



**CABINET**

**14 FEBRUARY 2017**

**DIRECTOR OF CHILDREN, FAMILIES AND EDUCATION: LESLEY HAGGER**

**CABINET MEMBER WITH RESPONSIBILITY FOR CHILDREN’S SERVICES:  
COUNCILLOR MATT GOLBY**

<b>Subject:</b>	Determination of 2018 Admission Arrangements and adoption of Fair Access Protocol
<b>Recommendations:</b>	<p>Cabinet is asked to:</p> <ol style="list-style-type: none"> <li>1. Approve the changes being proposed for community and voluntary controlled schools and to note the arrangements at schools which are their own admission authority (e.g. voluntary aided school, academies, UTCs and free schools);</li> <li>2. Determine and adopt the primary and secondary ‘qualifying schemes’ for the co-ordination of 2018 admissions;</li> <li>3. Approve the adoption of a revised Fair Access Protocol.</li> </ol>

**1. Purpose of Report**

1.1 The local authority (LA) has a statutory duty to act in accordance with the relevant provisions of the School Admissions Code (‘the Code’) and with the law that affects school admissions.

1.2 The purpose of the report is to ensure that, in accordance with the requirements of the Code:

- a) the admission arrangements for 2018 for Community and Voluntary Controlled schools have been consulted upon and are determined;
- b) qualifying schemes for co-ordination are determined and adopted, and
- c) the revised Fair Access Protocol is adopted.

**2. How this decision contributes to the Council Plan**

2.1 The Council’s vision is to make Northamptonshire a great place to live and work. This is achieved through increasing the wellbeing of your county’s communities and/or safeguarding the county’s communities.

<p>This initiative specifically delivers increased wellbeing and/or safeguarding by ensuring that:</p> <ul style="list-style-type: none"> <li>• People of all ages are safe, protected from harm and able to live happy, healthy and independent lives in our communities;</li> <li>• People have the information and support they need to make healthy choices and achieve wellbeing;</li> <li>• Resources are utilised effectively and efficiently, in coordination with partners and providers.</li> </ul>
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### 3. Background

- 3.1 The local authority is the admissions authority for community and voluntary controlled schools in the county. Schools such as academies, Voluntary Aided schools, Free Schools, UTCs and Foundation schools are their own admission authority which means that the governing body or academy trust of the school is responsible for the admission arrangements at the school, rather than the LA.
- 3.2 When changes are proposed to admission arrangements, all admission authorities must consult on their admission arrangements (including any supplementary information form) that will apply for admission applications in the following school year. Where the admission arrangements have not changed from the previous year there is no requirement to consult, subject to the requirement that admission authorities must consult on their admission arrangements at least once every 7 years, even if there have been no changes during that period.
- 3.3 Pursuant to the requirements of the School Admissions Code, all admission authorities must determine (i.e. formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required. Proposed changes in schools' published admission arrangements for September 2018, including published admission numbers (PANs) and oversubscription criteria, require determination by 28 February 2017.
- 3.4 The local authority has an annual duty to determine and adopt 'qualifying schemes' for the co-ordination process, for both primary and secondary schools in the county, and to notify parents of the outcome of their applications for a school place.
- 3.5 All admission authorities must participate in co-ordination and provide the local authority with the information it needs to co-ordinate admissions by the dates agreed within the scheme. Local authorities must make application forms available to parents who wish to apply to a school in a neighbouring area which operates a different age of transfer (e.g. middle schools), and process these as it would in its normal admissions round. The qualifying schemes provide a timetable for both the LA and schools to exchange information at prescribed times so that the offer of a single school place can be made by the LA to children on offer days. See the link in section 10.2
- 3.6 Each LA must have a Fair Access Protocol (FAP), agreed with the majority of schools in its area to ensure that – outside the normal admissions round – unplaced children, especially the most vulnerable, are offered a place at a school as quickly as possible. The operation of Fair Access Protocols is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures. All admission authorities **must** participate in the FAP in order to ensure that unplaced children are allocated a school place quickly. The effective operation of the FAP is monitored by the Protocol Steering Group, a group of Heads/Deputy Heads representing schools in their area of the county and Fair Access panel meetings are held monthly in five major towns in Northamptonshire to discuss the most appropriate school placement for children of compulsory school age who have difficulty securing a school place. The FAP is reviewed regularly and a revised FAP has been proposed for adoption by the LA. See link in section 10.3

#### **4. Consultation and scrutiny (1): admissions arrangements consultation**

4.1 In Northamptonshire, consultation on schools' admission arrangements began on 16 November 2016 and ended on 31 January 2017. Consultation took place in the relevant area for the LA. The meaning of relevant area for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999. Northamptonshire County Council consulted on 2018 admissions arrangements for primary and secondary schools with:

- Head teachers, Governing bodies and Academy Trusts of all schools in Northamptonshire;
- Local authorities that border Northamptonshire;
- Diocesan authorities;
- Parents of children within Northamptonshire;
- Any other persons in the relevant area who may have an interest in the proposed arrangements

4.2 The consultation activities included: placing notice of the consultation in local papers; emailing all schools in the county; notification via both the Early Years' bulletin and the Friday bulletin; press release from the communications team; ensuring details placed on the NCC consultation register and NCC homepage; informing surrounding LAs; informing Customer Service Centre (CSC) and informing the county's Church of England and Catholic Dioceses.

4.3 The NCC admissions consultation website contained details of where changes were proposed by: a) NCC as the admission authority for schools and b) other schools which are their own admission authority. NCC has included the proposed admission arrangements of all schools so that parents/carers are made aware of any changes to admission arrangements in the whole of Northamptonshire.

4.4 The proposed changes to oversubscription criteria which affect a number of schools are:

1. Changing the distance tiebreaker. A tiebreaker is needed if a decision needs to be made between 2 or more children in the same criterion as to which child should be offered a place. Currently, the criterion of 'furthest from nearest alternative school' is frequently used as the tiebreaker and the proposal is to change to 'closest to the school' as this is easier to understand and supports the principle of local schools for local children;
2. Changing the definition of 'sibling link' so that a sibling may be older or younger than the child applying. Currently, the sibling must be older before a sibling link can be claimed.

4.5 The schools proposing these two changes, and a copy of their proposed oversubscription criteria can be found in the following documents on the NCC website<sup>1</sup>.

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<sup>1</sup>See: [http://www3.northamptonshire.gov.uk/councilservices/children-families-education/schools-and-education/school-admissions/Pages/default.aspx#\\_ga=1.71428755.1407847517.1447433775](http://www3.northamptonshire.gov.uk/councilservices/children-families-education/schools-and-education/school-admissions/Pages/default.aspx#_ga=1.71428755.1407847517.1447433775)

- 4.6 NCC also assists in co-ordinating the consultation process for other schools in the county by placing details of changes to the schools' admission arrangements on the NCC website. Any comments received by NCC concerning schools where NCC is not the admission authority were forwarded immediately to the relevant schools.
- 4.7 Only one response was received relating to the admission arrangements for a school where NCC is the admission authority. This response was sent by Harpole Primary School in South Northamptonshire, who noted that 'Child has sibling link and is concerned village children have higher priority'.
- 4.8 In response to this, the local authority would like to stress that In rural village schools, children living in the village have priority over those who live outside the village. Siblings do have a priority in the oversubscription criteria but this priority is lower than for those living in the village.

## **5. Consultation and Scrutiny (2): Fair Access Protocol Consultation**

- 5.1 Whilst the School Admissions Code (12/2014) states that is a statutory requirement for local authorities to have a Fair Access Protocol ('...agreed with the majority of schools in its area')<sup>2</sup>, guidance allows local authorities some latitude in defining the specific form that their Fair Access Protocol should take.
- 5.2 Following the first meeting of the Fair Access Protocol Steering Group ('PSG') in September 2016, Northamptonshire County Council proposed to make changes to the points-based system used by the local authority to determine the 'ranking' of schools in the county, and thus, the order in which eligible pupils will be allocated to schools. The points-based system is not the only mechanism used to determine where children in the Fair Access Protocol are allocated to, but helps to provide a fair, transparent, mechanism through which schools can see how they are ranked and the likelihood of a student being protocolled to them.
- 5.3 The main change proposed by the local authority was the removal of points for children in SEN Category 'K' as a variable which counts towards each school's final score and ranking. The rationale behind this was that unlike the other datasets used to determine each school's points score (FSM, EAL, Mobility, KS2 APS, Statements and EHCP) SEN K data is the only data-set currently being used by the local authority which can be used differently by schools: this code covers a variety of different special needs, each with varying levels of support required.
- 5.4 In short, and heavily over-simplifying the points-based protocol, the schools with the lowest point scores in each geographical area would be the first schools that students would be protocolled to.[1] The variables, and formulae, used to inform the points-based Fair Access Protocol (and how schools in the county are ranked) used by the

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<sup>2</sup> The School Admissions Code (2014: 30) Section 3.9.

[1] This is an over-simplified explanation of the protocol. A variety of other factors (for instance, which district/borough schools are located in; how many protocolled children and young people the school may previously have taken; the specific needs of protocolled children and young people; parental preference; negotiation with schools) will also have an influence on where students are protocolled to. A full explanation of the Fair Access Protocol, its statutory basis, and how both Protocol and points system work in practice are contained in the revised **Fair Access Protocol Policy (2016)** document, which supports this consultation.

county council are shown below, in **Table 1**. The LA proposed to remove the highlighted row (3) from the points-based protocol.

**Table 1:**

#	Variable	What the data shows	Formula used to determine each school's score
1	<b>Number on roll (NOR)</b>	The number of pupils on roll in each mainstream secondary provision (at 01/2016)	Used as baseline data in most of the formulae below.
2	<b>EAL/ESOL</b>	Number of pupils with English as additional language, or English as secondary or other language	$(\text{No. of EAL students} \div \text{no. pupils on roll}) \times 100$
3	<b>SEN (1) – Category 'K'</b>	The number of pupils counted as SEN Category 'K' (formerly School Action Plus)	$(\text{No. of SEN 'K' students} + \text{No. of students with EHCP} - \text{No. of students in DSP provision [if relevant]}) \times 1000$
4	<b>SEN (2) – EHCP</b>	The number of pupils on Education, Health and Care Plans	
5	<b>DSP Offset</b>	Schools with DSP provision/units receive an 'offset' based on the number of students registered in on-site provision.	
6	<b>FSM</b>	The number of pupils eligible for FSM.	$(\text{No. of FSM pupils} / \text{No. pupils on roll}) \times 100$
7	<b>KS2 APS</b>	The Key Stage 2 Average Point Score for each school.	$(33 - \text{KS2 APS}) \times 10$
8	<b>Mobility Factor</b>	The numbers of starters and leavers at each school	$(\text{No. of starters} + \text{no. of leavers} \div \text{no. of pupils on roll}) \times 100$

Variables used to rank schools for Fair Access children in the Points-based Protocol

5.5 As a result of feedback received by, and through continued discussion with the Fair Access Protocol Steering Group[2], the local authority felt that there was a need to re-consider the way in which schools are scored/ranked. As such, from 2016/17, the local authority proposed removing SEN Category 'K' children and young people from the Protocol (see Row 3, Table 1, above). Both felt that this category lacks the objectivity and consistency of all other variables used to rank schools in the points-based protocol. This category is the only variable which could be applied 'subjectively'[3]: schools have some leeway in determining who is a Category 'K' student, and not all schools would necessarily categorise students in the same way. It is felt that removing this category from the Protocol scoring system would create more objective, reliable and consistent scores for schools.

5.6 The removal of SEN Category K will have an impact on some Northamptonshire schools, and will result in some schools being ranked higher (or lower) than they would otherwise have been had category K data continue to be used. However, a number of schools' positions in the ranking remain unchanged, whether or not SEN 'K' is used as a variable, and overall the impact of the protocol in most schools is modest. As a result of the proposed change being made to the Fair Access Protocol:

[2] The Protocol Steering Group (PSG) consists of senior officers from the School Admissions Team, NCC's Education and Inclusion Service and senior education professionals (head teachers, deputy heads or other senior school staff) from each district and borough in Northamptonshire, who represent all area schools, to discuss the practical and technical operation of the Fair Access Protocol and related issues.

[3] SEN Category K refers to pupils with SEN support but with no specialist assessment of the type(s) of need.

- Five county schools' rankings would not change;
- Six schools' rankings would only change by one place (+1 or -1);
- 17 schools would move down the rankings;
- 13 schools would move up the rankings.

5.7 As well as changes to the points-based ranking system, the local authority also proposed to revise its **Fair Access Protocol Policy**, including changing some of the categories used for protocolled children, and refining and revising the wording for this policy for the 2016/17 academic year. The changes to the policy, however, are technical, and will not affect the way in which the Protocol works. These changes are summarised below:

- Some restructuring and reorganisation of the Fair Access Policy (in all sections) to ensure it is clear, easy-to-follow and references relevant legislation and statutory guidance;
- A clearer and more detailed definition of what constitutes an 'unplaced' children (a child without a school place);
- Clarification on exactly how long it should take to place an 'unplaced' child, based on DfE Guidance (10/2012) (an absolute limit of 22 days);
- Revisions to the scope of the Fair Access Protocol, specifically Section 4: 'Who will the Fair Access Protocol cover', and a clearer definition of what is meant by 'children who have a persistent record of absence' (e.g. 'less than 90% unauthorised absence over a period of 100 school days');
- Discussion of the recent change from Pupil Placement Panel (PPP) meetings to Fair Access Panel Meetings. In brief, this encompasses a move from a forum to discuss in-year secondary applications, to a forum solely for the placement of Fair Access Cases, and more of a focus on our most vulnerable children;
- Revision and clarification of key sections covering the operational expectations of the Fair Access Protocol: Timelines, Refusal to Admit Children, Powers of Direction, Parental Preference, and Challenging Behaviour;
- Updated appendices to the Policy, and the addition of a Terms of Reference (TOR) section covering Fair Access Panel Meetings.

5.8 As some of the proposed changes to the points-based system could impact on the operation of the Fair Access Protocol in Northamptonshire, the local authority felt that a period of non-statutory consultation on these changes would allow all schools, and any other interested parties, the opportunity to feedback their views and opinions about the proposed revisions to the Protocol. This period of consultation was held for six weeks, between 23rd September and 4th November 2016.

5.9 During the consultation period, only three responses were received, all sent via email. All consultation responses were discussed, in full, both by officers from the local authority and at the December meeting of the Fair Access Protocol Steering Group.

Response code	Consultee	Background	Key issues raised
FAP1	Steve Elliott	Head teacher, Wrenn School, Wellingborough	That more consideration should be given to schools receiving high number of EAL children and young people (see 5.11 below).

FAP2	Linda Brooks	Executive Principal, Manor School Sports College, East Northamptonshire	Disagreed with the proposed changes to the points-based Protocol
FAP3	Richard Bernard	Principal of Northampton School for Boys	Comments concerning the structure and operation of the Fair Access Protocol and Policy

**Table 2:** Consultation responses received during the Fair Access Protocol Consultation

5.10 Of the three consultation responses (all of which were received in December 2016), only one objection was raised to the proposed removal of SEN category ‘K’ as a variable adding to county schools’ scores and ranking, and the majority of county schools supporting the proposed change, this variable will be removed from the local authority’s points-based system for ranking the order in which schools receive pupils for the remainder of the 2016/17 academic year.

5.11 One consultee suggested that either additional points should be allocated to protocolled children with English as a Secondary or Additional Language (EAL/ESOL), and that the local authority’s points-based protocol should take account of recent changes to the collection of EAL data as part of general School Census data collection.

5.12 In response to this, and the way that EAL data is now collected by local and central government as part of the School Census collection process from 2016/17 onwards (see **School Census 2016-17: Business and Technical Specification<sup>3</sup>, 2016**) the local authority will be looking at this revised EAL dataset (wherein children and young people with EAL are allocated to different ‘waves’, based on linguistic proficiency and level of need) to ascertain if this can be effectively incorporated into the local authority’s points-based protocol. The local authority would not, however, be looking to implement any such changes in the 2016/17 academic year, especially as this would entail the adoption of new, untested data.

## 6. Equality Screening

6.1 An initial screening has shown that no EqIA is required for the Admissions Arrangements because it is designed to ensure equal access to school places.

6.2 Initial screening of the Fair Access Protocol has shown that this will have a positive impact on vulnerable children and young people i.e. who may have special educational needs because it is designed to ensure that they are not disadvantaged by their individual circumstances when applying for school places and have the same access to a school place as a child with no such vulnerabilities.

6.3 The Fair Access Protocol will be monitored to ensure it works effectively.

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<sup>3</sup>DfE Guidance on this can be downloaded via this link: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/554464/School-census-2016-to-2017-business-and-technical-specification-version-1.4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/554464/School-census-2016-to-2017-business-and-technical-specification-version-1.4.pdf)

## 7. Alternative Options Considered

- 7.1 The proposal to change the tiebreaker from 'furthest from the nearest alternative' to nearest to the school follows consideration of other alternative tiebreakers - such as random allocation.
- 7.2 'Furthest from the nearest alternative' is a concept where it can be very difficult to explain to parents why the process is fair; it has resulted in children who live near to the school not being able to get places, whereas children living further away are successful. Additionally, many schools which adopted this tiebreaker have now become academies (responsible for their own admission arrangements) which have changed their tiebreaker to 'closest to the school'. This means that there are now a number of different tiebreakers in use in an area, causing confusion for parents/carers.
- 7.3 'Closest to the school' has been proposed in support of the principle of local schools for local children.

## 8. Financial Implications

- 8.1 This report concerns admission arrangements which do not, in themselves, have a financial bearing. Any possible impact on transport would be addressed under policies responsible for home to school transport.

## 9. Risk and Business Continuity Management

### a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
NCC does not fulfil statutory obligations under the Code	NCC determines admission arrangements, adopts co-ordinated schemes and a Fair Access Protocol	Green
Qualifying schemes not adopted. Secretary of State would impose schemes	Adopt qualifying schemes	Green

### b) Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
Admission arrangements may be considered to be unfair or contrary to the Code and NCC will be reported to the Schools Adjudicator	Red

## 10. List of Appendices

### 10.1 School Admissions Code

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/389388/School\\_Admissions\\_Code\\_2014\\_-\\_19\\_Dec.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)

### 10.2 Consultation documents on NCC website (including co-ordinated schemes):

[http://www3.northamptonshire.gov.uk/councilservices/children-families-education/schools-and-education/school-admissions/Pages/default.aspx#\\_ga=1.71428755.1407847517.1447433775](http://www3.northamptonshire.gov.uk/councilservices/children-families-education/schools-and-education/school-admissions/Pages/default.aspx#_ga=1.71428755.1407847517.1447433775)

### 10.3 Revised Fair Access Protocol:

<http://www.northamptonshire.gov.uk/en/councilservices/council/consultations/pages/Details.aspx?cid=6cc5ac95-186a-4d0c-8a04-9994e63c326a&search=past&page=1&sortby=3&currentposition=0>

### 10.4 Example of admission arrangements:

<http://www3.northamptonshire.gov.uk/councilservices/children-families-education/schools-and-education/school-admissions/Documents/Proposed%20changes%20to%20LA%20schools%20-%20generic%20admission%20criteria%20for%202018.pdf>

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Background Papers:	
Does the report propose a key decision is taken?	YES
If yes, is the decision in the Forward Plan?	YES
Will further decisions be required? If so, please outline the timetable here	N/A
Does the report include delegated decisions? If so, please outline the timetable here	N/A
Is this report proposing an amendment to the budget and/or policy framework?	NO
Have the financial implications been cleared by the Strategic Finance Manager (SFM)? Have any capital spend implications been cleared by the Capital Investment Board (CIB)	NO Name of SFM: James Smith NO
Has the report been cleared by the relevant Director?	YES Name of Director: Lesley Hagger
Has the relevant Cabinet Member been consulted?	YES Cabinet Member: Matthew Golby
Has the relevant scrutiny committee been consulted?	NO Scrutiny Committee:
Has the report been cleared by Legal Services?	YES Name of solicitor: Duncan Bissett
	Solicitor's comments: None

Have any communications issues been cleared by Communications and Marketing?	YES Name of officer: Joni Ager
Have any property issues been cleared by Property and Asset Management?	YES Name of officer: James Wheeler
Are there any community safety implications?	None
Are there any environmental implications:	None
Are there any Health & Safety Implications:	NO
Are there any Human Resources Implications:	NO
Are there any human rights implications:	NO (please delete as appropriate) .
Constituency Interest:	No