

BARNET IN-YEAR FAIR ACCESS PROTOCOL (*PROPOSED*)

1. INTRODUCTION

- 1.1 The School Admissions Code 2021 requires all local authorities to have a Fair Access Protocol (FAP) in place, which ensures that school placements are identified and secured, as quickly as possible, for children who are vulnerable and those having difficulty in securing an in-year school place due to exceptional circumstances.
- 1.2 Once a FAP is agreed with the majority of schools in the area, all admission authorities **must** participate in it.
- 1.3 The Protocol **must not** be used in place of the usual admissions process. It does not override parents' right to make an in-year application at any time, have their preferences met wherever possible or take the opportunity to appeal the decision when admission is refused.
- 1.4 This document sets out the principles and processes that will apply to Barnet Council and the admission authorities for all voluntary-aided, foundation, free schools and academies within the borough, when seeking to refer and place a child through the Protocol.

2. MAIN PRINCIPLES

- 2.1 The success of Barnet's FAP is driven by the commitment of its admission authorities towards inclusiveness and working together collaboratively to
 - minimise children's time out of education by ensuring that vulnerable children residing in Barnet, and those having difficulty securing a school place through the usual in-year admission process, are allocated a place within 20 days of referral to the FAP;
 - promote safeguarding of children and young people by facilitating timely admission of those missing from education;
 - ensure equitable sharing of Barnet children who have been permanently excluded from other schools, who are likely to display challenging behaviour¹, or who are otherwise being placed via the FAP, so that no school is asked to take a disproportionate number of children that fall within these categories; and

¹ 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/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.

- operate in a way that is fair, equitable and consistent for schools and pupils.

3. CHILDREN ELIGIBLE FOR PLACEMENT UNDER BARNET FAP

3.1 The Protocol will be used for the following category of children, where it has been proven difficult to secure a suitable placement for through the usual admissions process:

- a) children either subject to a Child in Need Plan or a Child Protection Plan², or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the FAP
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP;
- 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 arrangements³;
- 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 FAP in accordance with paragraph 3.10 of the [Admissions Code](#);
- k) children for whom a place has not been sought due to exceptional circumstances;
- l) children who have been out of education for 4 or more weeks where there are no places available at any school within a reasonable distance of their home, and;
- m) previously looked after children for whom Barnet has been unable to promptly secure a school place.

² Child in Need Plans and Child Protection Plans are plans of help and protection to address safeguarding and welfare needs, where a child has been assessed by the local authority as being a child in need under Section 17 of the Children Act 1989 and/or as suffering or likely to suffer significant hardship under Section 47 of the Children Act 1989.

³ As evidenced by either a child arrangements order not relating to either birth parent or a special guardianship order.

4. COVID-19 PANDEMIC

- 4.1 During the Covid-19 outbreak, some parents who are clinically extremely vulnerable decided to withdraw their child from school in favour of elective home education. Where parents apply for their child's return to school, applications will be processed in accordance with the usual in-year process. For those experiencing difficulty, FAP may be used if the child is eligible under category (e) or (l), above.

5. EQUALITY

- 5.1 The Admissions Code stipulates that admissions authorities are subject to the Public Sector Equality Duty and therefore must have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations in relation to persons who share a relevant protected characteristic and persons who do not share it.
- 5.2 The protected characteristics for these purposes are: disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
- 5.3 A child with challenging behaviour may also be disabled as defined in the [Equality Act 2010](#). When considering refusing admission on these grounds, admission authorities must consider their duties under that Act.
- 5.4 Admission authorities must not refuse admission of children simply because they meet the criteria for referral to the FAP. The [Appeals Code](#) outlines that if an application is refused, the admission authority must present their case for refusal, demonstrating how admission of the child would prejudice the provision of efficient education or efficient use of resources.

6. SCHOOLS' DECISIONS ON IN-YEAR APPLICATIONS

- 6.1 Barnet Council coordinates in-year admissions for almost all schools in the borough. Applications are made online and full application details are downloaded to the School Admissions Module (SAM) for consideration by the school.
- 6.2 In some cases, the Council may receive additional information to support an in-year applications and if appropriate, the information will be shared with the preference school(s).
- 6.3 Upon receipt of an in-year application, the admission authority should aim to notify Barnet's School Admission Team the outcome of the application to enable the formal decision to be conveyed to the parent in writing within 10 school days, or within 15 school days at the latest. **Whether or not a child meets the Fair Access criteria must not be taken into account when making decisions.**
- 6.4 Where the application is refused, the Admissions Team will notify the parents of the outcome of their application within 10 school days, or within 15 school days at the latest.

- 6.5 Where the admission authority manages its own in-year admissions, it must also notify the Admissions Team of every application and its outcome as soon as reasonably practicable, but should aim to be within two school days, to allow the Team to keep up to date figures on the availability of places in the area and to ensure they are aware of any children who may not have a school place.
- 6.6 In accordance with the School Admissions Code, there are only two legitimate reasons why an admission authority may refuse a child's in-year admission:
- i. because the admission of **any further child** to the school would cause prejudice to the provision of efficient education or the efficient use of resources in the school (the child's individual circumstances should not be taken into account)
 - ii. the admitting authority has good reason to believe that the child may display challenging behaviour, and the school already has a particularly high proportion of children with challenging behaviour or those who have previously been permanently excluded, when compared to other local schools, and that to admit a further child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

7. REFERRAL CRITERIA

REFERRALS FROM SCHOOLS

- 7.1 Schools with vacancies that are refusing a child's admission under Paragraph 6.6(ii) will need to evidence why they believe the child may present challenging behaviour before refusing admission on these grounds and can ask the previous school for background information to support this. Schools will be asked to complete a form (see **Appendix 2**) outlining their reasons for refusal. **This information will be presented to the Fair Access Panel, for consideration.**
- 7.2 Where an application relates to a child with 'challenging behaviour', who already has access to a school place or lives outside of the borough, the admission application will not be considered under Barnet's FAP. Barnet School Admissions will advise the parent to contact their current school to look for ways of identifying and addressing the underlying issues. The current school may seek to arrange a 'managed move' if considered appropriate. For children residing outside the borough, the application will be referred to the home Local Authority. Schools refusing admission must always offer the right of appeal.
- 7.3 Schools with vacancies that are refusing admission under 'prejudice grounds' (see 6.1(i)) will be asked to complete a form (see **Appendix 3**) outlining their reasons for refusal. Providing the application falls under one or more of the Fair Access categories listed on Page 2, **the information provided by the school will be presented to the Fair Access Panel, for consideration.**

REFERRALS FROM BARNET SCHOOL ADMISSIONS

- 7.4 Barnet has sufficient primary and secondary school places to meet the overall demand. In most cases, the School Admissions Team will identify school places for

unplaced children through the usual admissions process. However, in some cases placements will be sought through the FAP due to localised pressure for in-year places.

- 7.5 An unplaced child must meet one of the FAP eligibility criteria in order to be placed through the Protocol.

REFERRALS FROM THE PAVILION (PUPIL REFERRAL UNIT)

- 7.6 Permanently excluded children who are deemed ready for reintegration into mainstream school will be referred to the FAP for fair and equitable placement at a suitable school.
- 7.7 This does not override the parents' right to apply for their permanently excluded child's admission to mainstream school under the usual admissions process or to appeal against refused admission to their preference school(s).

REFERRALS FROM THE PUPIL PLACEMENT PANEL (PPP)

- 7.8 Barnet also operates a multi-agency Pupil Placement Panel (PPP), that meets weekly to consider pupils and young people who are without a school place for a variety of reasons. Representatives of the PPP include Barnet's Education Welfare Team, Virtual School, Pupil Referral Unit, Exclusions & Safeguarding, Children's Social Care and the Youth Offending Team. The PPP provides a mechanism for identifying pupils with challenging behaviour who are hard to place and provide details of professional support they may need to help them to reintegrate into education.
- 7.9 In exceptional cases, a child who may already have a school place but is unable to safely access education at the school, may be presented for the allocation of a place at FAP providing sufficient substantiating evidence is submitted in advance and agreed by the Chair.

8. OPERATIONAL SCHEMES UNDER BARNET FAP

- 8.1 The scope of Barnet's FAP is admission authorities and children resident within the borough. There are two schemes within the Protocol, as outlined below:

SCHEME 1: The equitable distribution among eligible Barnet schools of pupils with challenging behaviour, including those who have been permanently excluded.

- 8.1.1 Under Scheme 1, referrals will normally be taken from the PPP or Barnet schools refusing admission under paragraph 3.10 of the Admissions Code. Where a referral has been made through the PPP, a designated lead officer will provide relevant information about the pupil and following placement will monitor the provision of the identified support and the pupil's progress.
- 8.1.2 In exceptional cases where mainstream provision is not considered appropriate, Barnet Council will secure and centrally fund an appropriate placement and identify a lead officer will be identified to make the arrangements.

- 8.1.3 Any pupil being reintegrated from the Pupil Referral Unit will initially be part of dual registration arrangements with the named school and the unit sharing responsibility for the pupil. This would allow the school and the unit to increase or decrease their respective level of provision as appropriate in response to the progress of the pupil.
- 8.1.4 Each school receiving pupils through FAP will be awarded £1000 as a starter payment and a further £500 per pupil placed in the school, in each academic year.

SCHEME 2: The equitable distribution among all schools of pupils who could be considered as vulnerable (see eligibility criteria), do not have challenging behaviour but do require a school place.

- 8.1.5 Scheme 2 will come into operation if no school can be identified through the normal admissions process.
- 8.1.6 In most cases, referrals will be made in respect of children out of education for 4 weeks from the time of application for a school place, who have been refused admission to their preference school(s) on the grounds that admission of another child would cause prejudice to the efficient education and efficient use of resources in the school and there are no places available at any school within a reasonable distance to their home.
- 8.1.7 As under Scheme 1, schools will receive £1000 for the first FAP admission and a further £500 for subsequent admissions, per academic year.

9. IN-YEAR FAIR ACCESS PANEL (IYFAP)

- 9.1 The IYFAP will consist of at least one Barnet school headteacher and a senior representative from the Pavilion Pupil Referral Unit. In some cases, deputy or assistant headteachers may be authorised to represent their school's headteacher, in order to support their professional development. Headteachers and their delegates will attend on a rota basis scheduled at the start of the academic year.
- 9.2 The attendance of the Chair of the IYFAP, one Headteacher and a representative from the PRU, will render the meeting quorate.
- 9.3 Barnet Council's Director of School Access, Skills & Corporate Services, or a designated representative, will chair the Panel. The Admissions Officer for Fair Access will also attend to record a summary of the decisions.
- 9.4 Where appropriate, representative from Barnet Education Learning Service, another Barnet Service, another agency or any other professional supporting the case may be invited to attend the Panel.
- 9.5 The Panel will meet fortnightly during school term-time.
- 9.6 The School Admissions Team will provide updated information to the panel, as follows:
- the number of pupils on roll at each school in the relevant year groups
 - the number of vacancies at each school in the relevant year groups

- the number of pupils that have been admitted to each school under the FAP, in the current academic year and the previous academic year, where relevant
- the pupil's background, educational history and circumstances, where available

10. IYFAP DECISIONS

10.1 The Panel will seek to ensure that

- decisions are informed, fair, transparent and based on up-to-date information; this may require additional reports to be shared with the panel from previous settings and / or agencies
- individual circumstances of the pupil, such as religious affiliation, social or medical needs are considered
- consideration is given to accessibility and reasonable home-to-school distance⁴, taking into account safe-walking routes and availability of public transport
- individual circumstances of the school, such as religious ethos, the size of the relevant year groups, proportion of children with significant additional needs (including special educational needs, previously excluded pupils and others with challenging behaviour, managed moves), where this information is available to the Panel. SEN data will be taken from the most recent School Census data.
- pupils are shared equitably among eligible schools, as far as possible; schools with available places will not be expected to admit will not be asked to take a disproportionate number of such children compared to other local schools
- potential placements in the three selective schools (Queens Elizabeth Boys, Henrietta Barnett and St Michael's Catholic) will be considered for pupils who have the required academic level
- all Barnet schools, including schools that have opted out of in-year coordination and those that have no available places are considered as potential placements under the Protocol, with the exception of schools that are subject to special measures.

10.2 Decisions made by the Panel will be binding upon schools, except where new evidence, previously unavailable to the Panel, comes to light which requires a review of the placement.

11. ADMISSION TO SCHOOL FOLLOWING PLACEMENT

- 11.1 The Fair Access Admissions Officer will send written notification of the placement to the receiving school and the parents of pupil concerned.
- 11.2 The Admissions Team will communicate application details and any additional information about the pupils, through the School Access Module (SAM).
- 11.3 The receiving school must arrange to meet with the parents and pupil and offer a start date as soon as possible, so as to minimise any gaps in education.

⁴ The Education Act defines home-to-school distance as reasonable and accessible if the safe walking distance is two miles in relation to children under the age of 8 years, and three miles in relation to children aged 8 years or over. In each case, distance is measured by the nearest available route.

- 11.4 Where the receiving school is unable to establish contact with the parent(s) or the child has not taken up the place on the agreed date, the school will provide the Admissions Team with details of the reasonable enquiries made (including phone calls, emails and letters). The Admissions Team will investigate and attempt to establish contact with the family.
- 11.5 Once the child is admitted, the receiving school must enter the child's on roll date on SAM.
- 11.6 The Admissions Team will then make arrangements for the school to receive the agreed funding.

12. LOCAL AUTHORITY'S POWER OF DIRECTION

- 12.1 Barnet's FAP operates successfully due to the collaborative working partnership of its admission authorities. In most cases, receiving schools will admit the pupil in accordance with the Protocol including schools that are operating a waiting list.
- 12.2 Where a school expresses compelling reasons for not being able to admit a child via the FAP, for example due to health and safety reasons, this will be taken into consideration before a decision is made to place a child in that school.
- 12.3 Where an admission authority has failed to admit a child in accordance with the FAP, they may be directed to do so.
- 12.4 The local authority has the power⁵ to direct the governing body of a maintained school for which it is not the admission authority to admit a child even when the school is full.
- 12.5 Where a local authority considers that an academy will best meet the needs of any child, it can ask the Secretary of State to intervene – the Secretary of State has the power to direct the admission of any child to any academy under the academy's funding agreement.

13. PRIVACY NOTICE TO PARENTS

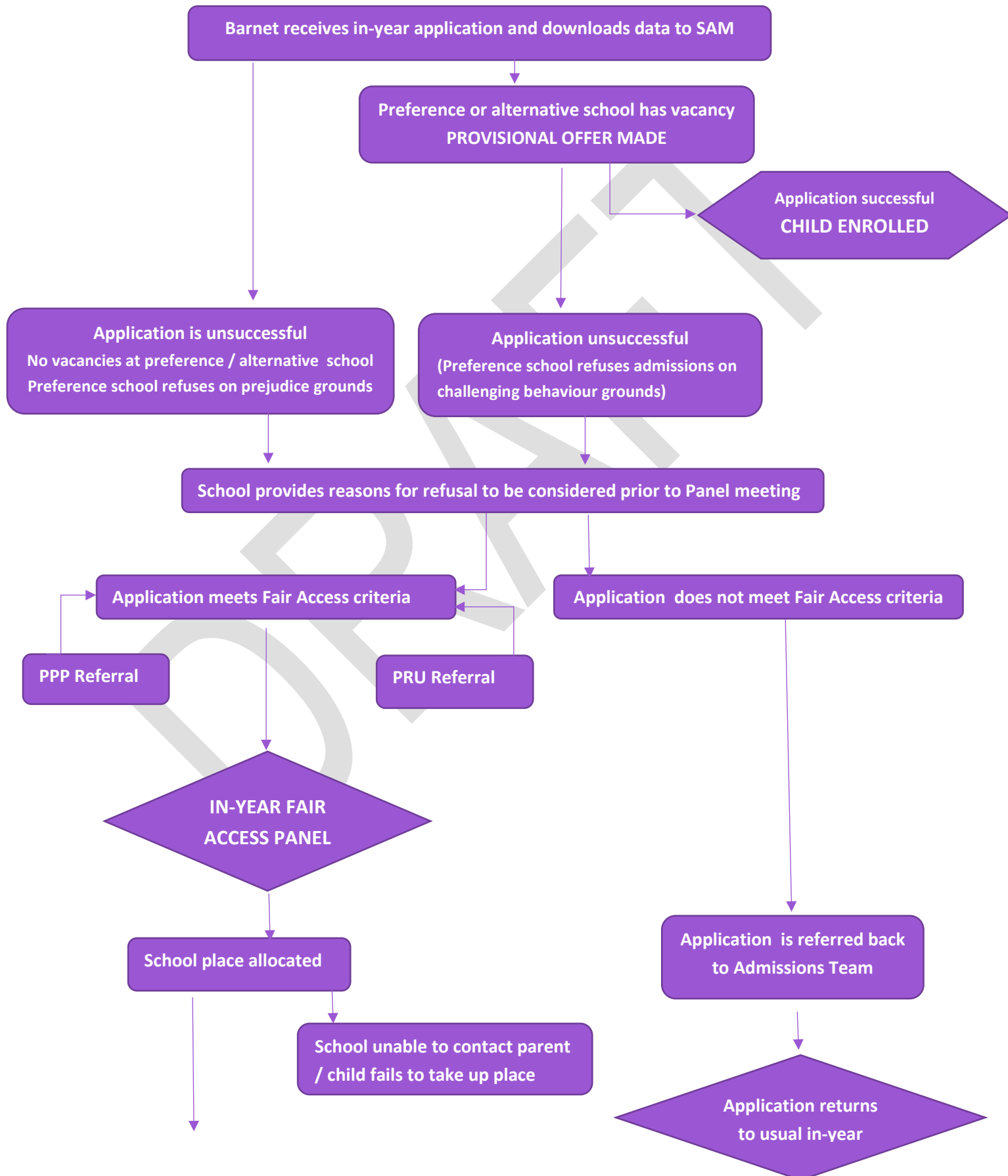
[School admissions privacy notice | Barnet Council](#)

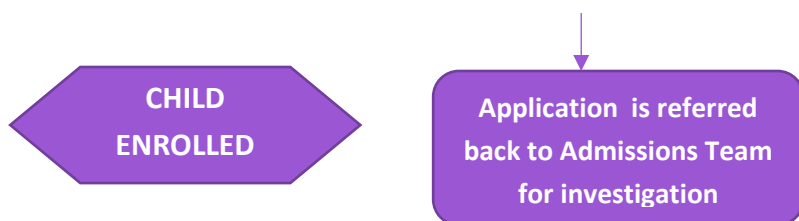
14. CONSULTATION AND REVIEW

- 14.1 Barnet Council will keep the FAP under review to ensure it remains fit for purpose and also consult before making any changes, as these will need to be agreed by the majority of headteachers before they can be adopted. In the event that the majority of headteachers 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 initiate a review, by contacting the Director of Education & Skills with details of the schools concerned and the specific elements which are unsupported. **The existing FAP will remain binding on all schools in the area until a new one is adopted.**

⁵ Sections 96 and 97 of the School Standards and Framework Act 1998

Appendix 1: **DIAGRAM OF BARNET'S FAIR ACCESS PROTOCOL PROCESS**





APPENDIX 2: Letter template for AA school refusing admission on challenging behaviour grounds

Dear Headteacher and Governors

You have indicated you do not wish to proceed with «ChildFname»'s admission because you have good reason to believe that «ChildFname» may display challenging behaviour.

In accordance with the Admissions Code, where an admission authority receives an in-year application, and it does not wish to admit the child on these grounds it may refuse admission and refer the application for consideration under the Fair Access Protocol. Please note that this only appropriate if the school already has a high proportion of either children with challenging behaviour or previously permanently excluded children 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. **This provision cannot be used to refuse admission to a looked after child, a previously looked after child or a child with an Education, Health and Care Plan naming the school.**

Behaviour can be described as challenging where it is 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. It would be expected that the level is such that it significantly interferes with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment

If you wish to refuse «ChildFname»'s admission, having taken into account all the above information, please complete the Referral Form below, giving the specific reasons for your decision. We will then send a formal refusal letter to «ChildFname»'s parent outlining your reasons for refusing admission and the appeals procedure.

Child:	«ChildFname» «ChildSname»		Child ID:	«ChildId»	
Date of Birth:	«ChildDOB»	Gender:	«ChildGender»	Year Group:	«NCYear»
Current / Previous	«CurrSchoolName»			LA:	«CurrSchoolLEA»

Please outline reason(s) for why you believe the child may display challenging behaviour (Admissions Code 3.10)

School:	«PrefSchoolName1»
Signed:	Designation:

APPENDIX 3: Letter template for AA school refusing admission on prejudice grounds

Dear Headteacher and Governors

A vacancy has arisen at «PrefSchoolName1», for «ChildFname» «ChildSname». You have indicated you do not wish to proceed with «ChildFname»'s admission as admitting the child would prejudice the efficient provision of education or use of resources at the school.

With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have places available **must** offer a place to every child whose parent has applied for one, without condition or the use of any oversubscription criteria, **unless admitting another child would prejudice the efficient provision of education or use of resources** (*Paragraph 2.28 of the School Admissions Code*).

Where an admission authority does not have sufficient places for every child that has applied for one, places must be allocated in accordance with the published oversubscription criteria. (*Paragraph 2.29 of the School Admissions Code*).

Where an application is refused, the admission authority for the school must set out the reason for refusal and give the parent information about the right to appeal (*Paragraph 2.32 of the School Admissions Code*).

If you wish to refuse «ChildFname»'s admission, having considered the above information, please complete the Referral Form below, giving the specific reasons for your decision. We will then send a formal refusal letter to «ChildFname»'s parent outlining your reasons for refusing admission and the appeals procedure.

School:	«PrefSchoolName1»
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Child:	«ChildFname» «ChildSname»			Child ID:	«ChildId»
Date of Birth:	«ChildDOB»	Gender:	«ChildGender»	Year Group:	«NCYear»
Current / Previous	«CurrSchoolName»			LA:	«CurrSchoolLEA»

Please outline reason(s) for refusing admission (attach any relevant information)	Designation:
<div style="height: 200px; border: 1px solid black;"></div>	