



City of  
Doncaster  
Council

## **PRIMARY Fair Access Protocol**

### 1. Introduction

- 1.1 Every local authority has a duty to secure sufficient school places and equally parents have a duty to ensure their child receives a suitable education. The majority of parents will apply for school places at the normal point of transfer; however, there are occasions where parents need to utilise the in-year application process.
- 1.2 The School Admissions Code requires every local authority to have in place a Fair Access Protocol (FAP), developed in partnership with local schools. In Doncaster there are separate FAPs for both primary and secondary phases as they are designed to meet and address the specific issues relating to the different phases of education.
- 1.3 The purpose of a Fair Access Protocol (FAP) is to ensure that - outside the normal admissions round identified above - unplaced children, especially the most vulnerable, are found and offered a place quickly, so that the amount of time any child is out of school is kept to the minimum.
- 1.4 This includes admitting children and young people above the published admission number to schools that are already full. The School Admissions Code also makes clear that, in agreeing a FAP, 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.
- 1.5 This Doncaster Primary FAP therefore exists to ensure that the needs of children who have difficulty in securing a school place, are met appropriately and efficiently through enrolment in a mainstream school setting, minimising the time that pupils spend out of school. The FAP has been developed to operate in a fair and transparent way so that the system is underpinned by consistency, openness and honesty that has the confidence of schools, children and young people and parents/carers.

### 2. Aims of the Primary FAP

- 2.1 This Primary FAP has been developed in partnership with the majority of primary schools in Doncaster. Its aims are to ensure that:
  - Unplaced children, and those that are the most vulnerable, are found and offered a school place that is appropriate to their needs as quickly as possible.
  - All schools are treated in a fair, equitable and consistent manner and that no primary school – including those with places available – is asked to take a disproportionate number of children who have been excluded from other schools, who may display “challenging behaviour”, or who are to be placed via the Primary FAP.

This Primary FAP will use the following definition of “challenging behaviour” from The Royal College of Psychiatrists:

*“Behaviour can be described as challenging when it is of such an intensity, frequency, or duration as to threaten the quality of life and/or the physical safety of the individual or others and it is likely to lead to responses that are restrictive, aversive or result in exclusion.”*

- It sets out how the needs of children who have been excluded and/or are not ready for mainstream education will be met.
- Be fair and transparent, to build confidence with all primary schools.
- Provide consistency across all primary schools in Doncaster.

### 3. Principles

3.1 The majority of pupils are already admitted to Doncaster primary schools through the routine admissions procedures operated by the Admissions Service. The Primary FAP will be underpinned by a transparent, collaborative approach, with the best interests of children at heart, which seeks to:

- Minimise children's time out of education and secure appropriate primary school placements of children.
- Secure an equitable distribution of children across schools within a locality.
- Ensure that all schools participate and take an equitable share of children, **irrespective of circumstances**, and ensure that schools are held to account for complying with decisions under the Primary FAP to admit without delay.
- The Primary FAP should not be used as a means to circumvent the normal in-year admissions process. A parent can apply for a place as an in-year admission at any point and is entitled to an appeal when a place is not offered.
- All schools subscribe to this Primary FAP and admissions under the School Admissions Code.
- The Primary FAP may require schools to admit pupils above their Published Admission Number (PAN) and ahead of pupils on their waiting list or awaiting an appeal.
- Undersubscribed schools must not be required to admit a greater proportion of children, particularly those with a recent history of challenging behaviour than other schools.
- Schools must respond immediately to decisions on admission so that the admission of the pupil is not unduly delayed.
- Schools cannot refuse to admit a child who has been denied a place at the school appeal, if the Primary FAP identifies that school as the one to admit the child.

### 4. Children covered by the Primary FAP

4.1 The Primary FAP can only be triggered when an eligible child has not secured a school place through the normal in-year admission procedures – i.e. when all other avenues to secure a school place have failed. **Where an admission authority receives an in-year application for a child who is eligible to be placed via the**

**Primary FAP, they must process the application in accordance with their normal in-year admission procedures in the first instance. They must not refuse to admit such children on the basis that they are eligible to be placed via the Primary FAP.**

- 4.2 In accordance with the School Admissions Code the Primary FAP covers children of compulsory school age who fall into one of the following categories, who have difficulty in securing a school place and may be considered as more vulnerable than other pupils:
- a) children either subject to a Child in Need Plan or a Child Protection Plan<sup>81</sup> or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;
  - b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;
  - 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 arrangements
  - 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 Protocol in accordance with paragraph 3.10 of this Code;
  - k) children for whom a place has not been sought due to exceptional circumstances<sup>83</sup>;
  - l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
  - m) previously looked after children for whom the local authority has been unable to promptly secure a school place.
- 4.3 The following children are not part of the Primary FAP:
- Looked After Children or previously Looked After Children, as these children must be admitted.
  - Children with an Education, Health and Care Plans must not be referred to Primary In-Year Fair Access Panels (IYFAP) as these children must be admitted to the school named in the Education Health and Care Plan.

- Children who are returning to school from Elective Home Education (EHE) who are expected to return to their previous school as part of an agreed policy between the Local Authority and primary schools.

### 5. **Managed moves**

- 5.1 A managed move can only take place when a child is on roll at a school, and both the parents and the respective headteachers consent. We fully support the strategy to use managed moves in order to avoid a permanent exclusion, but it is intended that managed moves across schools may also be used where pupils experience social and emotional difficulties that prevent them from accessing learning. It is not intended for use in circumstances where parents themselves initiate a transfer from one school to another. In these cases, the normal admission procedures for the new school should be followed.
- 5.2 A managed move to another school is an option to enable children to have a fresh start in a new school.
- 5.3 By considering a managed move, headteachers recognise there has been a serious breach of behaviour policy within the school and that all support mechanisms to improve behaviour have been exhausted but is looking for an outcome other than a permanent exclusion.
- 5.4 The Local Authority has revised the protocol in relation to managed moves in consultation with schools and is appended to this Primary FAP (**Annex 1**).
- 5.5 As part of this Primary FAP and the Managed Moves Protocol, the Primary IYFAP will monitor managed moves and award appropriate credits as part of the fair access process.

### 6. **Support available for primary schools**

- 6.1 The Local Authority recognises the issues that some primary schools have in terms of having sufficient resources to meet the needs of pupils who have been permanently excluded or have certain types of challenging behaviour.
- 6.2 Primary schools have access to a range of additional support to meet the needs of these pupils, including:
- Schools are able to bid for high needs funding through a half termly High Needs panel.
  - Schools can access support through the Behaviour Support Team, resources can include:
    - Phased, time bound reintegration plans. These would be agreed with school, family and child. This could include taster sessions, shorter school days, and introduction to key staff in school and slow integration into school over a period of 6 week.
    - Specialist advice and guidance as appropriate e.g. classroom management and behaviour strategies specifically for the child.

- Schools can make a referral to the Local Authority Inclusion Panel (which sits fortnightly) to access resources and provision including but not limited to counselling provision, therapeutic support, short-term or part-time placements or alternative provision.

### **7. Primary In-Year Fair Access Panel (IYFAP)**

- 7.1 The purpose of the Primary In-Year Fair Access Panel (IYFAP) is to make decisions on the most appropriate placement for children. This support improves outcomes for children and their families.
- 7.2 Members will provide resource and commitment to support the collaborative outcomes which focuses on the support for children who are using the Primary FAP process.
- 7.3 The Primary FAP is generally intended for children who have been permanently excluded or following a referral to the FAP process from a headteacher. Due to the irregularity of cases requiring discussion at primary level any cases will be heard through a “pop-up” Primary IYFAP **hosted by the excluding school**.
- 7.4 The Primary IYFAP will meet on a needs basis, as soon as possible once a pupil requires to be admitted. If there is a need for a Primary IYFAP meeting as a result of a permanent exclusion the meeting will be scheduled as soon as possible after any governors meeting to discuss the exclusion (which must be no later than 15 days after the original exclusion).
- 7.5 To provide support to the Primary IYFAP, experience and expertise from the Inclusion Panel will be available to schools as part of the meetings. It should be noted only schools have voting rights (if required) as part of Primary IYFAP meetings. At the meeting information will be provided about:
- Provision
  - Funding Routes
  - Local authority support
- 7.6 Invites for school representation for the Primary IYFAP will include schools within a two miles radius of the pupil’s home for those children under eight years of age and within a three miles radius for children eight years and over. Whilst this will be limited to 6 schools attending, all schools within the appropriate radii will be consulted.
- 7.7 There will be a minimum of three schools invited by taking into account local public transport provision and extending the distances accordingly. This is in addition to any parental preference schools being invited.

#### **Primary IYFAP members**

- 7.8 The membership of the Primary IYFAP is made up of:
- Chair
  - School representation from all schools taking account of paragraphs 7.6 and 7.7
  - Day 6 Provider
  - Local authority representative – BOSS Team Manager

- Local authority representative – Admissions Service
- Local authority representative – Inclusion Service
- Local authority Business Support representation – administration and clerking
- Other invited persons when appropriate

7.9 Primary schools will be required to provide a named representative. The representative if not a headteacher must have full delegated powers in making decisions as to admission.

### Primary IYFAP roles

7.10 Only headteachers have voting rights, the Chair has the casting vote when required.

7.11 The Chair's role is pivotal to the success of the Primary IYFAP, acting as a mediator with other headteachers and colleagues, seeking representative views from local authority officers and negotiating or mediating with panel members when necessary.

7.12 The role of the Primary IYFAP includes:

- Where a child is considered under the Primary FAP, the Primary IYFAP must secure a place for that child within 20 school days. Where a child is placed in a school via the Primary FAP, the school should arrange for the child to start school as soon as possible.
- Holding schools to account to make sure they are following all Primary FAP processes appropriately.
- Monitor schools after the allocation of any FAP children to ensure they are following agreed timescales.
- If a school refuses to accept a child following placement via the Primary FAP process, asking the Local Authority to intervene and use its powers of direction (as detailed in section 8)

7.13 Local authority officers and member of the Inclusion Panel have no voting rights, they are there to give advice and guidance to the Primary IYFAP and carry out a range of admissions and inclusion functions.

7.14 The decision of the Primary IYFAP is binding and individual headteachers must as a general point accept the decisions of the Primary IYFAP as the review body.

7.15 The Primary IYFAP may set precedence in decision making which is then applicable in similar cases. The Primary IYFAP because of its review function can identify where areas of the Primary FAP may not be working and give advice on changes during the next review period. **At all times this must be in accordance with the School Admissions Code and all other relevant legislation.**

### Expectations of Primary IYFAP members

7.16 All time times, Primary IYFAP members agree:

- To ensure the needs of children undertaking the Primary FAP process are being met.

- To have full delegated powers and to act without the need to reference elsewhere.
- To attend Primary IYFAP when invited and send an appropriately briefed deputy with full delegated powers in case of non-attendance.
- To read papers in advance and prepare well to assist in effective decision making and questioning.
- To be accountable for best placement, support and outcomes for children.
- To participate in Primary IYFAP discussion to ensure the best placement, support and outcomes for our children.
- To scrutinise pupil referrals and offer challenge to other professionals as appropriate.
- To undertake follow-up actions as agreed in Primary IYFAP.

### **Admissions Service**

- 7.17 The Admissions Service will prepare and distribute applications and all associated information and documentation to Primary IYFAP members at least one week before all meetings.
- 7.18 The Admissions Service will maintain all criteria weighting and information on behalf of the Primary IYFAP.
- 7.19 The Admissions Service will ensure that all children undertaking the Primary FAP process will be tracked and monitored via the Local Authority's management information systems.
- 7.20 Doncaster Locality Outreach services (comprising of Attendance & Pupil Welfare Service Officers, Behaviour Outreach Support Officers and Inclusion Officers (depending on individual pupil need and circumstance) will ensure that all children undertaking the Primary FAP process will be tracked and monitored via the Local Authority's management information systems.
- 7.21 The Admissions Service has a responsibility for the statutory aspects of the School Admissions Code and all associated codes, regulations and legislation, and the processing of any challenge under the codes, and those referrals for direction as recommended by Primary IYFAP.

### **Administration and Business Support**

- 7.22 The Admissions Service will co-ordinate the meeting and administration of all Primary IYFAP meetings and will utilise the resources of the Business Support Service.
- 7.23 The Business Support officer has the responsibility to ensure that decisions are recorded and forwarded to the Admissions Service.



- 7.24 The Business Support officer present at the Primary IYFAP meeting will ensure all minutes and outcomes agreed will be uploaded onto an electronic portal accessible by all schools by midday of the second full business day after the meeting.
- 7.25 Local Authority officers are responsible for notifying any school that is not represented at the panel of any allocation agreed within one business day of the meeting.
- 7.26 Local Authority officers at Primary IYFAP are responsible for issuing decision letters to parents and schools including the start date at the school for each child which has to be within five school days of the Primary IYFAP's decision.

### **Agenda**

7.27 The following standard agenda will be used for Primary IYFAP meetings:

- Apologies and introductions
- Overview of individual referral:
  - Reasons for exclusion
  - Review of paperwork
  - Questions on the information given
  - Any appropriate additional information from other agencies?
  - Support and possible risk assessment
  - School Allocation
  - Actions and who is responsible
- Learning outcomes from meeting
- Any other business

### **Primary IYFAP and criteria for selection of receiving school**

7.28 It is important that all schools are asked to admit a balance of pupils under the protocol. The decision should be mindful but not restricted to the following factors as well as taking account of professional advice from the referring school and appropriate professionals:

- Specific issues in relation to the individual case.
- Parental Preference.
- Pupil Admission Number, Number on Roll and Class Structure
- Geographical proximity / distance factors / transport.
- Number of placements made by Primary IYFAP to individual schools.

7.29 Decisions will be made taking account of the following:

- Offers from schools to take cases in accordance with the Primary FAP.
- All parties, including schools that are not represented at Primary IYFAP, are expected to comply with Primary IYFAP procedures and decisions to ensure the process is effective and children are placed quickly.

### **Conduct of the Primary IYFAP**

7.30 All schools are open to Primary FAP allocations regardless of whether a headteacher attends or does not attend the Primary IYFAP. Adopting this principle will contribute to the equity of placements across schools.

- 7.31 Decisions will be made fairly, consistently and transparently in the best interests of the young person's educational needs, the considered allocated school and in the spirit of the Children Act (2004), Education and Inspections Act (2006), the Education and Skills Act (2008) and the School Admissions Code.
- 7.32 Access to education following Primary IYFAP allocation is secured within agreed time scales both at the point of entry and exit from provisions. This applies not only to mainstream school placements but alternative provision (AP) settings.
- 7.33 Decisions will be reached by consensus deploying the system outlined in paragraphs 7.27 and 7.28 whenever possible, with the Chair mandated to take appropriate action where this has not proved possible and/or in special circumstances when it would not be appropriate for a school to accommodate a pupil even if it was the relevant school's requirement to do so in line with the agreed framework.
- 7.34 No school should be asked to take a disproportionate number of pupils who have either been excluded from other schools, or who have been considered at Primary IYFAP because they are viewed as being hard to place. The decision system provides a framework for supporting the equitable distribution of vulnerable learners into provision.
- 7.35 All schools recognise their collective responsibility for all pupils and will work collaboratively to manage pupils with challenging behaviour, involving multi-agency support, accessed where appropriate. All members will work together to secure commitment to the inclusion agenda and to reduce exclusion from schools.

### **Communication of IYFAP decisions**

- 7.36 Upon determination, the allocated school will be formally notified by the Admissions Service (if not present at the meeting) and required to admit the applicant on the school roll within 15 school days of notification. APWS will also be notified and will contact the parents of the child to support the reintegration.
- 7.37 Schools are required to respond within 7 calendar days of notification if they do not agree to admit. In the event of a refusal, the Local Authority has the power to direct any maintained school in accordance with the School Admissions Code. Maintained schools may refer the case to the Schools Adjudicator who will determine which school is to admit the student. In the case of a refusal by an academy, the Local Authority will refer the case to the Secretary of State and request a direction.
- 7.38 The decision of the Primary IYFAP will be communicated to the parent and pupil by the Admissions Service. If the parent is unhappy with the decision, they have a legal right to appeal for their preferred school through the admission appeals process.
- 7.39 As well as responsibility for the decision making at the Primary IYFAP, nominated school representatives have responsibility to feedback and update their headteacher and other appropriate colleagues on Primary IYFAP discussions and outcomes, and to oversee the admission of pupils placed under Primary FAP at their school.

**8. The Local Authority's powers of direction**

8.1 The following section should be read in conjunction with the flow chart process in **Annex 3**.

**Local authority powers of direction (general powers)**

8.2 The Local Authority will consider giving a maintained school a direction to admit a child where it notifies the Local Authority within **7 calendar days** of notification of the placement being made of its refusal to admit a child placed at the school via the FAP.

8.3 The Local Authority has the power to direct the admission authority for any maintained primary school in Doncaster to admit a child even when the school is full. The Local Authority can only make such a direction in respect of a child residing in Doncaster who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance.

8.4 The Local Authority must choose a school that is a reasonable distance from the child's home and/or from which the child has not been permanently excluded. It must not choose a school that would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.

8.5 Before deciding to give a direction, the Local Authority must consult the governing body of the school concerned, the parent of the child and the child if they are over compulsory school age. If, following consultation, the Local Authority decides to direct, it must inform the governing body and the headteacher of the school concerned. The governing body can appeal by referring the case to the Schools Adjudicator within 15 calendar days (seven days for a looked after child). If it does this the governing body must tell the Local Authority. The Local Authority must not make a direction until the 15 days have passed and the case has not been referred.

8.6 If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school must admit the child. The Adjudicator's decision is binding. The Adjudicator must not direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.

**Secretary of State's power of direction (academies)**

8.7 Where the Local Authority considers that a primary academy school will best meet the needs of any child, it will ask the academy to admit that child but has no power to direct it to do so. It is anticipated that the Local Authority and academy school concerned will usually come to an agreement, but if an academy school refuses to admit the child, the Local Authority may ask the Secretary of State to intervene. The Secretary of State has the power, under an academy's Funding Agreement, to direct the academy to admit a child, and can seek advice from the Adjudicator in reaching a decision.

8.8 The Local Authority will use its best endeavours to work in partnership with all primary schools through the Primary FAP process to avoid any need to ask the Secretary of State to intervene. However, if it believes an academy school is being unreasonable

it will look to escalate to the Multi-Academy Trust, Regional Schools Commissioner and Her Majesty's Inspection in the first instance.

- 8.9 If the Local Authority provides education for a pupil that an academy school has refused to take after going through the FAP process, it will consider reclaiming all necessary costs from the academy school, should it be found the school acted unreasonably by the Secretary of State.

## **ANNEX 1**

### **MANAGED MOVES PROTOCOL**

**Managed Moves – see separate guidance**

## **ANNEX 2**

### **PRIMARY SCORING FRAMEWORK**

1. The system will aim to ensure fairness and equity in the distribution of those children identified in the Primary FAP process. It is intended to support the principle that all primary schools are inclusive and already take a wide and diverse population whilst recognising particular circumstances which may mitigate against admitting Primary FAP children.
2. The system is designed to be easy to calculate, clear to understand and accurately represent the position of each school. The system will be managed and maintained by the Admissions Service as part of their membership of the Primary IYFAP.
3. It is important that all primary schools are asked to admit a balance of pupils under the protocol. The decision should be mindful but not restricted to the following factors as well as taking account of professional advice from the referring school and appropriate professionals:
  - Specific issues in relation to the individual case.
  - Parental Preference.
  - Geographical proximity / distance factors / transport.
  - Number of placements made by Primary IYFAP to individual schools as reflected in the allocation scoring system

#### **Decision making**

4. Decisions will be made taking account of the following:
  - Offers from schools to take cases in accordance with the Primary FAP.
  - All parties, including schools that are not represented at Primary IYFAP, are expected to comply with Primary IYFAP procedures and decisions to ensure the process is effective and children are placed quickly.
  - **The allocation scoring system will only be used if no school agrees to offer a school place.**

#### **Allocation scoring system**

5. An initial score for each Primary school in Doncaster will be set at the start of the academic year and will be calculated from the latest pupil census data using the following categories and weightings:

Baseline weighting criteria	% base weighting
EHCP percentage	20%
Children looked after or previously looked after percentage	20%
Pupil premium percentage	20%
Children with a Child in Need Plan or a Child Protection Plan percentage	20%
Mobility – pupils who joined outside the usual start time percentage	20%

- An initial index score is then calculated for all schools based on these categories and weightings based around the average score for Doncaster being 100.
- At a particular Primary IYFAP the invited primary school with the lowest total score for the weighted factors would be ranked first and the most likely to admit the next pupil via Primary IYFAP, if the allocation scoring system was required. The following example gives an indication of the initial index score.

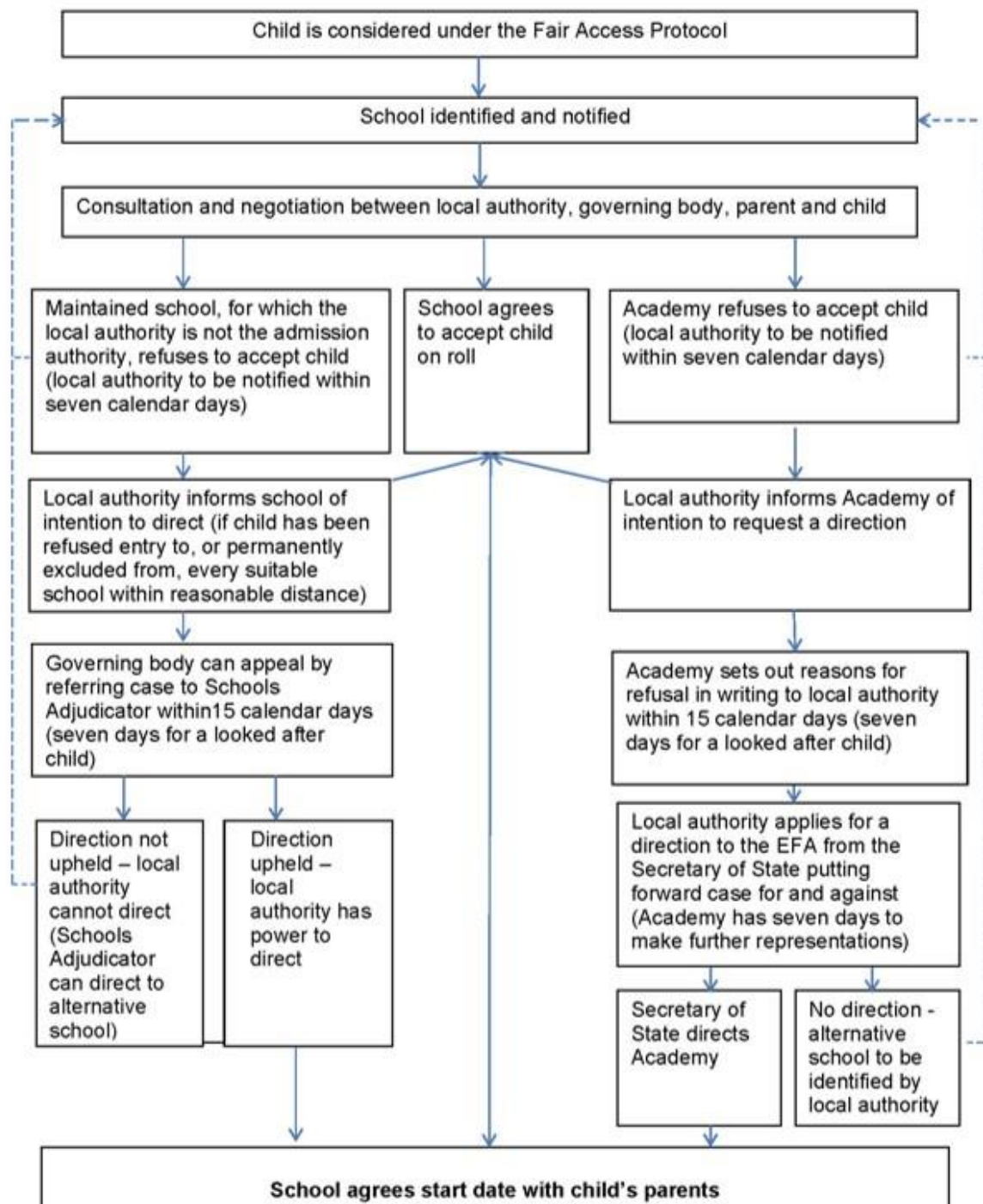
Weighting	20%	20%	20%	20%	20%	100%				
	EHCP	CLA	Pupil Premium	CiN / CPP	Mobility	Total	Diff from Doncaster	Index Score: Ave = 100	Rank (1 = most likely to admit next)	
DONCASTER	1.7%	1.0%	18.3%	3.4%	3.2%	27.6%	0.0%	100		
School A	2.4%	1.8%	18.1%	2.4%	4.1%	28.8%	1.2%	96	2	
School B	2.6%	1.9%	29.3%	3.4%	4.8%	42.1%	14.4%	48	7	
School C	1.6%	0.3%	29.8%	2.5%	6.2%	40.3%	12.7%	54	6	
School D	2.1%	1.0%	21.7%	4.2%	1.8%	30.8%	3.2%	88	4	
School E	1.3%	1.4%	22.7%	3.2%	2.0%	30.6%	3.0%	89	3	
School F	1.4%	1.0%	25.4%	5.9%	4.3%	38.0%	10.4%	62	5	
School G	1.5%	0.5%	18.2%	2.7%	3.1%	26.0%	-1.7%	106	1	

**Score adjustment system**

- Under the system the baseline index score detailed above would be adjusted on a case by case basis when a school permanently excludes a student or admits a pupil via Primary IYFAP. Successful managed moves would also be credited.
- The figure is added or subtracted to the index score identified above to determine the relevant school score and ranked position at any given point during the school year.
- 20 points will be added** to the baseline index score when a school permanently excludes a pupil.
- 10 points will be subtracted** to the baseline weighting index score when a school admits a pupil via Primary IYFAP.
- Successful managed moves would **subtract half the points** of a pupil admitted via Primary IYFAP.
- The information and live scores and ranking for all relevant school will be available at all Primary IYFAP meetings.

**ANNEX 3**

**Directions flow chart (overview of process)**



\* Note: A community or voluntary controlled school cannot refuse to admit a pupil if requested by its own admissions authority.