

SURREY COUNTY COUNCIL**CABINET MEMBER FOR SCHOOLS AND LEARNING****DATE: 17 JULY 2014****LEAD OFFICER: NICK WILSON, STRATEGIC DIRECTOR OF CHILDREN, SCHOOLS AND FAMILIES****SUBJECT: PRIMARY AND SECONDARY FAIR ACCESS PROTOCOLS 2014/15****SUMMARY OF ISSUE:**

Each local authority must have a Fair Access Protocol in place and all schools in a local authority area must participate in it. A Fair Access Protocol ensures that unplaced children, especially the most vulnerable, are offered a place at a suitable school in the home local authority as quickly as possible. This includes admitting children above the published admission number to schools that are already full.

The proposed Protocols set out the criteria that the local authority will use to determine which children will be placed under Surrey's Fair Access Protocol in 2014/15 and how cases will be considered. The changes proposed to the Protocols for 2014/15 take into account comments received from schools and Surrey County Council officers.

RECOMMENDATIONS:

1. It is recommended that the Cabinet Member agrees the proposed Primary and Secondary Fair Access Protocols for 2014/15.

REASON FOR RECOMMENDATIONS:

- The local authority is required to have a Protocol in place that all schools must participate in
- The proposed Protocols meet the requirements of the School Admissions Code
- Schools have been involved in the review
- The Protocol will ensure that children who are out of school can be placed in school quickly
- The Protocol will ensure that no school is expected to admit more than their fair share of children with challenging behaviour or children previously excluded from other schools

DETAILS:**Changes to the Primary and Secondary Fair Access Protocols**

1. Copies of the proposed Primary and Secondary Fair Access Protocols for 2014/15 are attached at **ANNEX 1** and **ANNEX 2**.
2. Generally the Protocols have been working well and there has been little demand for change.

3. The majority of changes generally relate to re-wording of some paragraphs so that the Protocols read as shared documents between the local authority and schools rather than ones imposed on schools by the local authority.
4. Paragraph 3.2 has been updated to remove automatic eligibility for out of County children who have been excluded from a Surrey school. Such cases might be included by exception where a Surrey school is deemed most appropriate, but the duty to provide a school place for an out of County child rests with their home local authority.
5. Paragraphs 6.1 and 6.4 of the primary Protocol have been updated to reflect the fact that placement Panels will be trialled in some areas during 2014/15 and in those cases referral would be to the Panel and not an individual school.
6. The funding arrangements for children who have been excluded from school in section 8 of the Primary Protocol and section 10 of the Secondary Protocol have been updated to clarify that, where there is reference to financial year, it refers to the local authority's financial year.

CONSULTATION:

7. Comments were initially sought from the Fair Access Protocol Review Group which met on 4 December 2013. Representation on that group was from schools, Secondary Phase council, local authority area teams and Surrey's Admissions team.
8. Feedback from the Fair Access Protocol Review Group was that, generally, the Protocols were working well and the few areas of concern rested more with the operation of the placement Panels, and the data that schools had to consider for each case. However the group did feel that the Protocols might be better if presented as a joint document between the local authority and schools as this would ensure a shared sense of ownership and responsibility existed. It also felt that the Protocols should include an acknowledgement that Surrey works together with schools to reduce and prevent permanent exclusion.
9. Following the review of the Protocols in line with the comments from the Fair Access Protocol Review Group, the draft Protocols were distributed to Area Education Officers, Area Leads for Pupil Support and Children, Schools and Families Finance for further comment.
10. On 23 May 2014 draft Protocols were distributed to all schools and to the Primary and Secondary Phase Councils for consideration at their meetings in June and July 2014. Consultees were given until the 3 July 2014 to submit their response.
11. The draft Protocols were also distributed to the Admissions Forum for its meeting on 20 June 2014.
12. A total of six responses were received to the consultation, of which five submitted comments or suggestions for change. Of those, two responses were from Spelthorne Schools Together, one on behalf of the Spelthorne secondary schools and one on behalf of the Spelthorne primary schools.
13. The following comments were received:

- Criteria for excepted children under Infant Class Size include all possible categories – **Response: provision in line with infant class size legislation**
 - School always meet with families and therefore would not be able to comply with paragraph 2.10 which says that ‘placing on roll will not be subject to a meeting with the parent /carer’ – **Response: updated to read ‘should’**
 - Protocol shouldn’t extend to children in Year 6 during the Spring and Summer terms – **Response: every child has a right to receive an education and the emphasis has to be on the needs of the child. The child's transition to secondary school is likely to be more successful if they are being supported by a school and going through the process with their peers**
 - Needs to be more time to collect all relevant information relating to the child before they join to ensure correct support systems and strategies are put in place – **Response: Protocols ensure that unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. Whilst there is a balance to be struck between allocating a place and gathering data, ultimately there is a duty to ensure that a child is offered a school place and an expectation by the DfE that once a place is offered the child is admitted within 15 calendar days**
 - How will a permanently excluded child be successful at another mainstream school without different support arrangements in place – should children not be assessed to see if a mainstream placement is appropriate? – **Response: schools must not refuse to admit a child thought to be potentially disruptive or likely to exhibit challenging behaviour on the grounds that the child is first to be assessed for special educational needs. There are differing reasons for permanent exclusion and it would not be appropriate to involve SEN in each case**
 - Protocol should not include out of County children who have been excluded from a Surrey school (17 Spelthorne primary schools and six Spelthorne secondary schools) - **Response: Paragraph 3.2 updated to remove automatic eligibility for out of County children who have been excluded from a Surrey school**
 - Children in Year 6 should be included as one of the categories in section 3 because their admission might have an impact on SATs results – **Response: Year 6 children are not by default difficult to place. Inclusion in the primary Protocol might delay admission for some children which could have a knock on effect on their transition to secondary school**
 - Section 4 should make reference to the fact that SEN and FAP staff should liaise closely – **Response: other paragraphs refer to liaison between SEN and other LA staff regarding FAP cases**
 - Paragraph 5.3 of the primary Protocol indicates that schools might accept an application when they can’t – **Response: updated to reflect that own admission authority schools might accept applications directly**
 - Wording of paragraph 6.1 of primary Protocol may need updating in light of the fact that some areas may introduce primary panels to effect placement – **Response: Paragraphs 6.1 and 6.4 updated to reflect introduction of placement Panels in some areas**
14. At Secondary Phase Council, although there was agreement that the Protocols were generally working well, there was a request to see if more could be done on cross border issues and protocols.

15. Where appropriate, comments from the consultation have been taken in to account in the final Protocols recommended for approval for 2014/15.

RISK MANAGEMENT AND IMPLICATIONS:

16. The Protocols reduce the risk of children being left without a school place by ensuring there is a process to place them in school, and a sense of shared responsibility between the local authority and schools. Once placed in a school the Protocols ensure that children will be placed on roll quickly to ensure that no child remains out of school for longer than necessary.
17. The Protocols reduce the risk of undersubscribed schools being asked to admit more than their fair share of children with challenging behaviour or children who have been excluded from other schools.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

18. Additional financial support to maintained schools for Fair Access Protocol placements comes from a designated budget allocation and acts as an incentive for schools to participate and to admit children.
19. Where financial support is available it is targeted in respect of those children who are considered to be most challenging (categories a to h). Despite qualifying under the Protocol, the other categories of children will not necessarily require additional resource within schools. However, in order to encourage successful reintegration of children, funding for any term will continue to be forfeited if a child withdraws prior to the start of a term or if they withdraw within a term if the withdrawal is within 12 weeks of the placement being made.
20. Other funding is also available to schools for excluded pupils dependent on the date of the exclusion and the school that the child had previously been excluded from.
21. In addition, maintained schools will receive AWPU funding for Year 11 pupils placed on roll after 2 October 2014 on a pro rata basis. Late Year 11 placements are particularly problematic because schools will not ordinarily receive funding because this cohort will have left the school by the next census date. It is hoped that this will offer some incentive to schools to admit Year 11 children.

SECTION 151 OFFICER COMMENTARY:

22. The Section 151 Officer expects the Fair Access Protocols to be delivered within the resources currently available.

LEGAL IMPLICATIONS – MONITORING OFFICER:

23. The School Admissions Code requires local authorities to have a Fair Access Protocol in place to ensure that education can be secured quickly for children who have no school place and that all schools in an area admit their fair share of children with challenging behaviour, including children excluded from other schools.
24. The proposed Fair Access Protocols are compliant with the School Admissions Code.

EQUALITIES AND DIVERSITY:

25. An Equality Impact Assessment has been completed and is at **ANNEX 3**.
26. There are no negative impacts on any equality group. Placements under the Fair Access Protocols are currently less than 150 a year and as such these Protocols will not affect many people nor have a severe effect on some people.
27. The Fair Access Protocols are designed to ensure that children who are out of school are placed in school quickly. This will ensure that the equality groups identified in the Equality Impact Assessment will face a positive impact as a result of these Protocols as they will be placed in school quickly, even if a school is full.

Safeguarding responsibilities for vulnerable children and adults implications:

28. The Fair Access Protocols provide for vulnerable or challenging children who are out of school to be placed in school quickly and this contributes to Surrey's safeguarding responsibilities for vulnerable children.

WHAT HAPPENS NEXT:

- The Protocol will be shared with all schools and relevant officers and implemented for 2014/15.
- The Admissions Forum will monitor the effectiveness of the Protocols throughout the year.

Contact Officer:

Claire Potier, Principal Manager Admissions and Transport (Strategy) Tel: 01483 517689

Consulted:

- Nick Wilson, Strategic Director for Children, Schools and Families
- Peter-John Wilkinson, Assistant Director for Children, Schools and Families
- Sarah Baker, Legal and Democratic Services
- Infant, Junior, Primary and Secondary schools in Surrey
- Area Education teams
- Primary and Secondary Phase Councils
- Children, Schools and Families Finance
- Members of the Admission Forum
- Diocesan Board representatives

Annexes:

Annex 1 – Primary Fair Access Protocol
Annex 2 – Secondary Fair Access Protocol
Annex 3 – Equality Impact Assessment

Sources/background papers:

- School Admissions Code - February 2012
-

This page is intentionally left blank