently refer them to the FAP, they may later be required to admit that child if an appeal is upheld. This would still be the case when an alternative school place is offered to the child via the FAP. In all circumstances, the decision of an appeal panel is binding and must be complied with. The fact that an appeal has been lodged for a child is not a reason to delay the FAP process.
- 8.5** On occasion, it is recognised that, for children in vulnerable categories or those with challenging behaviour, it may not be appropriate to place in a particular school or it may be that only one school may meet their particular need. This would only occur in limited circumstances such as:
- there may be safeguarding reasons for a child in a refuge to attend the local school.
  - A court order or bail conditions preventing attendance at a particular school.
- 8.6** Where this occurs, a professional, including LA officers, can make an application through FAP for an exceptional referral. It is for the local authority to decide whether a child qualifies to be placed via the Protocol, based on the circumstances of the case. This does not invalidate the normal admissions process.

## 9 Placement rationale

- 9.1** The panel is obligated to agree a placement for any Wokingham resident pupil who presents as unplaced (not on a school roll) or is unable to access their last provision (for example due to distance or travel constraints if the child has moved into the area).
- 9.2** FAP recognises the need for admission authorities, school leaders and local authorities to work collaboratively, considering the needs of the child and the views of the school where the child might be placed.
- 9.3** Unplaced Wokingham resident Key Stage One pupils, whose previous educational placement was a PRU or equivalent alternative Provision, or those who have been permanently excluded, will be placed on roll at a mainstream primary school following discussion at Fair Access Panel. If the parent has not completed an in-year application form they will be asked to identify a school/s of preference and representatives from those schools would be invited to attend the FAP meeting to be involved in any discussion regarding placement, with an opportunity to present any concerns about placement at their setting.
- 9.4** Unplaced Wokingham resident pupils in Key Stages two, three or four, whose previous educational placement was a PRU/equivalent alternative provision (typically on a single-registration basis), or those who have been permanently excluded, will ordinarily be

placed on the role of Wokingham PRU (Foundry College) for assessment. This can take place without the need for an initial discussion at FAP.

- 9.5** For unplaced Wokingham resident pupils who have been referred to FAP under other prescribed categories, and where panel agree that a mainstream setting would not be appropriate, a placement can be made at the Local Authority PRU for assessment.
- 9.6** Professionals at Wokingham PRU will determine when a pupil who is of single registration is ready to be reintegrated into mainstream education and they will refer that pupil to FAP for placement (as described above). In this circumstance, an 8-week trial placement on a dual registration basis is accepted as the appropriate transition route to support successful reintegration. This can be extended in exceptional circumstances and in agreement with the Chair of Fair Access Panel and relevant stakeholders
- 9.7** Where FAP determine that a mainstream school place is the most appropriate placement for an unplaced Wokingham resident pupil who has been referred to panel under any category, an open and transparent discussion will take place to determine the most appropriate school placement.
- 9.8** No single school will be asked to admit a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the protocol. Therefore, panel are not required to comply with parental preference (although they must take parents views, best interests of the pupil, and likely success of the placement, into account). Panel can make placement at a school above the typical admission limit and in advance of an existing waiting list and can refuse a place even when a vacancy exists.
- 9.9** If the panel uphold a decision to refuse admission to a school, they may need to consider other schools for placement. Wherever possible this consideration will take place at the same meeting.
- 9.10** In rare circumstances it may be necessary to defer a placement decision to a subsequent meeting to ascertain additional information. However, all placement decisions must be made within 20 school days of referral for example where: Foundry College decides that more work is required before full mainstream admission; or an incident such as an arrest has taken place which was unknown before the panel meeting date.
- 9.11** Wokingham FAP is committed to consistency but recognises that each case will have unique circumstances. Previous decisions may help guide the panel's thinking, but each referral is to be viewed within its own context and decisions made reflect the panel's views for that pupil in the landscape at the time of consideration. In cases in which it is felt by panel representatives that pupil referrals are inappropriate (i.e. they fall outside

the terms stated in the Fair Access Protocol and pupils should have already been offered placement by a school), a discussion and judgment will be made by a panel vote regarding whether:

- The referral is appropriate and should be heard under the normal terms of FAP.
- The referral should be disallowed and a decision on placement be made outside of FAP panel.
- The case is not an appropriate FAP referral, however a placement decision should be made at panel, as to delay this would not be in the best interests of the child or young person. In such cases, FAP panel points allocation will not be granted.

**9.12** Consideration will also be given, amongst other things, to the distance of the proposed school from the address where the child is resident. The Panel will prioritise placing the child at a school that is within statutory school walking distance of the child's home address. The receiving school will ideally be the closest school to the child's home address that is eligible to receive a child under the FAP. However, if none of the schools within statutory school walking distance are eligible to admit a child under the FAP, a place may be offered which is further away. In such cases, the child will be eligible for home to school transport (see Wokingham Borough Council's Home to School Transport Policy). Consideration will be given to parental preference, if possible, however there is no statutory requirement to take this into account.

**9.13** The Local Authority will consider transport support for applications made under Wokingham Borough Council's in year fair access protocol following these principles:

- Successful applications for nearest/parental preference schools will reflect the arrangements that apply to all other children and young people.
- Where a place is allocated by the panel for an alternative to the applicants preferred/nearest school, transport support may be provided (subject to the age/distance criteria) irrespective of the location of and space availability at other schools.
- If FAP panel agree to place a pupil in accordance with parental preference, and this school is outside of statutory school walking distance, the parent will take responsibility for making appropriate travel arrangements.

**9.14** The Ofsted inspection status of the school will be considered. A school where Ofsted has stated that safeguarding is not effective will not be permitted to receive pupils through the FAP process.

**9.15** There is no requirement for a school to automatically admit another child with challenging behaviour in place of a child excluded from the school.

- 9.16** Under the Fair Access Protocol, children will not be placed at a school where they have previously had an unsuccessful off-site direction; nor will they be placed at a school from which they have been previously permanently excluded.
- 9.17** The panel recognises the importance of the relationships young people form with peers and in neighbourhoods, schools, and spaces and how this can have significant contextual safeguarding implications. As part of its decision-making, the panel is respectful of and attentive to these extra-familial risks when placing young people and must consider likely success of placement decisions in this regard.

## 10 Options for admission

- 10.1** In exceptional circumstances, the panel may propose a supported admission. Any support mechanisms will be identified and ratified by panel during placement consideration. Although not a prescriptive list, this could include:
- Educational psychological assessments
  - Teaching assistant support.
  - The commissioning of placements at Wokingham PRU (Foundry College) once a main registration base has been agreed<sup>7</sup>
  - Transport assistance (See Wokingham's Transport Policy)
  - Ensure that parents can source essentials such as school uniform.
  - Putting in place additional resources that may be required to bridge any gaps in education.

Whilst some time may be required to allow schools to put in place any arrangements, they should be made quickly to ensure that the child can start **within 7 school days** from offer letter unless exceptional circumstances apply.

- 10.2** Where schools incur additional costs Wokingham Borough Council can offer a maximum of £1000 to support the school with successful integration. The allocation of this will be decided at FAP at time of placement decision, or at FAP panel within four weeks after the placement decision, or at the next panel if later than four weeks, using the decision-making matrix (APPENDIX E). Where schools present a case for funding support, agreement will be achieved via FAP panel vote. There will not be additions to the budget during the financial year, and budget allocation will be reviewed yearly.
- 10.3** Some schools support off-site directions, which are agreements between host and home schools and, when appropriate, with parents. They are typically used as an alternative to a permanent exclusion or to promote a fresh start option when other contextual factors are having an adverse effect on the pupil in their current school

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<sup>7</sup> Such placements would be a dual registration basis with the PRU as the subsidiary base.



setting. These are typically arranged at school level using the off-site direction protocol and passport and can be across Local Authority borders if logistically appropriate. If a school feels an off-site direction is an appropriate course of action, it will be initiated without the need for an in-year transfer application to be submitted and without intervention from FAP. An off-site direction typically means a period of dual registration which can result in a move to single registration on a permanent basis at the receiving school if successful<sup>8</sup>.

- 10.4** Schools should note that an unsuccessful off-site direction does not prevent a parent making a subsequent application for transfer via the in-year transfer process.

## 11 Decisions and appeals

- 11.1** A successful Fair Access Protocol is predicated on the principle that decisions taken by the panel are binding. Once a placement decision has been taken by panel, all schools are expected to admit the child by registration on the school roll **within 7 school days**.
- 11.2** If a school disputes the placement decision of FAP, they should notify the LA Clerk to panel in writing as soon as possible and within 7 school days. The Local Authority will always aim to resolve any dispute but has the power to direct the governing body of a maintained school to admit a pupil and, where an academy is considered to best meet the needs of a child, the Local Authority can ask the Secretary of State to intervene under the academy's funding agreement<sup>9</sup>
- 11.3** Whilst any discussions to confirm placement decisions that are in dispute are ongoing, there is a duty to provide education provision to unplaced Wokingham resident pupils. In the event of a disputed admission, the case will be re-presented to panel for their consideration of what provision should be made. Where a cost is incurred, it will be sought from the Exceptional Needs Fund at discretion of the Local Authority.
- 11.4** Paragraph 3.18 of the School Admissions Appeals Code states that the allocation of a place in accordance with a Fair Access Protocol does not override a parent's right to appeal against the refusal of a place at any school for which they have applied or prevent the parent from making further in-year applications to other schools.
- 11.5** Whilst there is no legislative restriction on when an appeal against a refusal can be lodged by the applicant, the expectation is that this would be no later than 20 school days following the applicant being notified of the refusal. In cases of fair access

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<sup>8</sup> If an off-site direction is proposed and agreed following the submission of an in-year application, the in-year transfer application should be withdrawn. Wokingham schools have the option to inform the Local Authority of any off-site directions being undertaken and this information may be presented during placement consideration by panel as part of the context of the individual school profile.

<sup>9</sup> As per sections 96 and 97 of the School Standards and Framework Act 1998 and paras 3.23-3.25 and 3.29 of the School Admissions Code 2021.

consideration, when places could be refused, even if there are vacancies within the admission number, the contextual position of the school at the time the decision was taken is relevant to that decision.

- 11.6** If parents have applied for a Wokingham school and have received a refusal notification following a Fair Access Panel decision, they should not then submit another application to the admissions authority for the same school or schools during the following sixth month period, as the expectation is that the outcome would remain the same. The exception would be if the chair of the Fair Access Panel is of the opinion that there have been significant and material changes in the circumstances of the parent, pupil or school, which may justify a further application being considered within this timeframe.

## 12 Arrangements for Being Taken on Roll

- 12.1** Children offered a place under the FAP will be taken on roll at the relevant school from the date specified in the offer letter to parents, sent by the School Admissions Service. Receiving schools should arrange to admit the child as soon as possible, but ***within a maximum of 7 school days*** from the date of the offer letter.
- 12.2** From that date, the child will be automatically added to the attendance register and be expected in school. The attendance register should be marked in the usual way.
- 12.3** Where a child fails to attend and no explanation is provided, code 'N' should be used and school should follow up on the absence in a timely manner, to establish the reason for the child's absence. Once the reason for absence has been confirmed with parents, the register code should be amended accordingly. Where parents do not provide a reason for the child's absence, code 'O' should be used to indicate an unauthorised absence.
- 12.4** If a child has zero attendance at school, the school should follow its agreed attendance policy. In addition, the case must be referred back to the Panel for further discussion and decision making.

## 13 Arrangements for pupils on offsite Direction from Foundry College

- 13.1** When an off-site direction commences, pupil will be recorded as D code. If off-site direction is successful, the pupil will be managed moved onto the school roll under single registration.

## 14 Directions

### 14.1 Wokingham Borough Council Directions

**14.1.1** Wokingham Borough Council has the power to direct the Governing Body of a maintained school, for which it is not the admission authority, to admit a child under the FAP, even when the school is full.

**14.1.2** This power will only be exercised where a child has been refused entry to, or permanently excluded from, every suitable school within a reasonable distance and a local resolution cannot be found. In these cases, the Council will choose a school that is a reasonable distance from the child's home address, from which the child is not permanently excluded.

**14.1.3** Before issuing a direction, the Council will consult with the Admissions Authority/Governing Body of the school, parents and, where appropriate, the child. If, following consultation, the Council decides to direct, the School Admission Service will inform the Governing Body and head teacher of the school in writing. Schools must respond to the request to admit a child under the FAP within 7 school days.

**14.1.4** An Admissions Authority is entitled to appeal against the direction by referring the case to the Schools Adjudicator within 15 calendar days (7 days where the case relates to a Child in Care). If it does this, the admissions authority must inform Wokingham Borough Council.

**14.1.5** The Council will not enforce the direction until the 15 days has passed and the case has not been referred. Where the case is referred to the Schools Adjudicator, the direction may be upheld, or it may be determined that another school must admit the child.

**14.1.6** The decision of the Schools Adjudicator is binding, therefore where Wokingham Borough Council's direction is upheld by the Schools Adjudicator, the child must be admitted to the school and a start date agreed.

**14.1.7** The process flowchart for directions can be seen at APPENDIX B.

### 14.2 Secretary of State Directions

**14.2.1** Where Wokingham Borough Council considers that an academy will best meet the needs of a child, it can ask the academy to admit that child but has no power to direct it to do so.

- 14.2.2** The Secretary of State has the power to direct academies to admit a child and can seek advice from the Schools Adjudicator in reaching a decision. Therefore, where an academy refuses to admit a child under the FAP and a local resolution cannot be found, Wokingham Borough Council can ask the Secretary of State to intervene – by completing the relevant [template](#) and submitting it to the Education and Skills Funding Agency (ESFA).
- 14.2.3** In such cases, the responsible Case Worker within the School Admissions Service will submit the request to the Secretary of State. The Council and relevant academy are responsible for documenting the case – for and against admission, respectively.
- 14.2.4** Wokingham Borough Council will provide evidence that the provisions of the FAP have been applied in a fair and appropriate manner, the academy's reasons for refusal and the Council's response.
- 14.2.5** Wokingham Borough Council and academies are expected to mediate between themselves before a request is made to the Secretary of State to direct an academy to admit a child.

*The process flowchart for directions can be seen at APPENDIX B.*

## 15 Published Admission Number (PAN)

- 15.1** Schools cannot cite over-subscription where they are asked to admit a child under the Fair Access Protocol – this includes admitting children above the Published Admission Number (PAN) where the year group is already full.
- 15.2** In any academic year, Wokingham schools would not normally be expected to admit more than three children above the PAN in each year group through the Protocol.
- 15.3** Wokingham Borough Council will not require a school to admit a child under the FAP where that school would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.

## 16 Contact

- 16.1** Any queries in relation to the Fair Access Protocol should be directed to Wokingham Borough Council's Principal Education Welfare Officer:

- [Education.Welfare@wokingham.gov.uk](mailto:Education.Welfare@wokingham.gov.uk)
- [FAPP.admin@wokingham.gov.uk](mailto:FAPP.admin@wokingham.gov.uk)

## 17 APPENDIX A - Referral Form



**WOKINGHAM  
BOROUGH COUNCIL**

Please complete this form with as much detail as possible and return completed form to [FAPP.admin@wokingham.gov.uk](mailto:FAPP.admin@wokingham.gov.uk)

### Fair Access Referral Details

<b>Fair Access Need</b>	Choose an item
<b>Referring School Name/Admission Authority</b>	Click or tap here to enter text
<b>Referral made by</b>	Click or tap here to enter name

### Pupil Details

<b>Surname</b>	Click or tap here to enter text		
<b>Forename</b>	Click or tap here to enter text		
<b>Date of Birth (DD/MM/YYYY)</b>	Enter date here	UPN	Enter text
<b>Home Address</b>	Address line 1		
	Address Line 2		
	Town		
	County		
	Postcode		
<b>Gender</b>	Select from dropdown		
<b>Ethnicity</b>	Click or tap here to enter text.		
<b>Home Language</b>	Click or tap here to enter text.		
<b>Religion</b>	Click or tap here to enter text.		
<b>Family Details</b>			
<b>Parent/Carer Name</b>	Click or tap here to enter text.		
<b>Parent/Carer Telephone Number</b>	Click or tap here to enter text.		
<b>Parent/Carer Email Address</b>	Click or tap here to enter text.		

Parent/Carer Preference	Click or tap here to enter text.
Parent/Carer in Agreement with FAP referral	Choose an item.
Pupil Aware and in Agreement with FAP referral	Choose an item.
<b>Educational Needs</b>	
<b>Please complete as fully as possible and upload pupil academic information to support request</b>	
National Curriculum Year	Enter here
Age (Years/Months)	Enter here
SEN status	Select from options
<b>Fair Access Criteria</b>	
<b>Please tick all criteria that apply and provide details of supporting evidence where possible</b>	
<input type="checkbox"/>	a) Children either subject to a Child in Need Plan or a child protection plan or having had a Child in Need Plan or Child Protection Plan within 12 months at the point of being referred to the protocol.
<input type="checkbox"/>	b) children living in a refuge or in other relevant accommodation at the point of being referred to the protocol;
<input type="checkbox"/>	c) children from the criminal justice system.
<input type="checkbox"/>	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.
<input type="checkbox"/>	e) children with special educational needs (but without an Education Health and Care Plan), disabilities or medical conditions.
<input type="checkbox"/>	f) children who are carers.
<input type="checkbox"/>	g) children who are homeless.
<input type="checkbox"/>	h) children in formal kinship care arrangements.

<input type="checkbox"/>	i) children of, or who are, Gypsies, Roma, Travellers, Refugees and Asylum seekers.
<input type="checkbox"/>	j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the protocol.
<input type="checkbox"/>	k) children for whom a place has not been sought due to exceptional circumstances.
<input type="checkbox"/>	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 not accepted
<input type="checkbox"/>	m) previously looked after children for whom the local authority has been unable to promptly secure a place.
<input type="checkbox"/>	n) Children subject to an SAO due to EHE being deemed unsatisfactory
<input type="checkbox"/>	Other enter details here

**Attendance**

Please give details of the last two years attendance, including any records and progress reports. For any long periods of absence please state reasons. If other agencies have been involved, please include details.

Click or tap here to enter text.

**Interventions and Support**

Please include details of current or previous interventions and support, including dates.

Click or tap here to enter text.

### Relevant Personal or Home Circumstances

Please include details regarding parental involvement, family structure and pupil contextual factors likely to influence success of placement decisions. **(Sensitive information should not be shared at this stage unless it is essential for the panel to know)**

Click or tap here to enter text.

**Please include any contextual safeguarding information**

### Risk assessment

For each risk listed please indicate the probability of likelihood

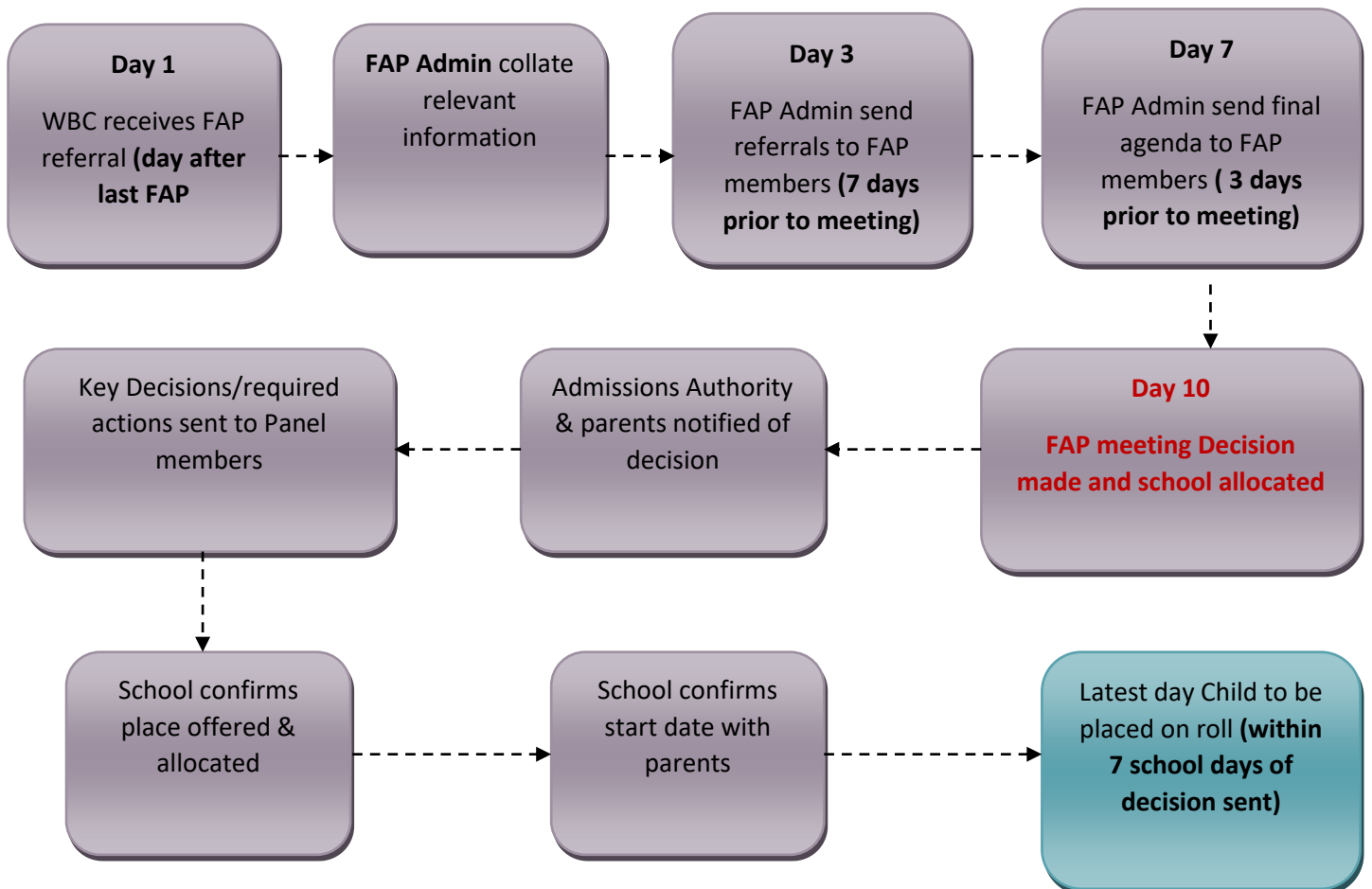
Self-harm	Select
Substance misuse	Select
Alcohol misuse	Select
Damage to property	Select
Weapon related incident	Select
Physical aggression towards peers	Select
Physical aggression towards adults	Select
Verbal aggression towards peers	Select
Verbal aggression towards adults	Select
Threatening behaviour towards peers	Select
Threatening behaviour towards adults	Select
Bullying of peers	Select
Persistent defiance (persistent refusal to follow instructions)	Select



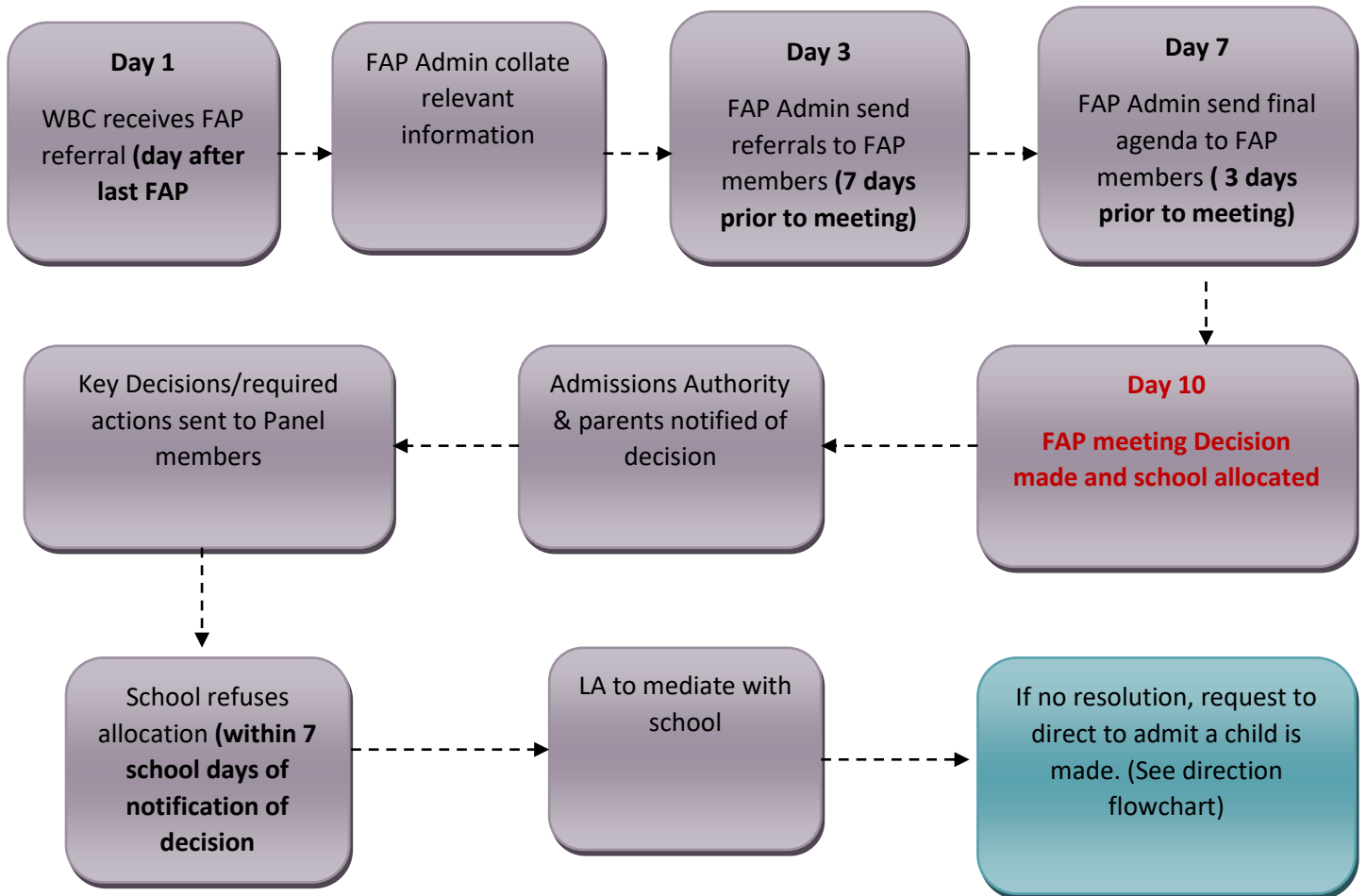
Sexually inappropriate behaviour towards others	Select	
Dangerous behaviour in the environment	Select	
Absconding	Select	
Truancy	Select	
Theft	Select	
<b>Safeguarding Questionnaire</b>		
Does the pupil appear to be safe from harm?	Choose an item.	
Does the pupil appear to be learning and developing?	Choose an item.	
Does the pupil appear to be free from crime and antisocial behaviour?	Choose an item.	
Does the pupil appear to be free from the impact of poverty or worklessness?	Choose an item.	
<b>Please attach the following documents to support this request</b>		
Academic information	Please select	Click or tap here to enter text
Registration certificates	Please select	Click or tap here to enter text
Pastoral reports	Please select	Click or tap here to enter text
Managed move passport	Please select	Click or tap here to enter text
Other (please state)	Click or tap here to enter text.	

## 18 APPENDIX B – 3 Flowcharts – Successful/Unsuccessful and Direction

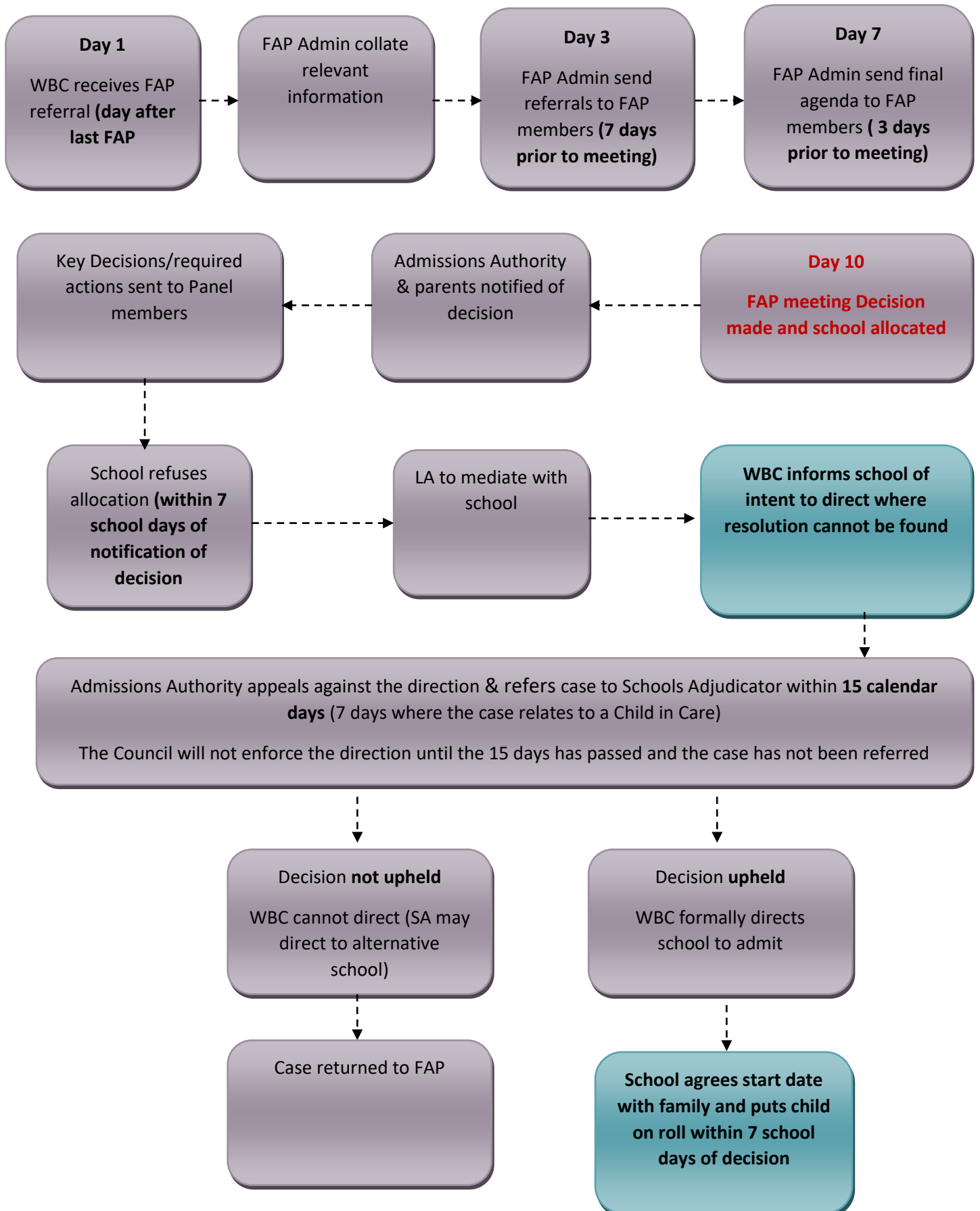
FAP process for successful school allocation



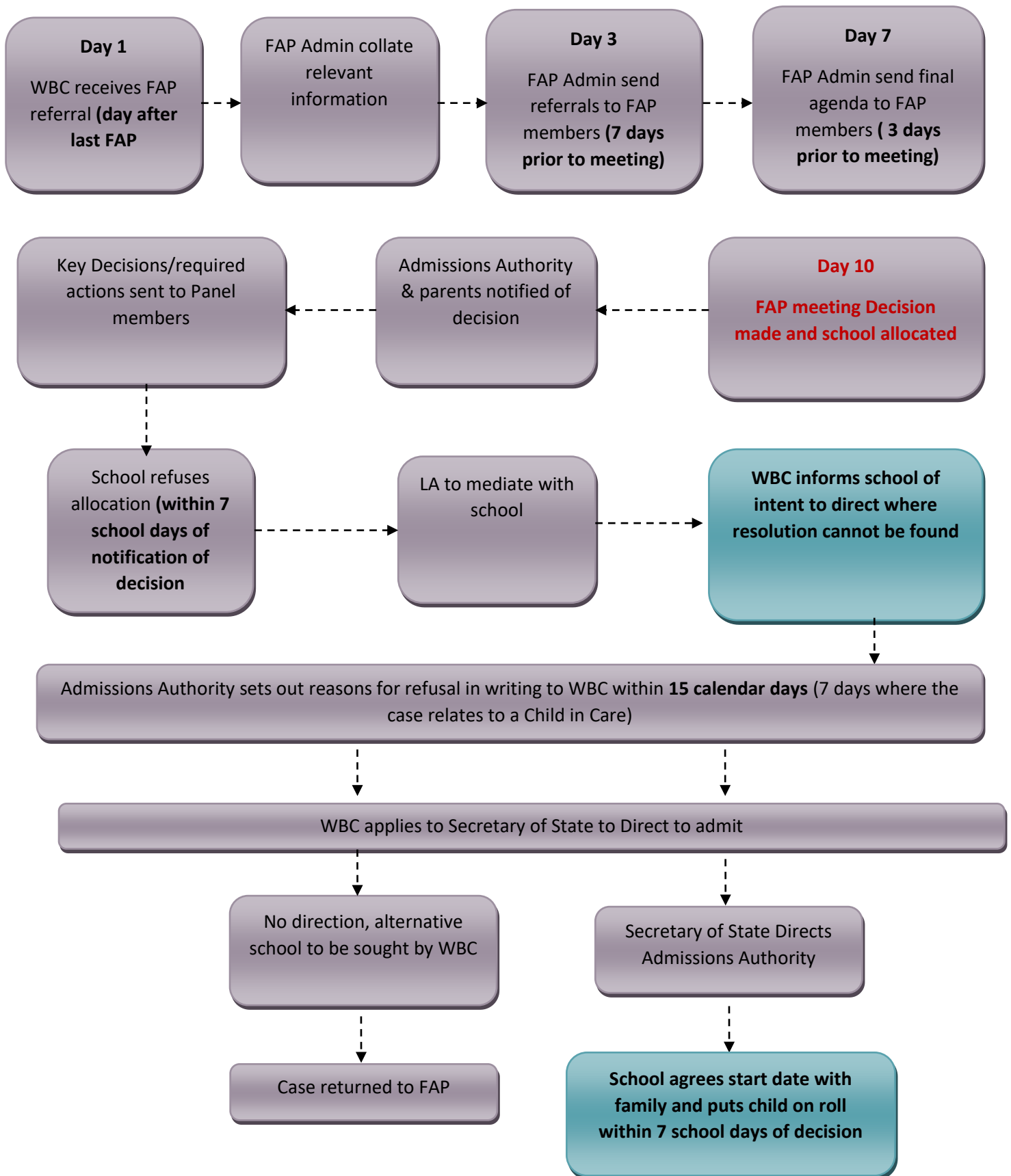
FAP process for unsuccessful school allocation



FAP Process for Direction – Maintained Schools



FAP Process for Direction – Non-Maintained Schools/Academies



## 19 APPENDIX C – Data Sharing Protocol

Data sharing protocol to support the Fair Access Panel

Key Principles:

1. The Schools Admissions Code September 2021 requires all admission authorities to participate in the Fair Access Protocol to ensure that unplaces children are allocated to a school place quickly. The purpose of the Fair Access Protocol is to ensure that outside the normal admissions round unplaces children, especially the most vulnerable, are found and offered a place quickly, so that the amount of time any child is out of school is kept to a minimum. The panel brings together key partners, stakeholders and providers to achieve this.
2. The Fair Access Panel report, as necessary, to a more strategic group (Schools Forum and Children’s Service Senior Leadership Team) to identify themes or issues that cause barriers to education provision.
3. The Fair Access Panel may include representatives from the following:
  - a. Any Wokingham Borough Council agency
  - b. Thames Valley Police
  - c. Wokingham Secondary Schools
  - d. Wokingham Primary Schools
  - e. And any other party invited to engage in the Fair Access Protocol
4. This data sharing protocol seeks commitment to a framework to ensure secure and appropriate sharing of information and data by agencies operating within the panel.
5. The analysis and evaluation of educational data is central to the panel process, and the responsible sharing of data and information provides the basis for involvement to ensure young people do not miss out on education and to ensure sound decision making.
6. The data to be provided by Wokingham Borough Council may include and relate to (but not necessarily limited to):
  - a. Attainment
  - b. Attendance
  - c. Exclusions
  - d. SEN
  - e. Health
  - f. Behaviour/conduct
  - g. School data as set out in FAP protocol.

7. Data will be provided in various formats as agencies may use different recording databases but will only be shared with those members of the FAP panel who need the data to perform their professional duties.
8. All members of the panel agree to share activities carried out by members of the panel to ensure that all young people have access to a quality education provision; and to monitor the impact of the panel.
9. All recipients of data shared under this protocol are required to use it in a professional manner to promote.
  - a. Full-time education for ALL children
  - b. Mutual support
  - c. The improvements of outcomes for children and young people
10. This protocol expressly excludes the use of shared data to:
  - a. Discriminate against a child or establishment.
  - b. Provide the data to any third party.
11. All data recipients are required to ensure that the data they use, download, store or print is appropriately protected and in line with policy. This includes, where necessary, the encryption of data, its secure storage and disposal.
12. Breach of these protocols by any signatory will be investigated and future access may be denied.

Agreement: We the undersigned do hereby agree to implement the terms and conditions of this protocol.

Organisation	Name	Signature

Please return signed agreement to [FAPP.admin@wokingham.gov.uk](mailto:FAPP.admin@wokingham.gov.uk)

## 20 APPENDIX D – Prioritisation Method

A variety of factors will have an influence on where students are protocolled to. This will include:

- **Contextual safeguarding issues**
- **The best interests of the pupil**
- **Parental and pupil's views and preferences, although these are not binding.**
- **Evidence that the pupil has a good likelihood of accessing a mainstream school successfully. Alternative provision and/or outreach support could be requested.**
- **Numbers on roll and cohort information**
- **Previous admissions for the year group via the Protocol**
- **Numbers of off-site directions in the year group**
- **Consideration of information from schools and PRU on suitability of proposed placement including the matching of examination boards where applicable**
- **Transport and distance from home to school. Usually, the panel would wish to name the nearest suitable school. In most cases parents would be expected to arrange transport themselves or comply with WBC's existing transport policy**
- **Numbers of CLA pupils in year groups. (Schools are requested to bring numbers to the FAP to aid discussion.)**

*Schools must submit for circulation any specific contextualised information that is felt needs to be raised ahead of the meeting. This is to be done in writing and sent to FAP Admin for circulation.*



## 21 APPENDIX E – Additional Funding Allocation Decision Matrix

Where schools incur additional costs, Wokingham Borough Council can offer a maximum of £1000 to support the school with successful integration. The allocation of this will be decided at FAP at time of placement decision. There will not be additions during the financial year to the budget for this allocation, and budget will be reviewed yearly.

Rationale for funding.

<b>Reasoning</b>	<b>Notes</b>
Any EAL issues highlighted that will require support	Where English is an additional language and support is required from EAL specialist teacher to aid successful integration. Funds may support the cover of this cost or to back-fill the specialist teacher. There may also be a requirement for resources
Putting in place additional resources that may be required to bridge any gaps in education through integration	During discussion on placement, it may become clear that additional resource is required over and above ordinarily available to schools. Schools should make clear what resource is required and the hoped-for outcomes.
Integration support via a teaching assistant	For a short period of time to assist with successful transition, mentor or through assessment phase at school
Alternative Provision Integration support	Whilst the school puts the pupil on roll there may be options for additional support such as alternative provision through and integration package or commissioned behavioural support
If children do not hit the transport entitlement funding to support the transport during integration	On occasions, if the panel decision is to place a pupil outside of catchment there may be a need to support funding initially for transport to aid swift transition.
Any additional resources required by school/parent to aid with transition	The funds could be spent on uniform or equipment required by the pupil to engage in education

Reasons for the allocation of funds should be clearly recorded on the FAP decision and amount given to inform budgeting.

Schools to invoice cost code 40026 to access funds to [FAPP.admin@wokingham.gov.uk](mailto:FAPP.admin@wokingham.gov.uk)