

**BIRMINGHAM CITY COUNCIL****PUBLIC REPORT**

<b>Report to:</b>	<b>CABINET MEMBER FOR CHILDREN, FAMILIES &amp; SCHOOLS JOINTLY WITH THE INTERIM CORPORATE DIRECTOR, CHILDREN AND YOUNG PEOPLE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Interim Assistant Director : Education Safeguarding</b> <b>16<sup>th</sup> August 2017</b>
<b>SUBJECT:</b>	<b>OUTCOME OF CONSULTATION ON BIRMINGHAM CITY COUNCIL'S FAIR ACCESS PROTOCOL</b>
<b>Key Decision: No</b>	<b>Relevant Forward Plan Ref: N/A</b>
<b>If not in the Forward Plan:</b> <b>(please "X" box)</b>	<b>Chief Executive approved</b> <input type="checkbox"/> <b>O&amp;S Chairman approved</b> <input type="checkbox"/>
<b>Relevant Cabinet Member(s) or Relevant Executive Member:</b>	<b>Councillor Brigid Jones – Children, Families and Schools</b>
<b>Relevant O&amp;S Chairman:</b>	<b>Cllr Susan Barnett, Schools, Children &amp; Families Overview &amp; Scrutiny Committee</b>
<b>Wards affected:</b>	<b>All</b>

<b>1. Purpose of report:</b>
1.1 To advise the Cabinet Member for Children, Families and Schools of the outcome of consultation on the revised fair access protocol.
1.2 To seek approval for the final fair access protocol to be circulated to all schools for signature at the beginning of September 2017 prior to implementation from October half term 2017.

<b>2. Decision(s) recommended:</b>
That the Cabinet Member for Children, Families and Schools jointly with the Interim Corporate Director, Children and Young People:-
2.1 Notes the responses to the consultation (attached as Appendix 1).
2.2 Approves the amendments to the draft protocol which was consulted on.
2.3 Approves the final protocol for circulation for signature by all schools in September 2017 prior to implementation with effect from October half term 2017 (attached at Appendix 2).

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### **3. Consultation**

The revised fair access protocol was co-designed with Head Teacher representatives from primary and secondary phases; with secondary Head Teachers at network meetings and with chairs of local network panels.

Consultation was carried out with the chairs of local network panels and by way of the council's Be Heard process from 23 June 2017 to 14 July 2017. Schools were notified of the consultation via Noticeboard. Other stakeholders were advised via email. The final draft protocol was also presented to, and discussed by, the primary and secondary Head teachers Fora.

#### **3.1 Internal**

Consultation was carried out with the Interim Corporate Director of Children and Young People, Assistant Directors in Children and Young People's Services, all Councillors, staff in the School Admissions Service, the Alternative Provision and Independent Education Service, City of Birmingham School, Special Educational Needs Assessment and Review Service (SENAR), the Special Educational Needs and Disabilities Independent Advice and Support Service (SENDIASS) and the Virtual School and Exclusions Services. Teaching and non-teaching trades unions were also consulted.

#### **3.2 External**

Consultation was carried out with all schools and academies, parent governor representatives, representatives of local parent groups, neighbouring local authorities, Members of Parliament for Birmingham, the Church of England and Roman Catholic Dioceses, the Children's Society and the Refugee Council.

#### **3.3 Outcomes of consultation**

There were 12 responses to the consultation. Although respondents did not identify the organisations they represented, it was possible to identify that some responses came from staff working in admissions and from primary and secondary schools.

Consultees' responses to each of the 11 questions which are shown, with responses in Appendix 1. Officers' responses to these are also included and, where indicated, amendments have been made to the draft protocol, attached as Appendix 2. Where comments relate to the operational implementation of the protocol, these will be included during the planning for implementation phase (July to October 2017).

#### **4. Compliance Issues:**

##### **4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**

The recommended decisions are consistent with the School Admissions Code (DfE 2014) and the council's policies, plans and strategies, especially the Sustaining Inclusion Strategy. It contributes to the Council's vision of a city of growth where every child, citizen and place matters and the priority to ensure our children and young people have access to all the city has to offer.

##### **4.2 Financial Implications**

There are no direct financial implications arising from the report. Revisions to the management and delivery of the new protocol will be carried out within existing finance and resources.

##### **4.3 Legal Implications.**

The final revised protocol complies fully with the requirements of the School Admissions Code (DfE, 2014)

##### **4.4 Public Sector Equality Duty**

The duty is to have regard to the need to eliminate unlawful discrimination; and advance equality of opportunity, and foster good relations, between people with protected characteristics and those who do not share them. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The main reason for the revisions to the current protocol is to ensure that all children who are covered by the protocol are treated more fairly and equitably when seeking school places in year, irrespective of their protected characteristics or individual needs. The equality analysis at Appendix 3 to this report indicates a possible differential impact on the basis of gender, and religion and belief. This is because there is no duty on the local authority or other admission authorities to comply with parental preference for single sex schools or faith schools when allocating places through the Fair Access Protocol. The draft revised protocol at part 2 seeks to minimise this potential impact.

#### **5. Relevant background/chronology of key events:**

## 5.1 Background

The Admissions Code 2014 sets out the basic requirements for a Fair Access Protocol. Each local authority must have a Fair Access Protocol, 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 suitable school as quickly as possible. In agreeing a protocol, the local authority must ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour. The protocol must include how the local authority will use provision to ensure that the needs of children who are not ready for mainstream schooling are met.

The operation of Fair Access Protocols is outside the arrangements for coordinated admissions at the normal transfer time 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 Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. All schools must participate in fair access protocols, whether they are community or controlled schools, grammar, voluntary aided or foundation schools and academies and free schools. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.

The current protocol was last revised in 2015. However, it does not include all the groups of children and young people the Admissions Code (2014) says must be included. The current protocol does not include all schools, as required by the Admissions Code and currently does not locate decision making with those educational personnel most able to take professional decisions on pupil placement and those most closely affected by the impact of those decisions.

## 5.2 Consultation

Consultation took place as set out in paragraph 3 above and the results are set out in Appendix 1, along with the proposed amendments in light of the consultation responses received (Appendix 2).

## 5.3 Implementation

Following approval of this report the protocol is scheduled to be implemented from October half term 2017. All schools will be asked to sign up to the final protocol during the first week of the Autumn term in September 2017, although only a majority agreement by schools is required before the protocol applies to all schools, irrespective of whether they have signed up or not. Between July and October there will be a programme to develop processes and procedures to schedule central and local panel meetings, develop referral and reporting mechanisms, establish the terms of reference for central and local panels and carry out awareness raising and training for internal and external stakeholders.

## 5.4 Monitoring, evaluation and review

It is proposed that monitoring of the operation of the new protocol takes place between October half term and Easter 2018 (one and a half terms) with a review taking place after Easter 2018 and any revisions agreed.

**6. Evaluation of alternative option(s):**

- 6.1 Do not implement the revised protocol and continue with the current protocol.
- 6.2 The current fair access protocol (secondary) has a two tier system whereby children who fall under the protocol are considered initially at local network panels. If the panel is unable to agree placement in a school, the case is passed to local authority officers to decide placement. This process is carried out in private, by administrative officers on the basis of schools' OFSTED categories, the number of pupils on roll, the distance between home and school and the number of pupils already placed through the fair access process. It does not include consideration of the best placement to meet the child's individual needs, which can be carried out by local network panels. School representatives were unanimously of the view that placement of the most complex and challenging children should be agreed by education professionals at local panels.
- 6.3 Currently, at primary phase, placement is decided in private, by administrative officers on the basis of schools' OFSTED categories, the number of pupils on roll, the distance between home and school and the number of pupils already placed through the fair access process. There is not the same local network structure at primary phase and primary school representatives agreed that there should be central panels for all placements. Head Teacher representatives will be invited to attend, on a rota basis, to be assured that the process is being carried out objectively, transparently and equitably.

**7. Reasons for Decision(s):**

- 7.1 To progress the implementation of the revised Fair Access Protocol in light of the consultation undertaken.

**Signatures**

**Date**

Cabinet Member Children,

Families & Schools  
Councillor Brigid Jones .....

Interim Corporate Director,  
Children and Young People  
Colin Diamond .....

9<sup>th</sup> August 2017

**List of Background Documents used to compile this report:**

School Admissions Code (DfE 2014)  
Birmingham City Fair Access Protocol 2015

**List of Appendices accompanying this report (if any):**

1. Consultation responses and comments
2. Final Fair Access protocol for approval
3. Equality Impact Assessment

<b>Report Version</b>	1.4	<b>Dated</b>	09.08.2017
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