



Rutland County Council Fair Access Protocol Academic year 2026-2027

1. Purpose

- 1.1. The purpose of Rutland's Fair Access Protocol (FAP) is to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.
- 1.2. This Protocol has been written in accordance with the School Admissions Code 2021 and in partnership with headteachers and principals of Rutland schools and local authority (LA) representatives.
- 1.3. The operation of the Fair Access Protocol is outside the arrangements of the co-ordinated admissions process and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures.
- 1.4. The Protocol will quickly and sympathetically identify the needs of vulnerable children and children whose behaviours have been evidenced as disruptive to learning, including those who are not on the roll of any educational establishment.
- 1.5. The Protocol aims to reduce the time that vulnerable children and children with social emotional and mental health (SEMH) needs or behaviour that is evidenced as disruptive to learning, are out of school and may miss out on education or become at risk of not being protected.
- 1.6. The Protocol will not apply to a child with an Education, Health and Care Plan (EHCP) naming the school as these children must be admitted to the school.
- 1.7. The Protocol will not apply to a child who is not resident in Rutland. Their home local authority is responsible for securing a school place for them.
- 1.8. Application of the Protocol to children looked after and previously looked after should be unnecessary as the DfE expect the local authority to aim to secure a school place particularly promptly for these children and for admission authorities to cooperate with this. Highest priority should be given to looked after and previously looked after children.
- 1.9. As required by the School Admissions Code, The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it.
- 1.10 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.

2. Context and statutory guidance

2.1. This Protocol is written in accordance with the School Admissions Code 2021 and is referred to specifically within paragraphs 3.14 to 3.22 of the Code, as follows:

3.14 Each local authority must 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 quickly as possible.

3.15 The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it. 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. Local authorities must provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the Protocol will take place.

3.16 No school - including those with places available – should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the Protocol. Fair Access Protocols must also set out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.

3.17 Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures:

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 this Code;*
- k) children for whom a place has not been sought due to exceptional circumstances;*
- l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and*
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.*

3.18 Eligibility for the Fair Access Protocol does not limit a parent's right to make an in-year application to any school for their child. Admission authorities must process these applications in accordance with their usual in-year admission procedures (as set out in paragraphs 2.23-2.31). They must not refuse to admit such children on the basis that they may be eligible to be placed via the Fair Access Protocol. The parent will continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via the Fair Access Protocol.

3.19 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.

3.20 Fair Access Protocols should seek to place a child in a school that is appropriate to any particular needs they may have. The Fair Access Protocol must not require a school automatically to admit a child via the Fair Access Protocol, in place of a child permanently excluded from the school.

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

3.22 In the event that the majority of schools in an area can no longer support the principles and approach of their local Fair Access Protocol, they should initiate a review with the local authority. There should be a clear process for how such a review can be initiated within each Fair Access Protocol. 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. Principles and purpose of the Fair Access Protocol

- 3.1. The Fair Access Protocol will be implemented only when an eligible child is having difficulty in securing a school place or following the permanent exclusion of a child from full time education, where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admissions process.
- 3.2. There is no duty to comply with parental preference when allocating places through the Protocol.
- 3.3. Admission authorities, school leaders and local authorities should work collaboratively in making decisions under the Protocol. They should take into account the needs of the child and the views of the school where the child might be placed.
- 3.4. All admission authorities must participate in the Fair Access process and must engage in discussion and decision making on placing children through the process.
- 3.5. As in the normal admissions round, where a school receives an in-year application for a year group that is a normal point of entry (year 7 for Secondary Schools), they must not refuse to admit the child on the basis of their behaviour, unless the child has been permanently excluded from 2 or more schools, with the most recent exclusion being within the previous 2 years.
- 3.6. This Protocol does not apply to the normal admissions round (primary to secondary transfer) and it does not apply to in-year admissions for year 7 which is a normal point of entry, unless the child has been permanently excluded from 2 or more schools, with the most recent exclusion being within the previous 2 years.
- 3.7. Admissions via the Fair Access process will be shared equally across all Rutland schools. No school will be asked to take a disproportionate number of children through this process.
- 3.8. Admission authorities must admit children when asked to do so in accordance with the Protocol. Where an admission authority fails to comply with the Protocol, they may be directed to do so.
- 3.9. Where it has been agreed that a child will be considered under the Fair Access Protocol, a school place must be allocated to that child within 20 school days.
- 3.10 When a child has been allocated a school place via the Protocol, arrangements should be made for the child to start at the school as soon as possible.
- 3.11 Where an excluded child is admitted to a school through the Fair Access process, the local authority will consider what support is appropriate to enable the successful reintegration of the child. This may include an application for high needs funding and involving the local authority and other agencies in a team around the family process.

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

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

4. Fair access process – in-year admission and child permanently excluded (PEX)

When a child is identified as being without a school place or at risk of being without a school place, the following process will apply. This process is summarised in the flowchart at Appendix A. Figures in brackets refer to process steps within the flowchart.

- 4.1. In-year – the Admissions service will advise the parent to apply to a minimum of 3 schools including the nearest school to their home address. PEX - the Inclusion service will advise the parent to apply to remaining Rutland secondary schools or 3 nearest primary schools (1).
- 4.2. Local authorities must, on request, provide information to prospective parents about the places still available in all schools within their area. To enable them to do this, the admission authorities for all schools in the area must provide the local authority with details of the number of places available at their schools whenever this information is requested, to assist a parent seeking a school place. Such details should be provided no later than two school days following receipt of a request from the local authority. (1.1).
- 4.3. If the parent fails to submit an application, support will be offered by the Admissions/Inclusion service. If the parent does not take up the offer of support and does not submit an application, the LA will consider contacting Children's Social Care or seeking legal advice (1.2/1.3/1.4).
- 4.4. The school must process the application and advise the parent and the Admissions service of the outcome within 15 school days, as per 2.30 of the School Admissions Code (3).
- 4.5. If the outcome is that a place is offered, the child must be admitted to the school as soon as possible (4).
- 4.6. If the outcome of the application is not received from the school within the 15-school day statutory deadline, the Admissions service will contact the school and request an update within 2 school days (5/7).

- 4.7. If the outcome of the application is the decline of a place, the school must complete and submit a decline return to the local authority and when requested, the school must provide a copy of the written decline to the Admissions service. The decline letter must offer the parent the opportunity to put their child onto the waiting list for the school and must offer the right to appeal the decision (6).
- 4.8. If a school has a place available but declines a place due to a child's challenging behaviour, it must contact the Admissions service and refer the child to FAP (6).
- 4.9. Where a school is deemed to have refused admission of a child who does not meet the threshold for challenging behaviour and, therefore, is not eligible for consideration under FAP, the local authority may intervene via the governing body or admissions authority, as appropriate, referring to the Office of the Schools Adjudicator or Secretary of State, if necessary.
- Challenging behaviour:
 - a) As per the School Admissions 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 or other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.
 - b) The following reasons on their own should not be grounds for considering that a child may display challenging behaviour:
 - poor attendance elsewhere;
 - a defined number of suspensions;
 - returning from Elective Home Education (EHE);
 - special educational needs; or
 - having a disability.
 - c) 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, make any reasonable adjustments to support the needs of a particular child when considering whether admission should be refused on these grounds.
 - d) Evidence of significant challenging behaviour would be expected to have been supported by the use of Rutland's Inclusive Mainstream Practice guidance and Graduated Response, in addition to referrals to outside agencies such as Early Help, CAMHS, Children's Social Care, YOS and Educational Psychology Services.
- 4.10 If the child has not been offered a school place, the Admissions and Inclusion services will review the school responses and will challenge any school that it feels has not provided suitable evidence to support the refusal of a place and request that they reconsider the application (10).

4.11 If the child remains without a school place they will be considered within FAP (11).

4.12 A virtual FAP panel will be convened (12):

- a) The virtual panel will be held on Teams and a Teams invitation will be sent out to the relevant representatives providing a minimum of 5 full school days' notice of the meeting.
- b) Alongside the panel invitation, the local authority will provide a summary of children to be discussed.
- c) A representative with decision-making authority will be required to attend from each relevant school. This would normally include a representative from schools where the child has been on roll and the school that has been identified by the local authority as the most appropriate.
- d) Members of the Fair Access Protocol panel are:
 - Chair of the Fair Access Panel
 - Representatives from relevant schools
 - Representative of Inclusion Service
 - Representative of School Admissions Service.
- e) If a school is unable to send a representative, a decision will be made in that school's absence. The panel may still offer a place to a child at that school and the decision will be communicated to the school in writing.

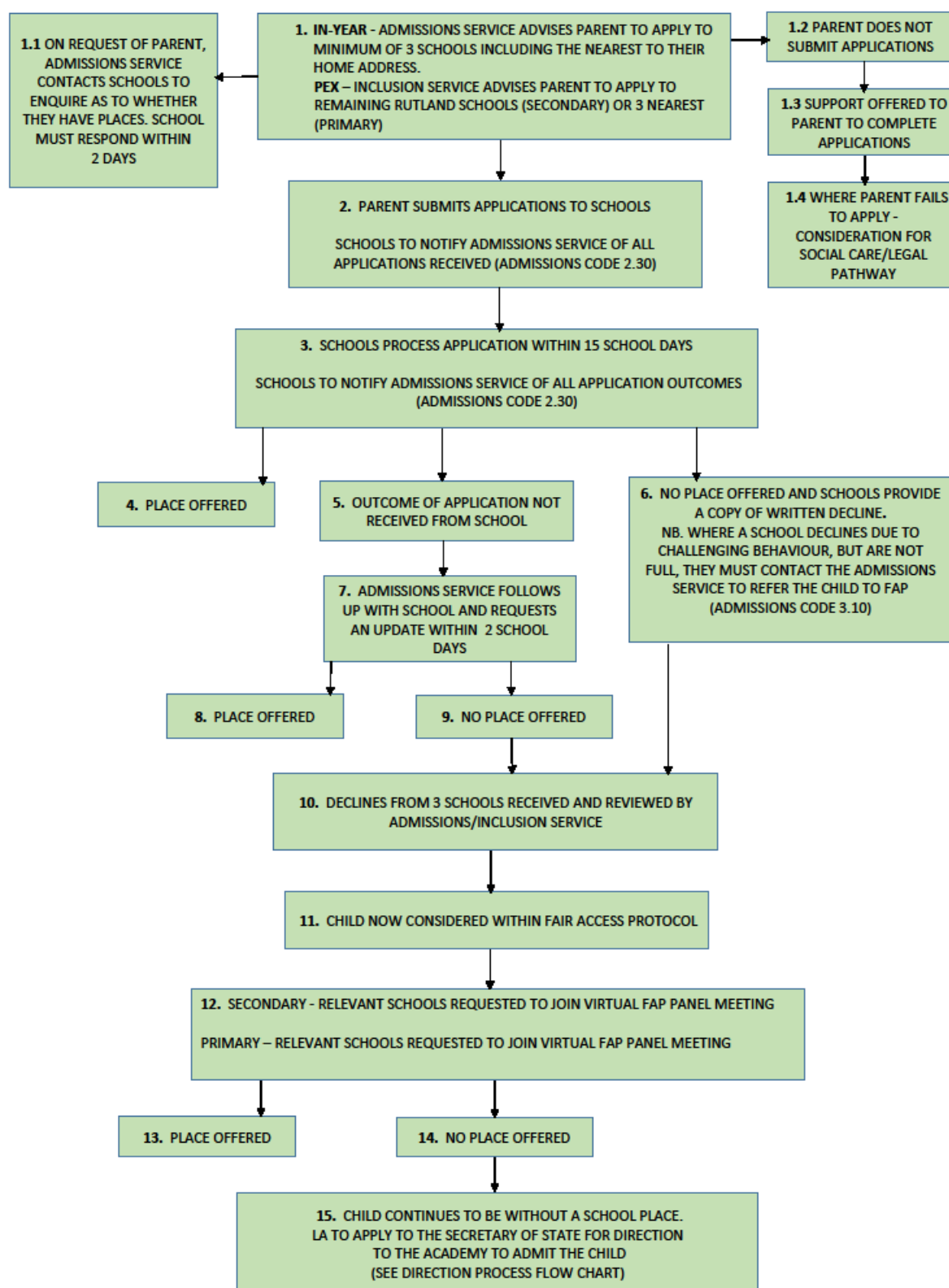
4.13 The FAP panel will always consider home to school distance as part of the process.

4.14 Decisions made at FAP panel meetings are binding on all parties. Cases must not be referred back to FAP for re-consideration unless there has been a significant and material change in the circumstances of the parent, child or school.

4.15 Once a school place has been allocated at the FAP panel meeting, the allocating school will notify the parents and arrangements should be made for the child to start at the school as soon as possible.

4.16 Should the child still be without a school place following the FAP panel, the local authority will implement the powers of direction as set out in 3.29 of the School Admissions Code (15). See Appendix B for Direction process flowchart.

RUTLAND RESIDENT IN YEAR ADMISSION/PEX FAIR ACCESS PROCESS



APPENDIX B FAIR ACCESS PROTOCOL – DIRECTION PROCESS

