

Background

The School Admissions Code (2014) requires each local authority to have a Fair Access Protocol, agreed by the majority of schools in its area, to ensure that outside the normal admissions round, unplaced children are offered a place at a suitable school as quickly as possible and to ensure that no school is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour.

Birmingham City's Fair Access Protocol has been in place for a number of years and was last revised in 2015. The revised Protocol has been co-designed with officers from the Admissions Team and representatives from primary and secondary phases from all areas of the city.

We have sought the views of all key partners; staff, governing bodies and trustees of all schools, including grammar schools, studio schools and university technical colleges; all councillors; MPs; local authority support services; teaching and non-teaching trade unions; parent representatives; third sector support services and Diocesan representatives.

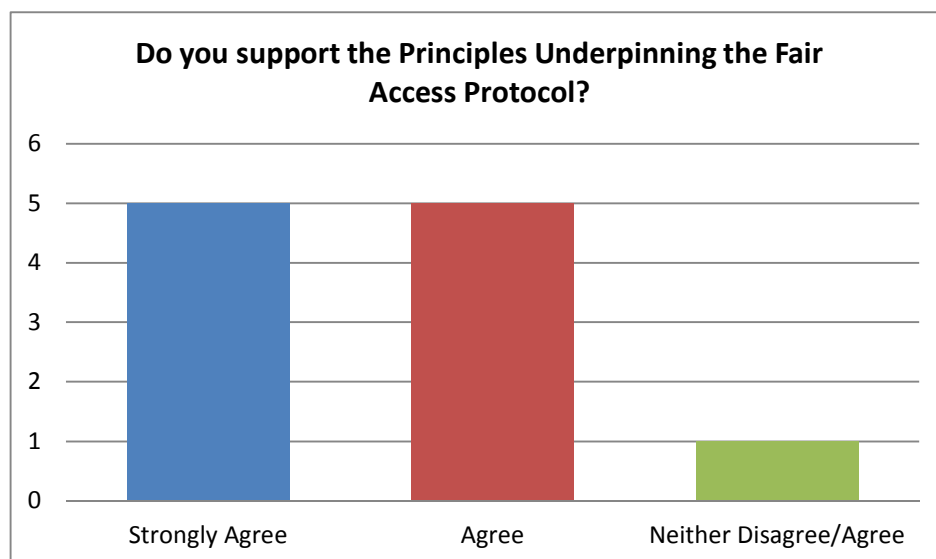
Consultation timescales

Consultation was conducted through the Council's BeHeard website from 23rd June until Friday 14th July. The draft protocol was also presented and discussed at Primary and Secondary Head Teachers Fora.

Results of the BeHeard consultation exercise

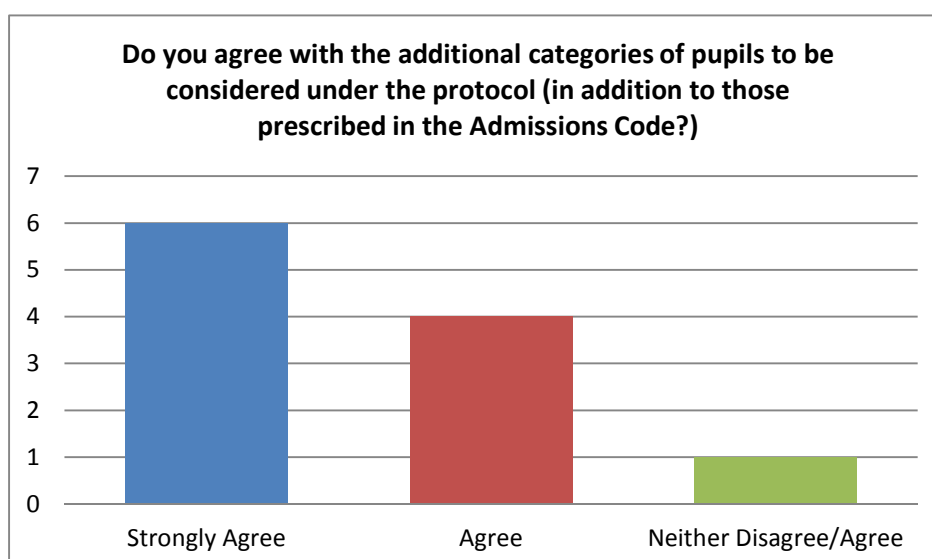
The consultation exercise consisted of 11 questions seeking the views of key stakeholders about the protocol and supporting documentation. In total, 12 responses were received through the Be Heard exercise and are summarised below. These responses and the outcomes of discussions at Head Teacher Fora and at meetings of the secondary phase network chairs meetings have been incorporated into the final draft protocol document:

1. Section 2 – Principles



No	Themes emerging from narrative responses
1	Do you support the principles under the FAP protocol? <ol style="list-style-type: none"> 1. Keeping children safe and on roll 2. Equitable use of school spaces 3. Children placed in a timely manner 4. Children presenting difficult or challenging circumstances are shared across schools, providing a fairer system. 5. As a Governor I agree with the principles
2	Are there any other principles you think should be included? <ol style="list-style-type: none"> 1. What is meant by 'an extreme case'? 2. What is meant by a disproportionate amount of pupils with behavioural problems? 3. Information Transfer is timely to ensure schools understand the individual's needs to implement an appropriate support package for the child. 4. Application of the protocol needs to be much more robust than in the past 5. That all schools MUST take all necessary steps prior to the permanent exclusion of any pupil and try and address challenging behaviour. 6. Only when all options have been exhausted can a school proceed to a permanent exclusion
Response to questions	
2.1	An extreme case would be a significantly vulnerable, challenging or complex case above those generally presented to fair access panels.
2.2	The term disproportionate is taken directly from the Admissions Code and is interpreted here to mean a significantly higher proportion of pupils than are found in a local network or consortium.
2.5 & 2.6	Although the fair access protocol deals with unplaced pupils, it is closely linked to the Sustaining Inclusion work around exclusion.

2. Section 3 – Scope of the Fair Access Protocol

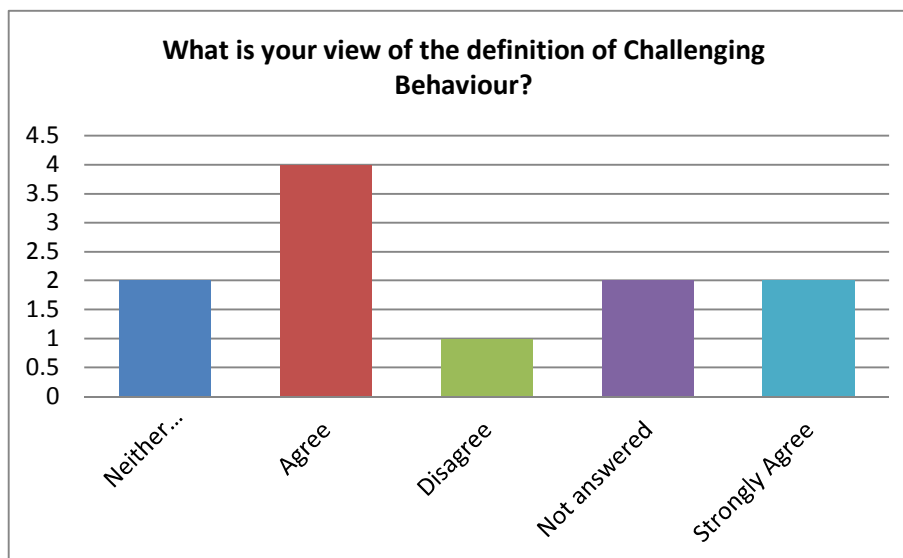


No	Themes emerging from narrative responses
1	<p>Are there any additional categories you think should be included?</p> <ol style="list-style-type: none"> 1. Children returning from elected home education 2. Identification of 'school hopping' e.g. 3 or more schools without a house move 3. Children of Service Personnel 4. This does not identify what happens to children who have moved into the area due to forced relocation from other authorities
2	<p>Reasons for your view? How will this affect you?</p> <ol style="list-style-type: none"> 1. Include scenarios as schools use tactics to try to say no 2. Schools should not be punished because of the council's lack of school places due to poor planning. 3. If a child has been electively home educated they should not fall under this protocol, it is for the parents to secure a school place 4. Good will of schools has been relied upon when they agree to go over the PAN to accommodate children where there is no school within a reasonable distance to their home 5. Where schools have previously failed to co-operate and admit pupils, hopefully this protocol will forge better relationships 6. Schools signing up to the protocol will strengthen the principles of the Schools Admissions Code 7. It is about safeguarding children. However, these children and in some cases their family will need additional support. This will come at a cost to the school. 8. It is right to have a broad scope of pupils to be considered under the protocol. There are a number of schools that will shy away from taking in pupils with a history of challenging behaviour as it will affect their pupil progress/attainment. 9. Currently concerned at how this will be resourced at LA level, and whether OD can come up with a simple, quick and effective method of scoring, it's cumbersome and repetitive at the moment. 10. I see the potential for encouraging schools to respond to applications much faster and efficiently
Response to questions	
1.1	Children returning from elective home education are included in the revised protocol.
1.2	Children whose parents are seeking to move schools are not part of the protocol unless they have no school place and meet one of the fair access criteria.
1.3	Children of Service Personnel are dealt with separately under the Admissions Code as the only group of children for whom places can be reserved before they move into an area.
1.4	If children are subject of an enforced relocation they may meet other fair access criteria and therefore can be included under the protocol.
2.1	Decisions on placement will be made at panel meetings on the basis of objective information and schools expected to comply with these. Cases of non-compliance will be reported to the Governance Board for action.
2.2	The fair access protocol is for those who meet certain criteria, not all in year admissions. It is recognised that there is significant mobility among certain groups in some areas and the protocol will ensure that all schools in an area take a fair share of these pupils.
2.3	Inclusion of those returning from elective home education acknowledges that many of these children are likely to have received a different education to those in school, with consequent challenges for schools reintegrating them.
2.4	Including this group of children will remove any reliance on the goodwill of some schools as all schools take an equitable share.
2.8	The protocol will apply equally to all schools and will be overseen by the Governance Board to ensure all take an equitable share of challenging pupils.
2.9	There will be a period of planning for implementation to ensure that all resources (human, IT etc) are in place to ensure successful operation from October half term

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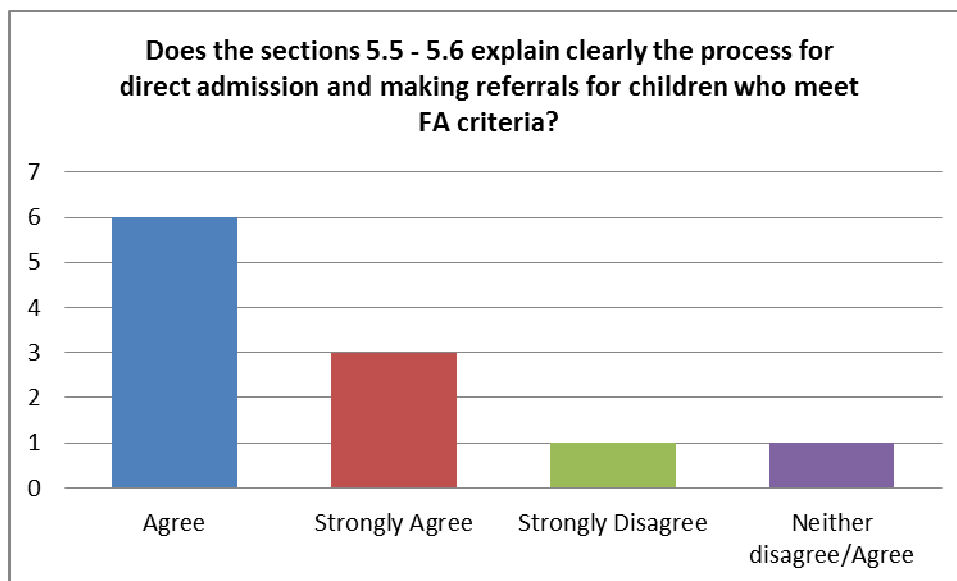
3. Section 4: Definition of Challenging Behaviour

The results of 11 respondents are shown below



No	Themes emerging from narrative responses
1	<p>Is the definition sufficient to identify those pupils likely to create the greatest of challenges to integrate?</p> <ol style="list-style-type: none"> 1. All schools find this difficult, it may be better to say what does not fit behaviour 2. This needs to be prescriptive and specific. Examples need to be provided as schools refuse admission on a very loose definition of challenging behaviour. 3. Some schools do not use fixed exclusions so this isn't always a measure of challenging behaviour 4. Some schools cannot meet the child's needs, careful planning will be required 5. MUST have evidence of fixed term exclusions but also what the school has done to emotionally support that child. 6. The current definition does not cover, sufficiently, the range of issues broadly under the heading of mental health 7. These definitions should be the measures used by local and central panels when determining which school should admit a pupil.
Response to questions	
1	More precise definitions of challenging behaviour will be explored with schools as part of the planning for implementation.

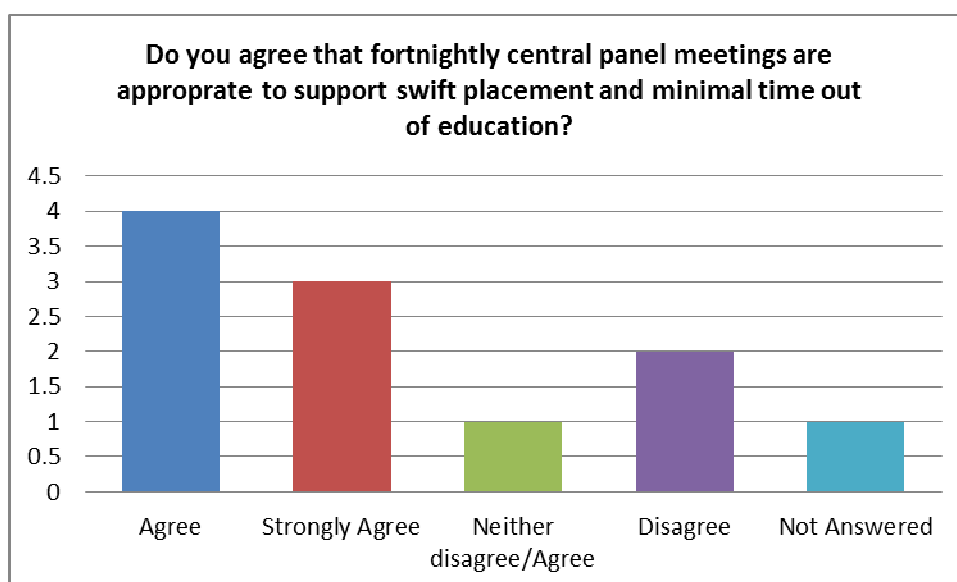
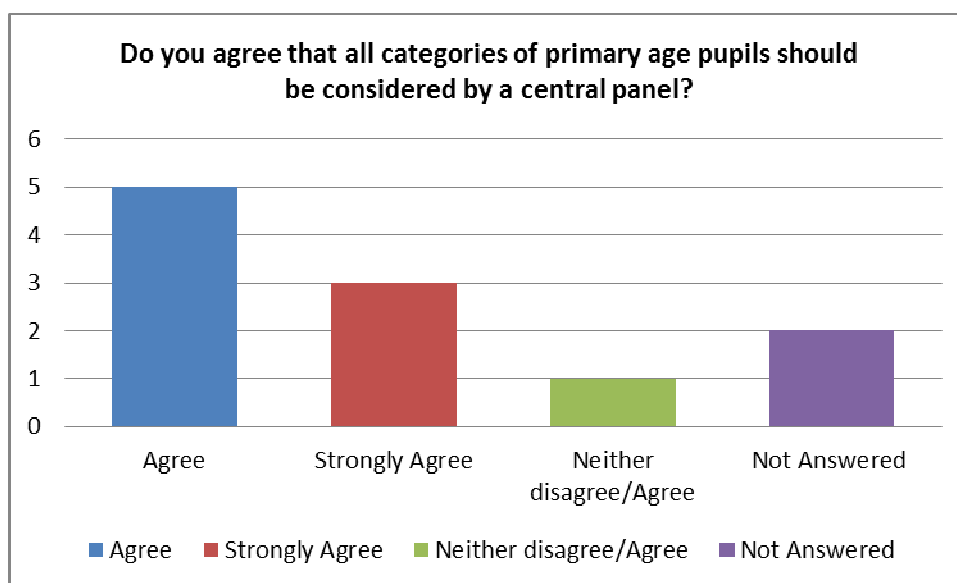
4. Section 5: Fair Access Operation



No	Themes emerging from narrative responses
1	<p>Do you have any suggestions for additional information that could be provided to explain how FA will operate?</p> <ol style="list-style-type: none"> 1. School Admissions (SA) would need the context and support as they have not worked with networks/Fair access panels before or know what information is required. 2. Some SA staff are not aware of the panels or what they do, so more information is required 3. Who will be dealing with assessing who meets the challenging behaviour criterion? 4. Clear robust processes required and acknowledgement of existing knowledge and skills within the team 5. Information gathering to present to panels is imperative to provide a chronology of the child's educational pathway. 6. Ensure the process is operated with rigorous adherence to the process by all. 7. The proposal that a reintegration plan is submitted by COBS with the referral to the panel (section 5 paragraph 3) need to be reconsidered. 8. COBS to devise a personalised reintegration plan with the selected school after the pupils place is confirmed. This will ensure a smoother transition. 9. Agree with the principles but unclear on where the extra resource will come from, for the B-H categories and making up the scoring grids 10. Looks great to me, though wonder if there could be something included regarding the length of time some schools take to process application forms for school places?
Response to questions	
1.1, 1.2 & 1.4	<p>There will be awareness raising and training for school, local authority and relevant third sector staff during the planning for implementation phase to ensure a smooth introduction of the revised protocol.</p> <p>Determining whether a child meets the challenging behaviour criterion will be</p>

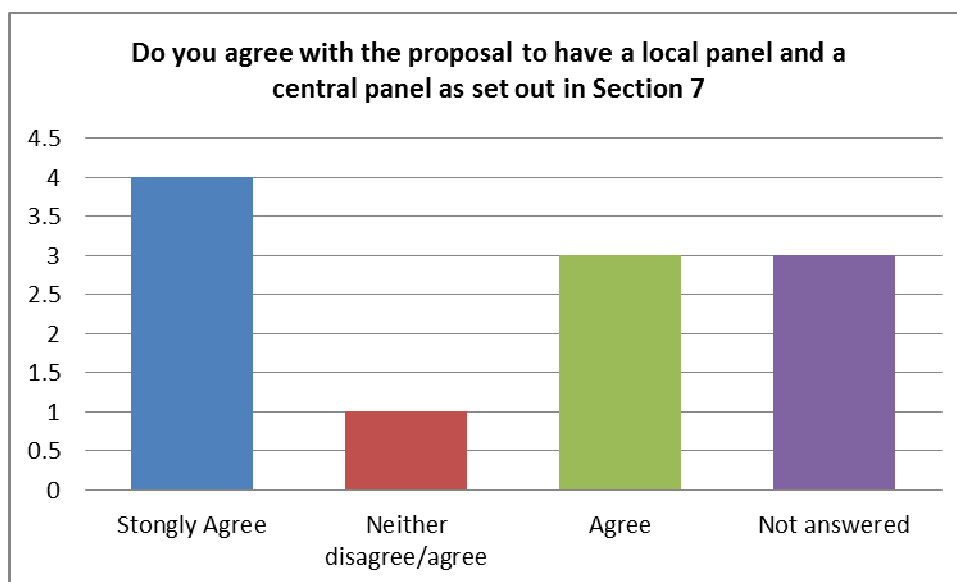
1.3	done on the basis of objective evidence of the child's behaviour and will be moderated at local or central panels (dependent on whether the child is in primary or secondary phase).
1.7 & 1.8	Details on referral forms and reintegration plans will be considered during the planning for implementation phase with schools and COBS.
1.9	Automation of scoring grids is taking place and will be finalised and tested during the planning for implementation phase.
1.10	The revised protocol sets the expectation that receiving schools will admit within 10 school days of the decision being taken. Information on placements and the length of time between decision and placement will be reported regularly to the Governance Board, which will take any necessary action.

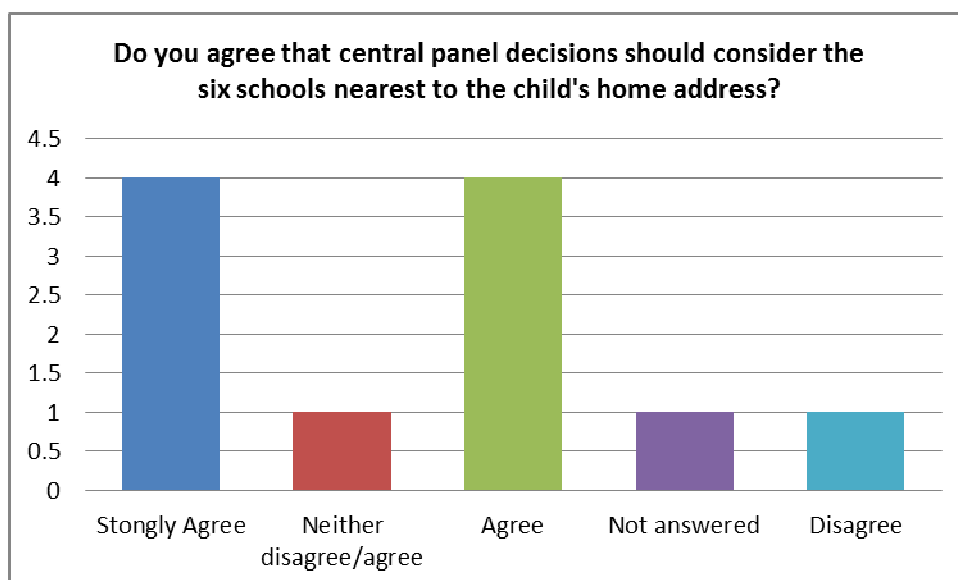
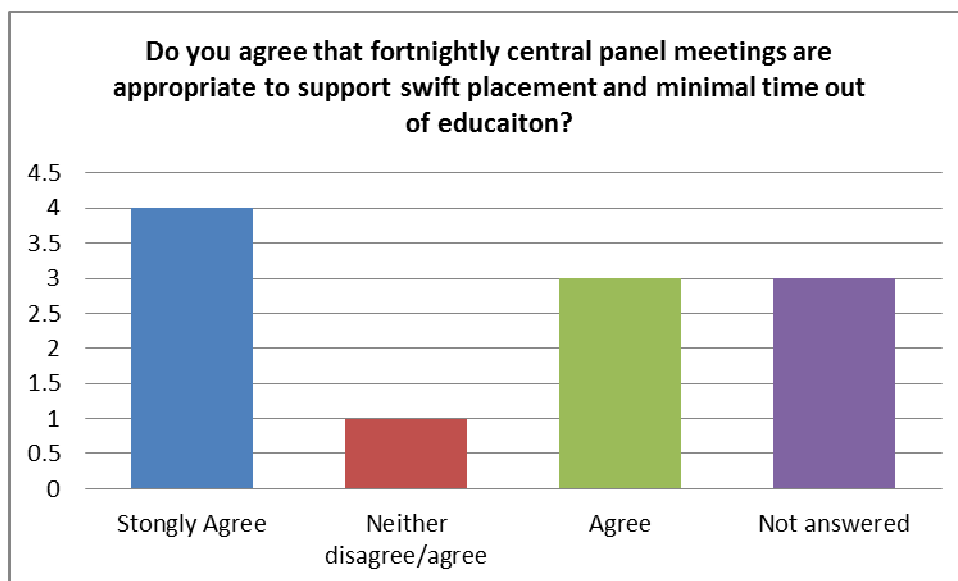
5. Section 6: Operation of the Protocol at Primary Phase



No	Themes emerging from narrative responses
1	Reasons for your views? How will this affect you? <ol style="list-style-type: none"> 1. The process needs strengthening and resourced adequately. The system is too time consuming and children aren't placed in a timely manner. 2. Not aware that Primary Heads were sitting on a panel. Perhaps that information should be shared with all Head Teachers. 3. Panels should be weekly, so time out of school is minimised and is ensuring safeguarding is considered. 4. Fortnightly meetings delay a pupil's return to school. 5. Children are out of school far too long. Robust application required 6. Ofsted rating should not be a category as this is not fair access. Outstanding, Good and satisfactory schools should all be given the same rating 7. If a faith school is being considered.
Response to questions	
1.2	Head Teachers will be invited to attend central panel meetings on a rota basis to ensure the protocol is being objectively and equitably applied. The Primary Head Teacher Forum will be asked to agree a rota to ensure representation from across the city.
1.3, 1.4 &1.5	Weekly panel meetings can be considered as part of the planning for implementation phase.
1.6	The weighting given to OFSTED categories will be refined during the planning for implementation phase

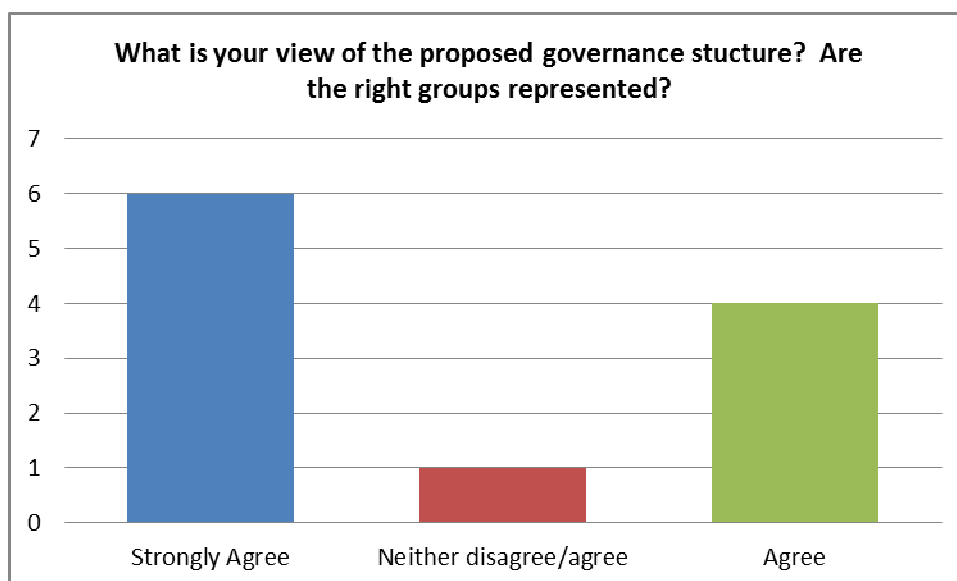
6 Section 7: Operation of the Protocol at Secondary Phase





No	Themes emerging from narrative responses
1	<p>Reasons for your views? How will this affect you?</p> <ol style="list-style-type: none"> 1. Consideration of parental preference which isn't always one of the 6 closest schools. 2. Cross network issues will be reduced 3. The final paragraph of section 7.1 refers to 'knives' being brought into school. This would be better worded as 'weapons'. 4. With the increase in permanent exclusions this should be increased to a weekly meeting 5. Access to local school is essential
Response to questions	
1.1	<p>There is no requirement to comply with parental preference when considering placement under the fair access protocol although this can be considered if it will meet the needs of the child and will contribute to successful placement.</p> <p>The word weapons will replace knives in the protocol.</p>
1.3	

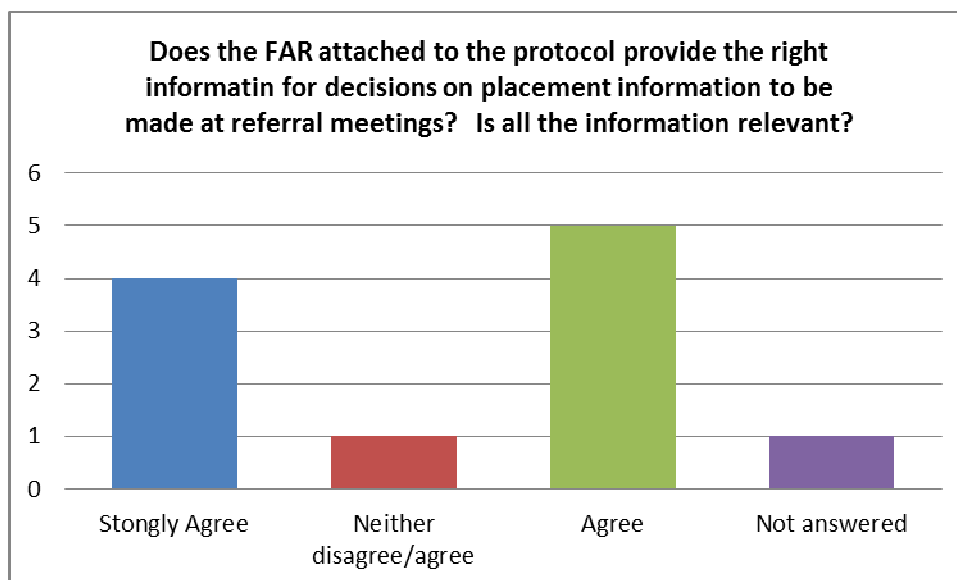
7 Section 9: Governance



No	Themes emerging from narrative responses
1	Reasons for your views? How will this affect you? <ol style="list-style-type: none"> 1. There are still some compliance issues and schools not adhering to the current protocol 2. Some schools have stated they don't want to do 'fair access and are opting out' 3. Some panels are creating 'trial' re-integration opportunities and it may take months before the child is put onto roll or starts multiple placements 4. Schools should comply to the protocol and clear communication about the consequences of non-compliance 5. The board will ensure fairness
2	Views about the governance structure and those represented. <ol style="list-style-type: none"> 1. The panel may on occasions need representation from staff preparing information 2. No as there is no representative from Head Teacher or Social Care or women's refuges. Representation from these groups would create a greater understanding of the issues presented. 3. Yes, the group is wide. Will free schools consider themselves adequately represented? 4. I agree with the proposed structure however there should be an annual review of performance and the membership altered accordingly 5. Whilst I agree excluding people with understanding of needs of asylum seekers, refugees and faith groups is limiting knowledge is needed to ensure correct placement and education of children in these categories. Nominated reps need to form a cross section of schools
Response to questions	
1.1,1.2 &1.4	Once the final protocol is agreed by the majority of schools (in September 2017) it will apply to all schools, as per the Admissions Code. The Governance Board will monitor and report on non-compliance.
1.3	The revised protocol makes clear that pupils must be placed on roll at schools, not offered trials, as these are not legal.

2.2, 2.3 & 2.5 2.4	Exact membership of the Governance Board will be considered during the planning for implementation phase. The membership and work of the Board can be reviewed annually and included in the terms of reference.
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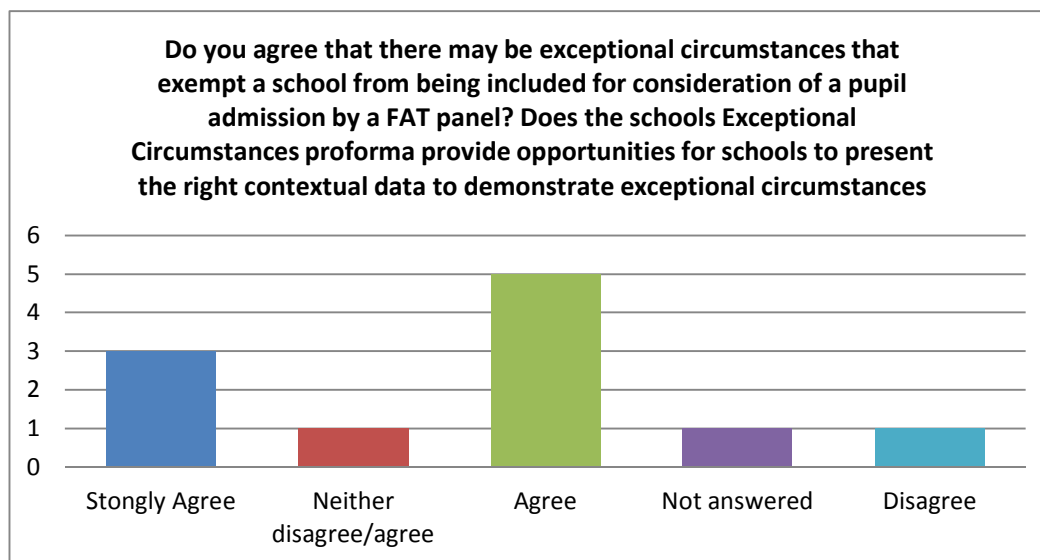
8 Appendix 1 – Fair Access Referral Form



No	Themes emerging from narrative responses
1	<p>How can the information provided in referrals help panels to make appropriate placements in grammar schools and university technical colleges?</p> <ol style="list-style-type: none"> 1. Access to grammar school is via an entrance exam, how would a child be placed there under this protocol? 2. Early consultation with grammar schools and university technical colleges should be part of the process of allocation 3. The referral form is thorough and comprehensive 4. Parent and pupil view? 5. If a child is a carer, information of what this involves is needed including support given by other agencies although this is sensitive information, it is important to ensure the needs of the children are met 6. I personally would not place a child with challenging behaviour in a grammar school 7. Sometimes the attainment of pupils is difficult to follow as not all schools use the same system. Also, more information regarding children's learning styles, talents and preferences. There seems to be very little emphasis on the present, and all children are 'tested' on arrival at school

2	Is there any other relevant or additional information that should be requested? <ol style="list-style-type: none"> 1. Is a risk assessment no longer included? 2. Child should be asked if they have been LAC, if so they should be referred to the panel 3. Free school meals either currently or in the past 6 years 4. SEN information: emotional/behavioural/social/mental health/ EHC or EHCP 5. Last 3 questions in bold re SEN are not needed if the top 3 are completed with dates
Response to questions	
1.1,1.2 & 1.6	Information on the pupil referral form will include academic ability to determine whether a grammar school place is appropriate or a place in a UTC at Year 10 or 11. Grammar schools and UTCs are part of the protocol.
1.4	Views of pupils and parents can be included in the referral form, but there is no duty to comply with parental preference when considering placement under the protocol.
1.5	If a child is identified as being a young carer, information on the child's needs must be sought from a relevant professional.
1.7	Efforts will be made to collate sufficient, relevant information to inform appropriate placement, however, it must be recognised that for some children very little information will be available. Lack of informant cannot delay admission, but there should be an equitable distribution of these children.
2	All aspects of the referral form will be reviewed during the planning for implementation phase and a risk assessment will be included

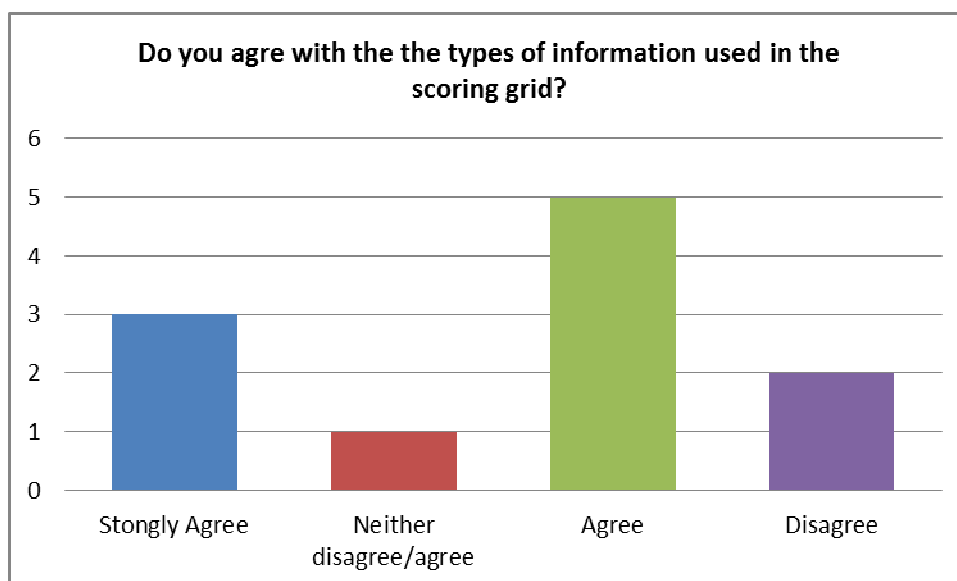
9. Appendix 2: School Exceptional Circumstances Proforma



No	Themes emerging from narrative responses
1	Reason for your view? How will this affect you? <ol style="list-style-type: none"> 1. Quality assurance needed to ensure that information provided by the school is factual and correct 2. Recording multiple data sets e.g. in year PAN, appeals, challenging behaviour, LAC admissions errors, all of which should support the decisions taken and support the school in applying appropriate support 3. Will the data provided by a school match that held by the relevant

	<p>sharing panel or the LA.?</p> <p>4. If a school has hit their limit of pupils with challenging behaviour that their resources allow they should be exempt.</p> <p>5. In the case of faith schools the child's parent/guardian must agree to uphold the ethos of the school. If they refuse to do this, then the school should be exempted.</p>
Responses to questions:	
1.1, , 1.2 & 1.3 1.4	<p>Every effort will be made to ensure data provided by the LA and schools match to give confidence in the robustness of the process.</p> <p>If a school has a significantly higher proportion of children with challenging behaviour another child with the same profile may not be placed there, but the school could be required to admit a child from another category.</p>
1.5	<p>If a parent refuses to uphold the ethos of a faith school the child may not be placed there. However, the school will be required to admit another child whose parent is happy to uphold the distinct ethos.</p>

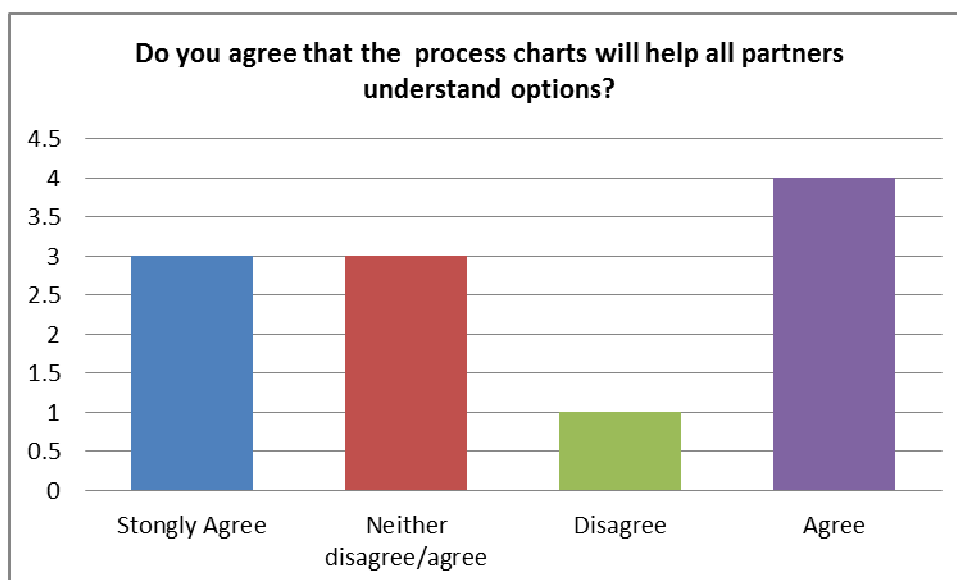
10 Appendix 3: Fair Access Panel Scoring Grid



No	Themes emerging from narrative responses
1	<p>Is there any different information that you would like to see used in the scoring grid?</p> <ol style="list-style-type: none"> 1. Include those schools that have reduced their PAN, appeals, in year admitted over PAN and have the landscape clear data. 2. Information on the status of the school to ensure we are being fair and equitable 3. Ofsted rating should not refer to the overall judgement but that made for the personal development, welfare and behaviour section as this gives a truer reflection of the pastoral challenges and support in school.

	<ol style="list-style-type: none"> 4. Number admitted to date via FA/Direction *Weighted x5 this should also include children accepted via managed move or in direct contract with COBS. 5. Not that I can see but there must be a review and amended as necessary. 6. Parental preferences. I am concerned that parents request a school on basis of distance and Ofsted rating without any concern about the ethos of a faith school and whether they would be able to accept this ethos. 7. Ofsted ratings should not be scored differently for outstanding, good and satisfactory schools
Response to questions	
1	More detailed work on the elements of the scoring grid will be carried out during the planning for implementation phase to consider these comments.

11 Fair Access Protocol Process Charts



No	Themes emerging from narrative responses
1	<p>Do you have any suggestions for how we might improve the FAP process charts?</p> <ol style="list-style-type: none"> 1. As advisors we need to see how it will affect us. We need to understand exactly who will do what, where, when and why. The process is unclear at the moment. 2. The schools need very clear guidance on what is expected of them. 3. Do the schools complete the referrals or advisors 4. Will other partners/referring agents also have training on how they should do their referrals and how the process will work? 5. Historically there have been lots of complaints from panels in relation to the appalling referrals submitted by other teams and they said they preferred the referrals come from Fair Access team as they have closed the gap in relation to information 6. Better information required for parents/carers as many parents do not approach the school first 7. To be sure that all schools are sending in their weekly return. It is vital that all schools do and the Admissions team MUST be addressing this. 8. Head Teachers need to be aware of the consequences if not

	<p>9. Many children have been placed through FAP but the FAP team have not been advised of the outcome of which .could we form part of the quality assurance framework and training?</p> <p>10. Not at present again this should be reviewed annually to improve the process</p>
Response to questions	
1.1, 1.2, 1.3, 1.4, 1.5, 1.9 1.6	<p>There will be awareness raising and training for schools, LA staff and other support staff during the planning for implementation phase to address these concerns.</p> <p>Information for parents/carers on the fair access protocol and process is important and will be developed during the planning for implementation phase.</p>
1.7	<p>Schools will be directly admitting certain groups of children who are covered by the protocol without the need for placement via local or central panels and will need to complete weekly returns to have these children “credited” to them.</p> <p>Work is currently being undertaken to streamline this process.</p>

Other comments

- It can in theory answer a lot of the difficulties that was as a Fair Access Team and as a Schools Admissions Team (for in year) have struggled with. It's just the process and what it means for us as Advisors in the near future when we have to adopt the new protocol and its processes that I am concerned about.
- A really good piece of work that should contribute to all pupils receiving education they are entitled to.
- The protocol must work for the children of Birmingham
- Section 5 – CoBs referrals. Reintegration plans would normally be done with the schools concerned, so could not be submitted prior to the panel date?
- Page 6 5.2 emphasis on importance of early referral to the LA