

APPENDIX 2 CONSULTATION SUMMARY AND ANALYSIS OF RESPONSES

A total of 26 responses were received to the public consultation

1 Parent
5 School Governors
16 School representatives
2 Parish councillors
1 Citizen
1 Social support for families from Syria

Qu 1 Appendix 1 outlines timescales and the route for secondary placements via the Fair Access Protocol in Nottinghamshire.

How strongly do you agree or disagree that this working arrangement reflects the requirements of the School Admission Code 2021 and the proposed Nottinghamshire Fair Access Protocol? If you are not in agreement please explain why.

77% of respondents were in agreement, 19% of respondents neither agreed nor disagreed and one did not answer this question.

It was commented that it was essential that students are placed as swiftly as possible, and that this route seems appropriate and timely. One school commented that it seems there is scope to work outside of the Schools' admission policies to obtain a place on roll of a chosen school, rather than to obtain a suitable school place. The proposed timelines in Appendix 1 outline how placements will be sought in a timely manner through the Protocol and in line with legal requirements. The School Admissions Code 2021 is clear that Fair Access Protocols should only be used to place the categories of children listed at para 3.17, this is stated in the proposed Nottinghamshire Protocol at para 2.4- Scope of the Fair Access Protocol.

Qu 2. The School Admissions Code 2021 makes it a requirement that once a child is considered under the Fair Access Protocol, a school place must be allocated for a child within 20 school days. As set out in the proposed Protocol, in Nottinghamshire the expectation at Secondary level is that placement recommendations are made at locality meetings involving representatives, who have delegated authority to make placement decisions, from all area schools and the Local Authority. These meetings will be arranged every 4 school weeks in order to comply with the timescales set out in the Code. At Primary level it is proposed that colleagues from the Fair Access Team and SEMH team will continue to work in collaboration with local school leaders to identify appropriate placements as the need for discussions is rarer.

How strongly do you agree or disagree that at Secondary level the expectation of a meeting involving the Local Authority and all schools in a locality, every 4 school weeks, supports the requirement of the Code? If you are not in agreement with this model of working please make clear your preferred working arrangement to ensure the requirement in the Code is met.

88% of respondents were in agreement, the remainder of respondents neither agreed nor disagreed.

One respondent commented in relation to this question that they wished this to continue through the current locality panel process and this is proposed in the revised Protocol.

How strongly do you agree or disagree at Primary level direct working between the Fair Access, SEMH team and school leaders supports the requirement of the Code? If you are not in agreement with this model of working please make clear your preferred working arrangement to ensure the requirement in the Code is met.

69% of respondents were in agreement with 1 respondent (4%) in disagreement. 27% of respondents neither agreed nor disagreed.

One respondent commented that they felt the process should be the same for Primary as it is for Secondary. The Protocol does not propose this as requiring regular meetings of all primary schools across Nottinghamshire cannot be justified in the context of the small number of primary referrals through the Fair Access Protocol.

Qu 3. In response to informal consultation undertaken with locality panels, it is proposed that:

For unplaced children in the locality who require a place to be allocated via the Protocol, the Local Authority will make recommendations for place allocations, taking into account parental preference, catchment and needs of the child, whilst ensuring a fair and equitable distribution of children.

How strongly do you agree or disagree that the making of recommendations as above by the Local Authority will support the fair and equitable allocation of placements, appropriate to identified needs of children and young people, through the Fair Access Protocol. If you do not agree please tell us your preferred way of working.

69% of respondents were in agreement and 19% in disagreement. The remainder of respondents neither agreed nor disagreed.

Comments received included that schools should be consulted and not told and that decisions should be made by Locality Panels. The proposed FAP makes clear that this is the intention and that the Local Authority recommendation is based upon data regarding Fair Access admissions within the academic year and needs of the young people to be discussed. Locality Panels will retain the right to consider these recommendations before reaching a final decision regarding placement.

Qu 4. The proposed Protocol places responsibility for agreeing chairing and minute taking arrangements with individual panels to ensure panels have ownership of the process. How strongly do you agree that individual panels should agree responsibility for chairing and recording in a way that best suits their needs? If you are not in agreement please indicate your preferred option.

69% of respondents were in agreement and 23% in disagreement. The remainder of respondents neither agreed nor disagreed.

Comments received included the need for there to be a consistent approach and clear process insisted upon by the Local Authority in order that all panels operate in the same way. The proposed Nottinghamshire Fair Access Protocol sets out core principles and an operating model for working that

all Locality Panels are expected to adhere to. There is scope for individual Locality Panels to agree local working arrangements that best meet the needs of the children and schools within their area, as long as they operate within the agreed Protocol.

It was questioned why schools should take on this role given that they already have a high workload. Historically, this was a role that schools undertook that sat with the Local Authority as an interim measure during the initial phases of the Covid pandemic and the proposed Protocol formalises the return to this way of working.

Qu 5. The threshold for refusals on the grounds of behaviour has been more clearly defined within the School Admissions Code 2021:

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. The behaviour would be expected to significantly interfere with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment. An admission authority should only seek to rely on this provision if it has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

To support decision making regarding referrals to the Protocol on the grounds of behaviour Appendix 2 provides a proforma outlining lawful evidence that should be provided in order to meet the requirements of the Code.

How strongly do you agree or disagree that Appendix 2 reflects the threshold as described in the Code? If you do not feel it adequately reflects the threshold set please indicate what additional evidence you feel could or should be provided.

85% of respondents were in agreement and 7% in disagreement. The remainder of respondents neither agreed nor disagreed.

Comments were raised in relation to timescales and the difficulty when information was not shared between settings. The School Admissions Code 2021 makes clear the duty on admission authorities to respond to all applications within 15 days, to only refuse admission and request referral to the Fair Access Protocol when a school has good reason to believe a student may display challenging behaviour and for all students referred to the Fair Access Protocol to be placed within 20 days of this referral being made. There is no basis on which Local Authorities can delay referral to Fair Access Protocols where this is needed as the aim of the Protocol is to place vulnerable children in a timely manner.

In response to a comment suggesting that further clarity should be provided in Appendix 2 regarding whether exclusions were of a fixed term or permanent nature, the final proposed document has a minor amendment to include this detail.

Qu 6. In Nottinghamshire the recommendation via the Protocol, continues to be that for children returning from Elective Home Education where placement is sought through the Protocol a return to the most recent school is recommended.

When a request is made for a return to school for children who have been Electively Home Educated and meet criteria to be placed through the Fair Access Protocol, a placement will

usually be sought at the child's most recently attended school. Not all children returning to school from Elective Home Education will be eligible to be placed through the Fair Access Protocol.

How strongly do you agree or disagree with this recommendation? If you do not agree please indicate your preferred recommendation for children returning from Elective Home Education.

54% of respondents were in agreement and 23% in disagreement. The remainder of respondents neither agreed nor disagreed.

One comment received indicated that for parents returning their child from Elective Home Education they should have a choice over which school the child returns to. The Fair Access Protocol does not take away the right of the parent to preference any school(s) they wish, but provides a means by which vulnerable children can be placed into an appropriate setting if it is not possible to secure a place through the usual admission process, for example because schools are at capacity. Several comments indicated that it may not be appropriate for a child to return to the school from which they came; in these circumstances it is for the panel to discuss and agree an appropriate route forward, taking into account any individual circumstances.

Qu 7. How strongly do you agree or disagree with the proposed operation of Nottinghamshire FAP and that its operation is compliant with the legislative context required by the School Admissions Code 2021 and the Department for Education Guidance, July 2021 – Fair Access Protocols: Guidance for school leaders, admissions authorities and local authorities?

69% of respondents were in agreement. 19% of respondents neither agreed nor disagreed and one respondent did not provide an answer.

Of these responses, those received from schools and school governors (21) were compared to the total number of schools consulted with, as indicated in the initial communication sent out to all Nottinghamshire schools and academies. This stated that; 'Based on the consultation feedback the new Fair Access protocol will be adopted if the proportion of schools expressing a disagreement is in the minority in comparison to the total number of schools consulted.'

There are no schools expressing a disagreement, it is therefore proposed that the Fair Access Protocol consulted upon and attached at Appendix 1 is adopted.

Qu 8. Do you have any other comments regarding the proposed Nottinghamshire Fair Access Protocol.

The following additional comments were received:

'The opening statement mentions vulnerable children. It would be useful if this term was more clearly defined. The term is open to a wide range of differing interpretations and it would be better if the access protocol had its own clear definition of what is meant by this term'- the definition of children classed as vulnerable by the Protocol is defined clearly within the School Admissions Code 2021 and listed at para 2.4 of the Nottinghamshire Protocol.

'Think it's a bit of a stretch to see if people believe your operation is compliant with the legislative context required - advice should be sought from professionals, not via this survey.'- a full legal view has been sought regarding compliance, indicated in the accompanying report to Policy Committee.

'It is imperative that the FAP is followed - the FAP document can be accurate but it is its implementation which is key. The following statement: 'The Fair Access Protocol is only intended to be used as a mechanism to secure a school place in-year for the most vulnerable children and should not be used

to circumvent usual in year admissions process.' This has not been the case on a number of occasions over the past few years; parents need to be aware that moving house may result in a second/third choice school place being offered. FAP is not there to get students into their first choice of school, after an independent appeal panel has agreed with the school's LGB decision not to admit, particularly where students do not meet the criteria for vulnerability. Additionally, there needs to be a more formal mechanism for working across localities where geography dictates that this makes increased sense (also written in the FAP but not easy in reality).'- full and complete information is available on Nottinghamshire County Council's public admissions hub in respect of in year applications. The mechanism by which locality and cross locality working supports the placement of vulnerable children is described in the proposed Protocol.

'Place greater importance to what the Head Teacher says in terms of accepting students in year. They are more in tune with the needs of the existing students and how the new arrival will impact their own specific learning environment. These Protocols all sound very reasonable on paper, but bureaucrats at a distance will often regard the process as a box ticking exercise without paying any attention to the specific case in hand.'- placements through the Protocol are always made with full consideration of the interests of children and schools at the centre, and this will continue to be the case.

'Schools need to be kept fully informed before placements are discussed and confirmed with parents so that schools SLT can ensure that the placement is the best option for the child. Communication is vital.'- it is always the case that where placement is sought through the Nottinghamshire Protocol discussions take place with schools to identify a suitable placement before the parent is informed of an outcome.

'Students appear on the FAP list who already have a school place. Students with a school place should not be brought to the FAP panel. Late additions to the FAP meeting are a concern. If late additions are added then it must be ensured that all relevant information is available and enough time given to consider their circumstances. Ensure that the 3 days notice of information before the FAP meeting is 3 school working days.'- it is clarified at para 2.5- procedures and responsibilities that the agenda will be circulated 3 school days in advance of the meeting. Late additions will only be made if to not do so would disadvantage the children concerned and would always be accompanied by the most up to date information available. Students will only be presented at panel where they have no school place or where it is not possible for them to access their current allocated school place, for example because it is at an unreasonable distance.