



LEWISHAM FAIR ACCESS PROTOCOL – SECONDARY

1. Definition
2. Purpose of the Fair Access Protocol
3. Admissions outside the scope of the Fair Access Protocol
4. The scope of Admissions under the Fair Access Protocol
5. Principles for admissions under the Fair Access Protocol
6. Fair Access placement criteria
7. Processes for admissions under the Fair Access Protocol
8. Fair Access Appeals
9. Operational of process under the Fair Access Panel
10. Fair Access Panel referrals

1. Definition

The Lewisham Fair Access Protocol is based on the requirements of the Admissions Code of Practice issued December 2014 and regulations relating to children missing from education. It takes account of the particular circumstances relating to secondary schools in Lewisham and builds on current good practice.

Local authorities have a duty to ensure that each student in its area can secure access to education. A Fair Access Protocol supports the local authority in this duty, and provides an equitable system for the allocation of school places. Students in Lewisham are placed under the Fair Access Protocol by the Fair Access Panel.

The operation of the Fair Access Protocol is outside normal admissions arrangements and is triggered when a parent of an eligible student has not secured a school place under:

- in-year admissions; or
- Reception or Secondary transfer procedures.

2. Purpose of the Fair Access Protocol

All Lewisham secondary schools, including those that have their own admission authority e.g. church schools, are required to adhere to the requirements of this protocol.

Lewisham's Fair Access Protocol is designed to:

- Respond to the needs of vulnerable students who are not on the roll of any school, placing them in education provision quickly and without delay, taking account of their specific needs.
- Aim to place them in education provision quickly so that and students are on roll within 10 days of the Fair Access Panel meeting.
- Provide a fair, equitable and open allocation of school places, particularly for students who may present difficult behaviours.
- Be fair and transparent, to have the confidence of all secondary schools and to include representatives of mainstream secondary schools in the decision making process.
- Ensure no secondary school or academy – including those with vacancies – is asked to take a disproportionate number of students who have been excluded from school, or have challenging behaviour. Information such as number of students on roll, exclusions and in year admissions is held by the local authority Access, Inclusion and Participation Service and will be monitored and taken into consideration.
- Reduce the time all students and particularly vulnerable students spend out of education.
- Strengthen and develop the existing admissions arrangements and procedures, taking into account the local authority's duty to coordinate all in year admissions to school.

3. Admissions outside the scope of the Fair Access Protocol

The majority of school admissions are outside of Lewisham's Fair Access Protocol arrangements and include:

3.1 In year admissions

The majority of in year admissions from reception to Year 11 which are not covered by the Reception or Secondary transfer schemes. In most cases the admissions process is straightforward. The parent arrives in the area, applies for a place in a school where there is a vacancy and the student is admitted to school (see flowchart A).

All applicants are required to complete an In Year Common Application Form (iCAF) and return it direct to the local authority; schools will not accept direct applications. The In Year Admissions Team will determine, based on the details supplied with the application, whether the student qualifies for admission as In Year or Fair Access and either refer the case direct to the school applied for or to the Fair Access Panel.

Further information about the in year admissions process can be found on the website at: <http://www.lewisham.gov.uk/myserVICES/education/schools/school-admission/Pages/Transferring-to-a-different-school-mid-year.aspx>

3.2 In year transfers between schools

Students who request a transfer from their current school in Lewisham and who have completed an In Year Common Application Form do not take priority over those who qualify under the Fair Access or in year admissions arrangements as detailed below.

Secondary schools – where both Headteachers are supportive of the transfer the receiving school will arrange admission for the start of the next half term or sooner if there are compelling reasons to do so earlier. Students who have not moved address and request more than two transfers of school should be notified to the local authority as a safeguarding case.

Lewisham's In Year Common Application Form requests for information about the student to be completed by the current Headteacher. This will include information about the student's attendance, behaviour and other interventions. This information will assist the local authority in determining whether the application is to be dealt with under the Fair Access Protocol.

3.3 Students with statements of SEN or an Education Health Care Plan

Admission of students with a statement of special educational needs (SEN) or an Education, Health and Care Plan (EHCP) are not covered by these arrangements, as there are different legislative requirements relating to their school placement.

4. The scope of admissions under the Fair Access Protocol

Fair Access will be used for students whose admission under in year admissions has failed either because there are no vacancies (within a reasonable distance to the home address) in any school in Lewisham in the student's year group or the admission is not straightforward (see flowchart B) that have created an exception.

The Admissions Code of Practice 2014 states that local authorities must consider the following groups of students under the Fair Access arrangements:

- Reintegration of students returning from the criminal justice system.
- Reintegration of students from Pupil Referral Units.
- Gypsies, Roma, Travellers, refugees, asylum seekers.
- Homeless children.
- Young carers.

- Students with SEN, CWD or medical needs (without statement / EHCP).
- Students from unsupportive backgrounds for whom a place has not yet been sought.
- Students who have been out of education for two months or more.

In addition, Lewisham local authority and secondary schools have locally agreed to include the following groups to be considered under the Fair Access arrangements:

- Children Looked After - by other authorities (see 4.1 below).
- Students attending a PRU on an intervention placement where a complex situation has arisen and it is not in their interest to return to the initial school.
- Managed moves in the event of a complex situation or where there is a breakdown in the relationship between the school and the parent – the Fair Access Panel can facilitate a managed move. The school should be able to provide appropriate evidence that every effort to facilitate a managed move has been exhausted.
- Students at risk of permanent exclusion (see 4.2 below).
- Students at risk of CSE, self-harming, substance misusing and are believed to be vulnerable by relevant agencies supporting the student.
- Students who have been out of education for longer than 20 school days.
- Students whose parents have been unable to find them a place after moving to the borough, because of a shortage of places.
- Students withdrawn from schools by their family and who are unable to find another place.
- Students without a school place and with a history of serious attendance problems.
- Students for whom the local authority is pursuing a School Attendance order with parents.
- Students known to the Police and Children's Social Care.
- Any student who has returned to the borough, including those who had left the country, and who were previously attending a Lewisham school.
- Students of UK service personnel and other crown servants.
- Students who have returned to the borough (expectation is that these students are referred to their previous school who either readmit or make a referral to the Fair Access Protocol for an alternative school place).
- Students with known behavioural problems who have transferred between two or more Lewisham schools but have NOT been permanently excluded. For example a student who may have accessed previous school placement through an in year admission.
- Students withdrawn by their parents to be 'educated otherwise' and are now seeking a school place (expectation is that these students are referred to their previous school who either readmit or if not appropriate the school need to make a referral to the Fair Access Panel for an alternative school place).
- Students who have been victims of severe bullying or harassment (as supported by current school) and require an urgent transfer.
- Students in Year 11 and where there is evidence that they would not be able to transition into main stream education.

There may be other circumstances as to why the student's admission should be treated as an exception and placed in school under the Fair Access Protocol. These circumstances can include:

- A newly arrived student who was not previously permanently excluded but who was attending a Pupil Referral Unit (PRU). For example, a student may have recently arrived in Lewisham and was previously attending a PRU in an outside borough therefore needs to be considered by the Fair Access Panel for an educational placement.
- A newly arrived student who had previously attended two or more Lewisham primary or secondary schools.

- A newly arrived student whose parent/carer states that the student has medical or educational needs but does not have a statement of special educational need or Education Health Care Plan.
- A newly arrived student who has not previously attended a mainstream school or who has not attended a mainstream school for more than one school term.
- A newly arrived student who has been placed in school under the in year admissions arrangements and where the receiving school has identified difficulties which had not previously been disclosed.

For more complex cases further investigation may need to be carried out by local authority officers within the Access, Inclusion & Participation Service.

4.1. Children Looked After (CLA)

- Children Looked After are given first priority in all Lewisham schools' admissions criteria and must be placed within 10 school days.
- CLA who require admission to a school outside the normal admissions round will be offered a place at their first preference school. A CLA may be placed as an acceptable exception in a Key Stage 1 class. Applications from CLA will be prioritised and normally processed within three working days. The expectation is that the student will be offered a place in mainstream provision within ten working days of the application, unless there are compelling reasons otherwise. Details about CLA should be transferred between schools as quickly as possible and ideally within a week of the student starting at their new school.
- If an admission is disputed, the case must be referred to the Fair Access Panel giving detailed reasons within five school days. The local authority reserves the right to direct admission if necessary.

4.2 Students at risk of permanent exclusion

Lewisham local authority in partnership with all secondary schools has agreed, as part of the overall strategy to reduce permanent exclusion, that cases of children at risk of exclusion could be referred to the Fair Access Panel for consideration prior to a making a decision to permanently exclude a student.

It is acknowledged that in some instances there are early warning signs that a student may be at risk of permanent exclusion, for example a student that has received more than two fixed term exclusions due to persistent disruptive behaviour. It is agreed that collaborative working within the following guiding principles in respect of making an offer of an alternative school place for those student who are at risk of exclusion:

- Student centred focus.
- Honesty and transparency.
- Ensuring safeguarding is paramount.
- Avoid negative outcomes of permanent exclusion.
- Shared responsibility for reducing exclusions.
- Greater understanding of the wider implications of permanent exclusions.

4.3 Managed Moves

Fair Access Panel will consider requests for complex managed moves between schools or Academies, after all reasonable attempts have been exhausted by the school or Academy.

A managed move to another school or Academy is an option to enable the student to have a fresh start.

A managed move is considered by the Headteacher where one or more of the following applies:

- The student has a history of challenging behaviour and other support strategies have not been successful.
- There has been a 'one off' incident which means the student would benefit from a fresh start.
- The relationship between the student / family and the school / school community has broken down to an irrevocable degree.

The referral to Fair Access Panel would require the Headteacher to provide information that there has been a serious breach of behaviour policy within the school or Academy and that all support mechanisms to improve behaviour had been exhausted.

Cases for managed moves can only be submitted to Fair Access Panel if the prior consent of the parents/carers and the student concerned has been obtained.

Further information about managed moves can be found in the Managed Moves Protocol.

4.4 AWPU claims for managed moves

Schools are able to claim funding for managed moves using an agreed formula. Managed moves are reported at every Fair Access Panel meeting and recorded by the local authority.

Additional funding from the sending school may be required to support a successful managed move e.g if a student was receiving part or full time 'adult support' or any other additional support, this should continue during the managed move and be funded by the sending school.

Further information about Managed Moves can be found in the Managed Moves Protocol.

4.5 Directing a student to Alternative Provision

Section 154 of the Education and Skills act 2008 amends section 29 of the Education Act introduces a power for governing bodies to require a registered students to attend off-site provision with a view to improving their behaviour.

The power is given to governing bodies and **not Fair Access Panel**. Headteachers can bring suitable cases to Fair Access Panel asking for a supportive allocation, but the panel and associated procedures would not have the authority to progress the allocation as the power resides with governing bodies.

The requirement residing with governing bodies is a 'power' and not a 'duty'. There is a clear difference in law whereby a 'power' is only discretionary and a 'duty' placed on a person/organisation must be discharged/fulfilled.

A parent refusing to send/comply with the requirement stating reasons for this refusal would need that reason considered by the governing body **not Fair Access Panel**.

An example of refusal might be because of perceived gang culture or postcode issues. Each case would need to be considered on its own merits by governing bodies.

As long as a governing body is able to rationalise and document the reasons for requiring the student to attend Alternative Provision using the power given a parent could be prosecuted for the student's non-attendance.

Headteachers are asked to consider using the power to refer students to Alternative Provision. This will allow for Fair Access Panel and the associated Protocols to deal with the overwhelming majority of cases that would be considered within the 'power'.

Headteachers and governing bodies **MUST**:

- provide written notice to the parent of the off-site direction at least two school days before the educational provision is due to start;
- hold a review meeting within 30 days of the student being directed off-site, and at least every 30 days thereafter whilst the direction remains in force;
- invite a representative from the local authority to a review meeting where the student has a statement of special educational needs; and
- ensure that any referral does not extend beyond the end of the academic year in which it is issued.

Further information on Direction to Alternative Provision and the process can be found at Appendix 1.

4.6 Permanently Excluded students

- Lewisham local authority does not expect any school in the area to permanently exclude a CLA, a student with a statement of SEN or EHCP or a student who is subject to a student protection plan.
- Lewisham residents who are permanently excluded from mainstream school are expected to attend a Lewisham Pupil Referral Unit (PRU) or an appropriate and suitable alternative education provision so their needs can be assessed and suitably addressed. Once they are ready to return to mainstream school the PRU will make a recommendation to the Fair Access Panel who in turn will identify a school place.
- All schools should admit a fair share of permanently excluded student. In determining admission the Fair Access Panel will consider relevant factors, such as the distance from the home address to school and other student focused matters. An annual report will be presented to the Lewisham Inclusion Board and Directorate Management Team to ensure that all schools operate in line with this policy.
- Permanently excluded students attending a Pupil Referral Unit or alternative education provision must be reintegrated via the Fair Access Panel to mainstream schools as soon as possible. All schools should reintegrate a fair share of excluded students. No school should have to admit an unreasonable number of reintegrations.
- Where PRU or alternative provision is struggling to meet a student's needs due to a serious safeguarding concern the student must be referred to Fair Access Panel with evidence of the concerns and for a panel decision.

4.7 Admissions in Year 11

4.7.1 Year 11 students – English as a second language

Year 11 students arriving in the borough who have difficulties with fluency in English may be referred to Lewisham Southwark College to be placed on the College's EAL programme.

4.7.2 Year 11 new arrivals or returning to the borough

Year 11 students arriving in the borough who are English native speakers will be offered an initial assessment to ascertain academic levels and a 'Pathways' meeting at Baseline Lewisham. After the initial assessment and meeting has taken place a referral will be made to Fair Access Panel for a decision. (See Appendix 2)

5. Principles for admission under the Fair Access Protocol

- All admission authorities must participate in the Fair Access Protocol in order to ensure that unplaced students are allocated a school place quickly.
- There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, although the panel may consider this when making a decision.

- Secondary schools will continue to admit students who apply for a vacancy under normal in year admission arrangements unless there are compelling reasons not to do so and the school refers the admission to the Fair Access Panel for placement.
- Secondary schools cannot cite going over Planned Admissions Number as a reason for not admitting a student once they are classified as qualifying for admission under the Fair Access Protocol.
- Fair Access students will be given priority for admission over others on a waiting list or awaiting an appeal.
- Secondary schools must not refuse to admit a student who has been denied a place at that school at appeal, if the Fair Access Panel identifies that school as the one to admit the student.
- Where an applicant expresses a strong aversion to or desire for the religious ethos of a school, this will be taken into consideration. Where possible, Lewisham will refer active church members to the appropriate denominational school but this cannot be guaranteed.
- Decisions to recommend placement at a particular school will take into account that school's organisational and structural factors. These will include the Published Admission Number (PAN), the number currently on roll in that year group, whether there would be an impact on the delivery of the National Curriculum and constraints involving the school site, such as building work; It is important to note that whilst these will be taken into consideration they will not be the factors that will make the over-riding decision.

Where required schools must exceed their Published Admission Number (PAN) to admit:

- Children Looked After
- Students with special educational needs but without a statement or EHCP.
- Students with disabilities or medical conditions.
- Students of UK service personnel and other Crown Servants.

6. Fair Access placement criteria

The Fair Access Panel will decide which school should be required to admit a student using the following criteria:

- The closest school to the student's permanent home address. Distance will be measured in a straight line from the student's home address to the nodal point.
- However, in identifying an appropriate school or education provision, the Panel's consideration will be focused on the educational needs of the student. At every meeting the panel members will be provided with data showing the placement of vulnerable student previously placed at each school.

The Panel should also consider any of the following factors when making placement decisions relating to school places:

- Specific issues in relation to the individual case.
- Parental preference.
- Religious or cultural affiliations.
- Any particular ethos or specialist status of the identified school.

Secondary schools already at or above their Planned Admission Number for the year group in question will also be required to admit a fair share of these students. Schools which already admit students under the in year arrangements should not admit a disproportionate number of students under the Fair Access protocol.

Minutes of the previous meeting, progress updates on students placed through Fair Access Panel and profiles for each student to be considered for placement will be circulated to all panel members at least three days before the meeting.

7. Processes for admissions under the Fair Access Protocol

The local authority will make the offer of a school place under the Fair Access Protocol under the established in year process.

The school should admit the applicant within 10 days of the of the Fair Access Panel outcome letter.

8. Fair Access appeals

A school or Academy placement made through Fair Access Panel shall not remove a parent's right to appeal for a school /or Academy place elsewhere. Parents will be guided to the process of appeals if necessary.

Appeal panels will be made aware of the conditions of the Protocol, and that the admission of an additional student under this Protocol is different from a school or Academy voluntarily exceeding its Published Admissions Number. Panels will also be made aware that any decision made to allow appeals will place further pressure on the school or Academy's resources.

If the school has genuine concerns about the student's admission, for example information is revealed which had not been disclosed at the point of application, the school must contact the local authority within five days in writing, clearly outlining the reasons why the student should not be admitted.

The local authority will consider the appeal, taking into account any genuine concerns about the admission (for example a previous serious breakdown in the relationship between the school and the family) and will determine whether to:

- pursue the original placement; or
- accept the school's rationale for not admitting the student and agree another school placement.

If the Panel decide to pursue the original placement the school must admit the student by a date specified by the Panel which should be no longer than five school days.

8.1 Where a school feels that they cannot meet the needs of a student who has been admitted by the local authority:

- Schools must communicate in writing to:
Chair of Fair Access Panel: Ruth Griffiths: ruth.griffiths@Lewisham.gov.uk or 0208 3413499 FAPLewisham@lewisham.gov.uk.
- This needs to provide compelling evidence as to why the school cannot meet the student's needs.
- This must be within five school days.
- The school should inform parents of referral to Fair Access Panel.
- The Chair of the Fair Access Panel will consider if the case is sufficient to be heard by the Panel or make a decision to direct the school to admit.

9. Operational Processes under the Fair Access Panel

9.1. Membership (reviewed annually)

The Fair Access Panel is chaired by the Service Manager for Access, Inclusion and Participation.

Members for secondary Fair Access Panel include representatives from:

- Heads/Deputies or Assistant Heads from all Lewisham secondary schools

- Head/Deputy or Assistant Head from Abbey Manor College
- Fair Access, Elective Home Education and Alternative Provision
- Admissions & Appeals
- Attendance
- Inclusion and Reintegration
- Children's Social Care
- Youth Offending Service
- Educational Psychologist / Special Education Needs
- Lewisham Virtual School

9.2 Terms of Reference

The Panel will convene every three weeks in term time for secondary schools.

Data confirming the admission of students under the Fair Access Protocol will be circulated to all secondary schools after each meeting.

9.3 Chairs Action

The Chair may be required to take decisions outside of Fair Access Panel throughout the course of the academic year. These cases will be considered on an emergency basis and will require ratification and minuting at the next appropriate panel meeting.

- The membership of the Fair Access Panel and the appointments of Panel members is regularly reviewed (at least annually) by the Service Manager of the Access, Inclusion & Participation.
- The Fair Access Panel is responsible for having regard to the scope, principles and processes of the Fair Access Policy and Protocols, accepting and tracking referrals, and identifying for each case referred an appropriate mainstream school or alternative education provider.
- Based on the information from schools, relevant professionals, parents and students, and in the light of provision available, the Fair Access Panel agrees either a referral to appropriate provision, or appropriate action.
- Meetings proceed in accordance with the Council's Code of Conduct, and decision is reached by a consensus (general or widespread agreement) sought among the whole membership. In some cases further meetings and/or further information may be required to achieve consensus.
- The Fair Access Panel members can acquire information that has not been made public. As such, Panel members should never disclose or use confidential information for personal advantage or for the advantage of anyone known to them, or to the disadvantage of the Panel or anyone else.
- For meetings to be valid and quorate there must be at least four Panel members present.
- The Fair Access Panel can:
 - Direct students to mainstream schools.
 - Refer students within the agreed criteria to Abbey Manor College or alternative education provision e.g permanently excluded students.
 - Arrange the reintegration of permanently excluded students into mainstream school
 - Refer students returning from custodial care to Abbey Manor College for assessment, and to a named school for admission.
 - Agree alternative education placements for a student not on roll of a school.
 - Agree action to be taken forward by a named officer.
 - Arrange a one-off home visit by an Attendance and Welfare Officer.
 - Ensure, where appropriate, that links are made to Children's Social Care Services.
 - Request Lewisham Southwark College to carry out an academic assessment.
 - Arrange intervention referrals to alternative provision for a student on roll of a school.

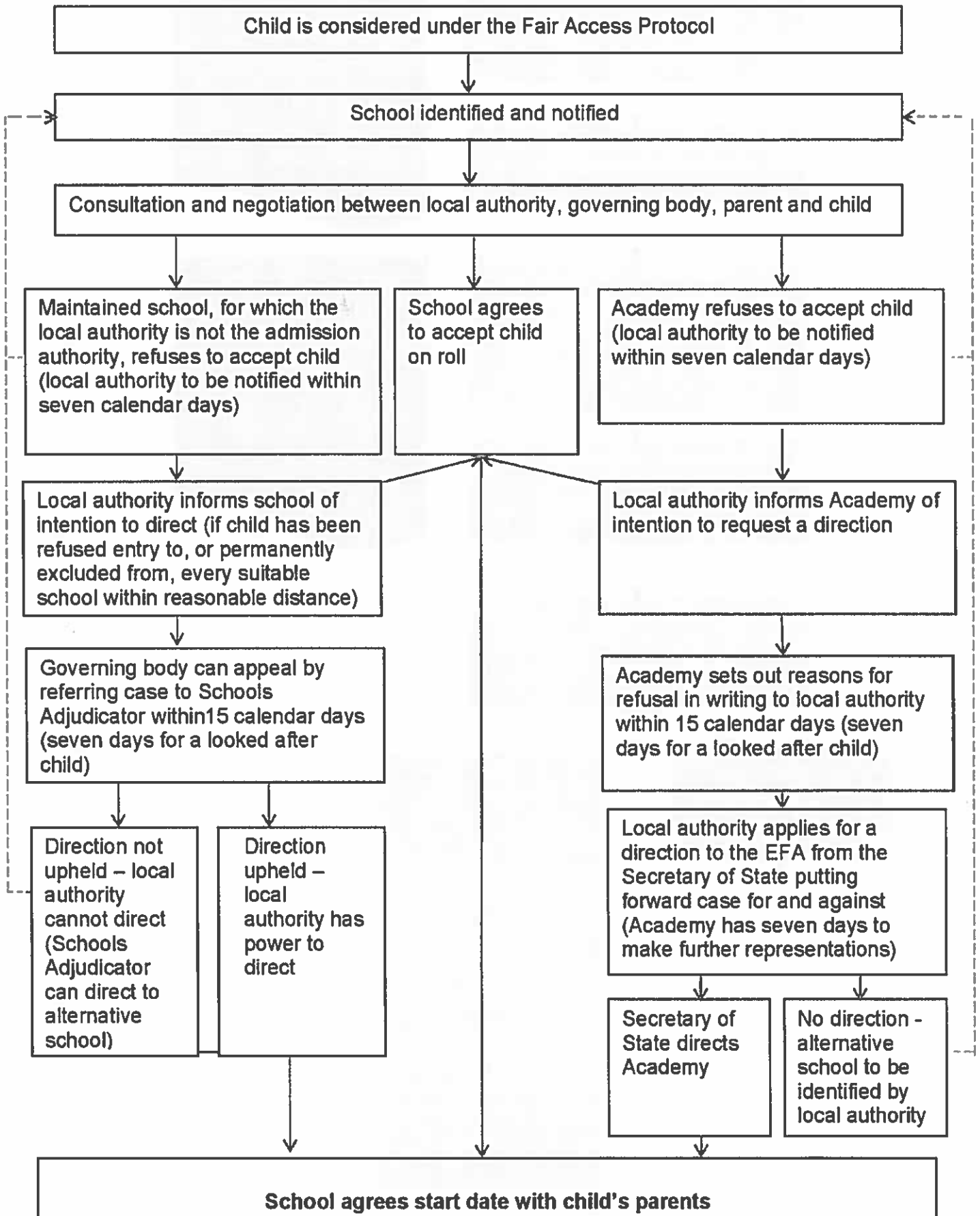
- Agree to the implementation of School Attendance Order Proceedings
 - Agree action to be undertaken by a named officer
 - Escalate any concerns to senior officers (eg conduct of a service, school, professional etc).

The Fair Access Panel cannot arrange education provision for students with Statements of Special Educational Needs or an EHCP.

10. Fair Access Panel Referrals: FAPLewisham@lewisham.gov.uk

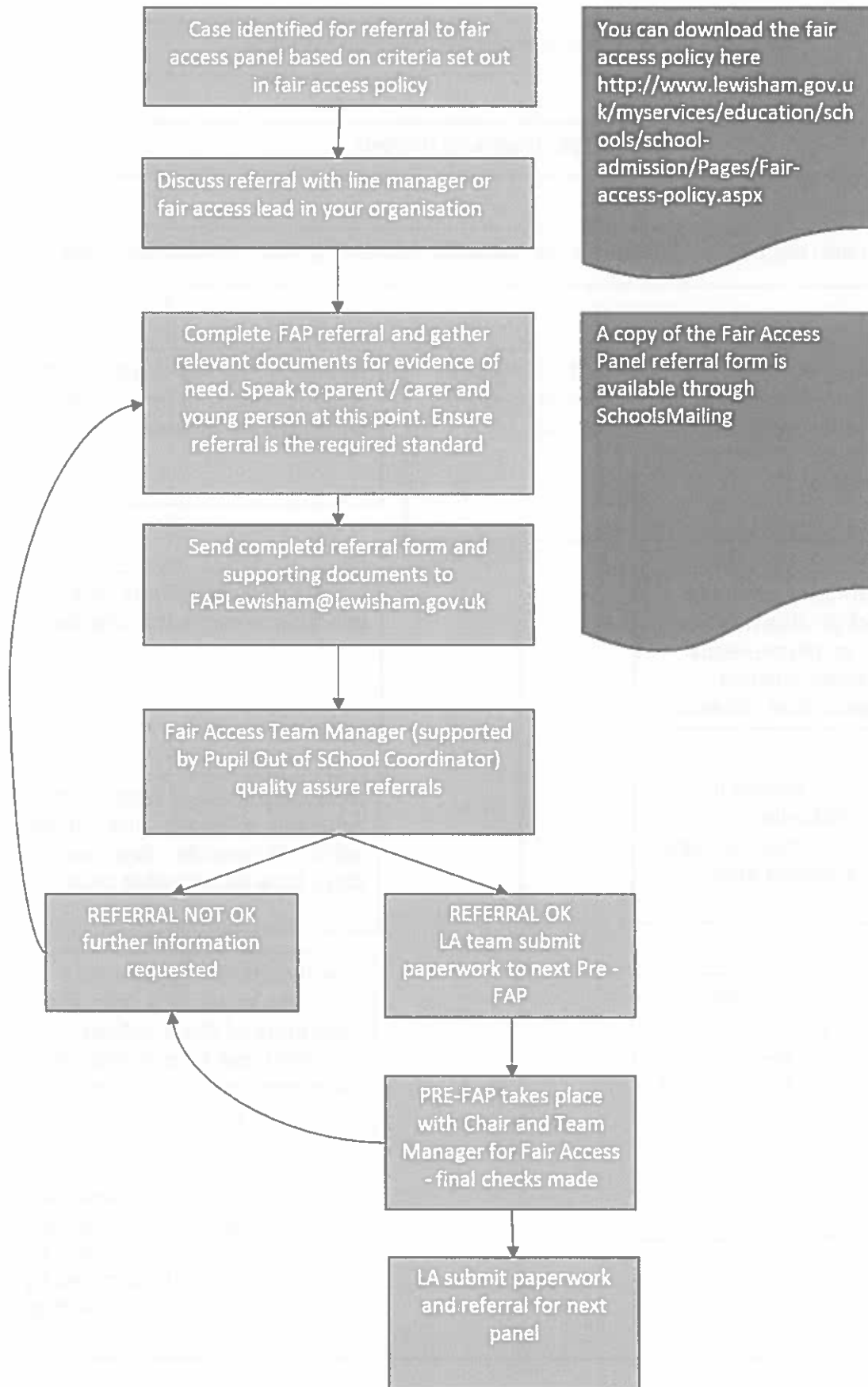
- The person responsible for referring a student to Fair Access Panel will need to include copies of all paperwork for example Fair Access Panel Referral form, and ensure that they are completed comprehensively.
- If local authority officers feel that there is insufficient evidence to make a fair and appropriate Fair Access Panel decision the paperwork and forms, the referrer will be advised and the student may not be included on the Fair Access Panel agenda.

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.

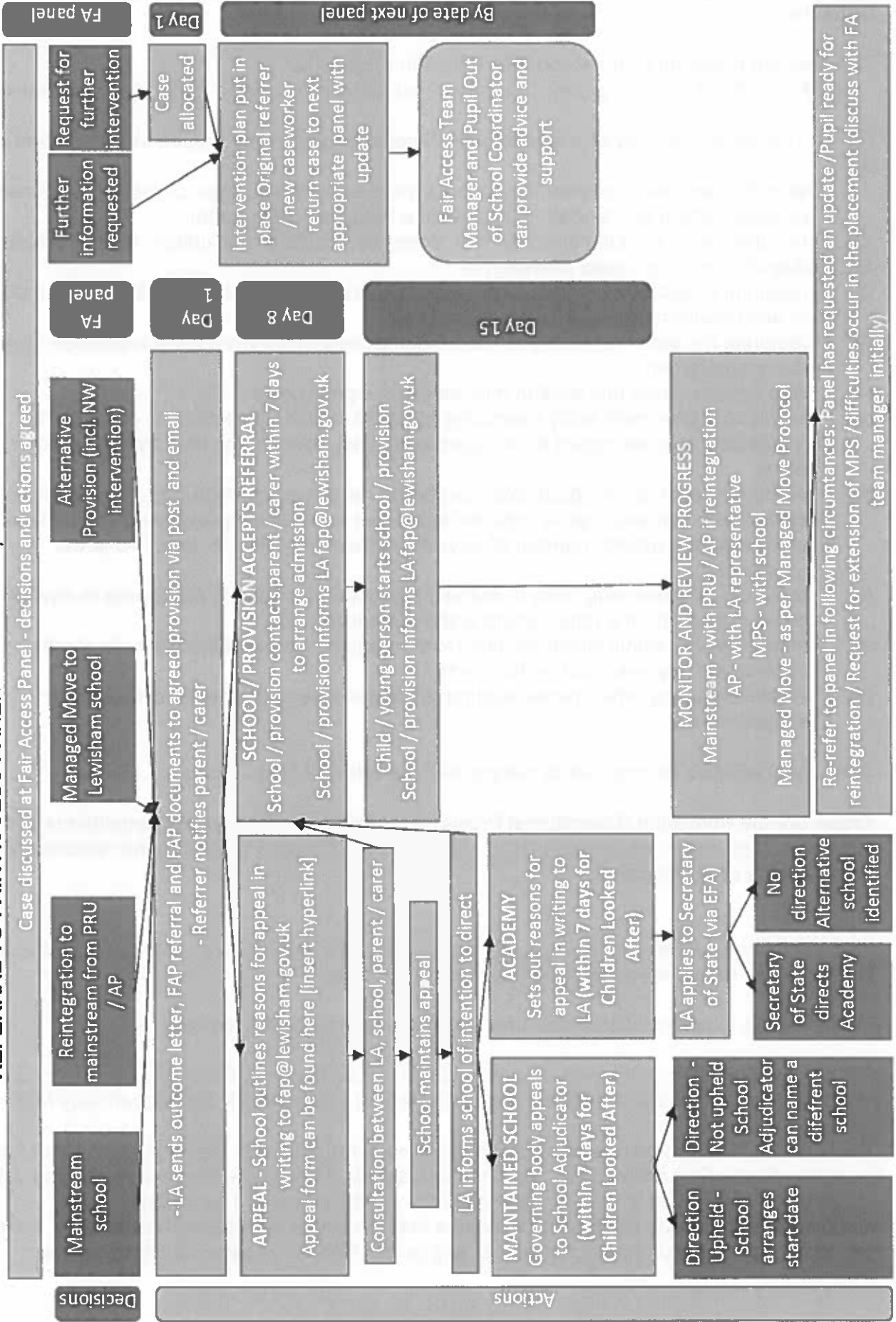
REFERRAL TO FAIR ACCESS PANEL - PREPARATION AND SUBMISSION FLOW CHART



You can download the fair access policy here <http://www.lewisham.gov.uk/myserives/education/schools/school-admission/Pages/Fair-access-policy.aspx>

A copy of the Fair Access Panel referral form is available through SchoolsMailing

REFERRAL TO FAIR ACCESS PANEL - DECISIONS, APPEALS AND FOLLOW UPS



Appendix1: Legal Background for schools directing students off-site to improve behaviour

The relevant provision is at section 29A Education Act 2002.

[29A Power of governing body in England: educational provision for improving behaviour]

- (1) The governing body of a maintained school in England may require any registered pupil to attend at any place outside the school premises for the purpose of receiving educational provision which is intended to improve the behaviour of the pupil.
- (2) In subsection (1) "maintained school" does not include a maintained nursery school.
- (3) Regulations must make provision—
 - (a) requiring prescribed persons to be given prescribed information relating to the imposition of any requirement under subsection (1), and
 - (b) requiring the governing body of the school to keep under review the imposition of any such requirement.
- (4) Regulations under this section may also make provision—
 - (a) requiring a governing body exercising functions under subsection (1) or under the regulations to have regard to any guidance given from time to time by the Secretary of State,
 - (b) prohibiting a governing body from exercising the power conferred by subsection (1) in such a way that any pupil is required to receive educational provision outside the school premises for a greater number of days in a school year than is specified in the regulations,
 - (c) requiring the governing body to request prescribed persons to participate in any review of the imposition of a requirement under subsection (1),
 - (d) about the time within which the first review must be held and the intervals at which subsequent reviews must be held, and
 - (e) in relation to any other matter relating to the exercise of the power conferred by subsection (1)

The school will also be required to comply with the relevant Regulations.

These are the Education (Educational Provision for Improving Behaviour) Regulations 2010. http://www.legislation.gov.uk/ukxi/2010/1156/pdfs/ukxi_20101156_en.pdf and specifically the requirements of Regulation 3.

Guidance

Properly it should be the governing body but arguably the Headteacher with delegated authority for day to day management of school matters will suffice.

The letter has to comply with all the prescribed requirements of Regulation 3.

At 4(b) it is referring to the provision at Regulation 3 which provides that any direction will have effect until the end of the last school day of the school year in which the relevant day falls.

The school will be required to carry out reviews in accordance with the Regulations and I draw your attention to Regulation 5 requiring that at least six days before the review meeting various persons are to be given written notification of the review meeting. The purpose of the regulations is to provide safeguards to ensure that the power is exercised reasonably, so that pupils are not required to be out of school any longer than is necessary to improve their behaviour

For completeness I attach an extract from the "Alternative Provision Statutory Guidance for local authorities January 2013" for your attention.

"Power of schools to direct a pupil off-site for education to improve behaviour"

Governing bodies of maintained schools have the power to direct a pupil off-site for education to improve his or her behaviour. The Secretary of State has made regulations, as is required by the related. Under revised off-site regulations the governing body must:

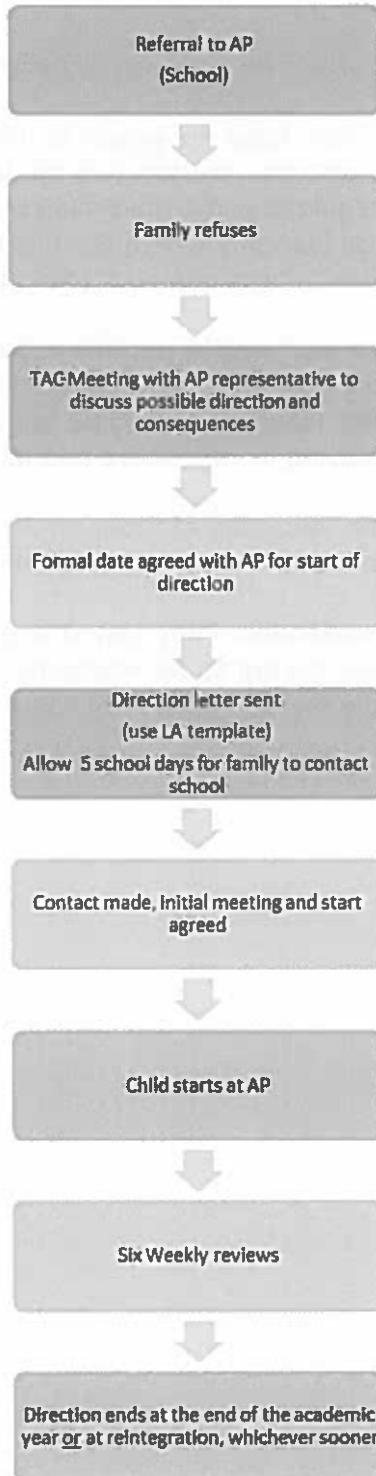
- ensure that parents (and the local authority where the pupil has a statement of special educational needs) are given clear information about the placement: why, when, where, and how it will be reviewed;
- keep the placement under review and involve parents in the review. The regulations specify regular reviews but do not specify how often reviews must take place (that should be decided on a case-by-case basis). Reviews should be frequent enough to provide assurance that the off-site education is achieving its objectives and that the pupil is benefitting from it; and
- have regard to guidance from the Secretary of State on the use of this power – new statutory guidance on this issue can be found below at paragraph 41.

This legislation does not apply to Academies. They can arrange off-site provision for similar purposes under their general powers, set out in the Academy Trust's Articles of Association. Though the regulations and guidance do not apply, they can provide Academies with an example of good practice. "

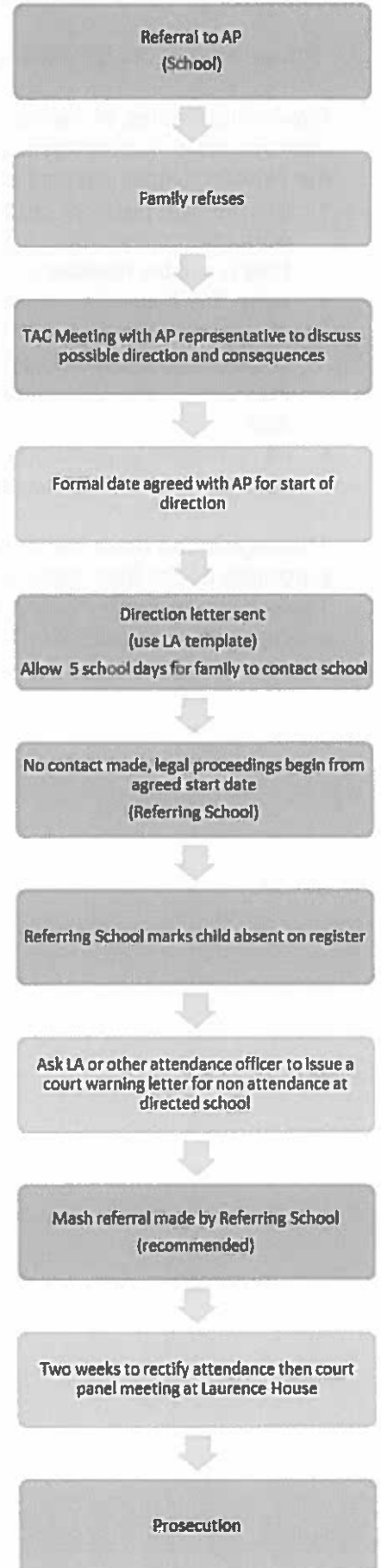
1. Referral to AP



2. Direction (successful)



3. Legal Proceedings



Process

1. Ideally, schools refer to AP and the family accepts.
2. If the family disagrees, then the direction process starts.
3. If the direction is unsuccessful, legal proceedings are followed.

School responsibilities are green

Joint responsibilities are yellow

Parent responsibilities are blue

Letter template

Dear,

Further to my letter/our recent discussion about XXXX, I need to formally put in writing the statutory basis for PUPIL's placement at DIRECTED PROVISION. This is to ensure CURRENT PROVISION is complying with the law.

The CURRENT PROVISION is exercising its powers under s29A of the Education Act 2002. This must be done in writing and include the following prescribed information:

From xx/xx/xxxx, PUPIL will be on roll at FULL ADDRESS AND POSTCODE OF DIRECTED PROVISION and will not attend CURRENT PROVISION.

On arrival at DIRECTED PROVISION, PUPIL will report to _____

This is a placement at specialist provision to meet PUPIL's needs; it is not an exclusion. PUPIL is being placed at DIRECTED PROVISION to improve HIS/HER behaviour. At DIRECTED PROVISION s/he will have the opportunity to learn the skills s/he needs to access a mainstream education. S/HE will be assessed for additional support and where necessary funding will be allocated so that a mainstream school is able to support HIM/HER.

S/HE will be required to attend DIRECTED PROVISION from _____ to _____ each day. Transport will be provided from home to DIRECTED PROVISION.

PUPIL's placement at DIRECTED PROVISION will be reviewed every 30 school days. The first review will be held in the week commencing XX/XX/XXXX and you will notified of the date at least six days beforehand.

This direction will last until DIRECTED PROVISION'S assessment of PUPIL is that s/he is able to access a mainstream education or xx/xx/xxxx (LAST DAY OF LAST TERM OF THE ACADEMIC YEAR WHEN THE DIRECTION IS MADE) when there will be an annual review of the placement.

From xx/xx/xxxx PUPIL will not be allowed to attend CURRENT PROVISION and must attend DIRECTED PROVISION. If S/HE does not attend DIRECTED PROVISION it will become an attendance matter.

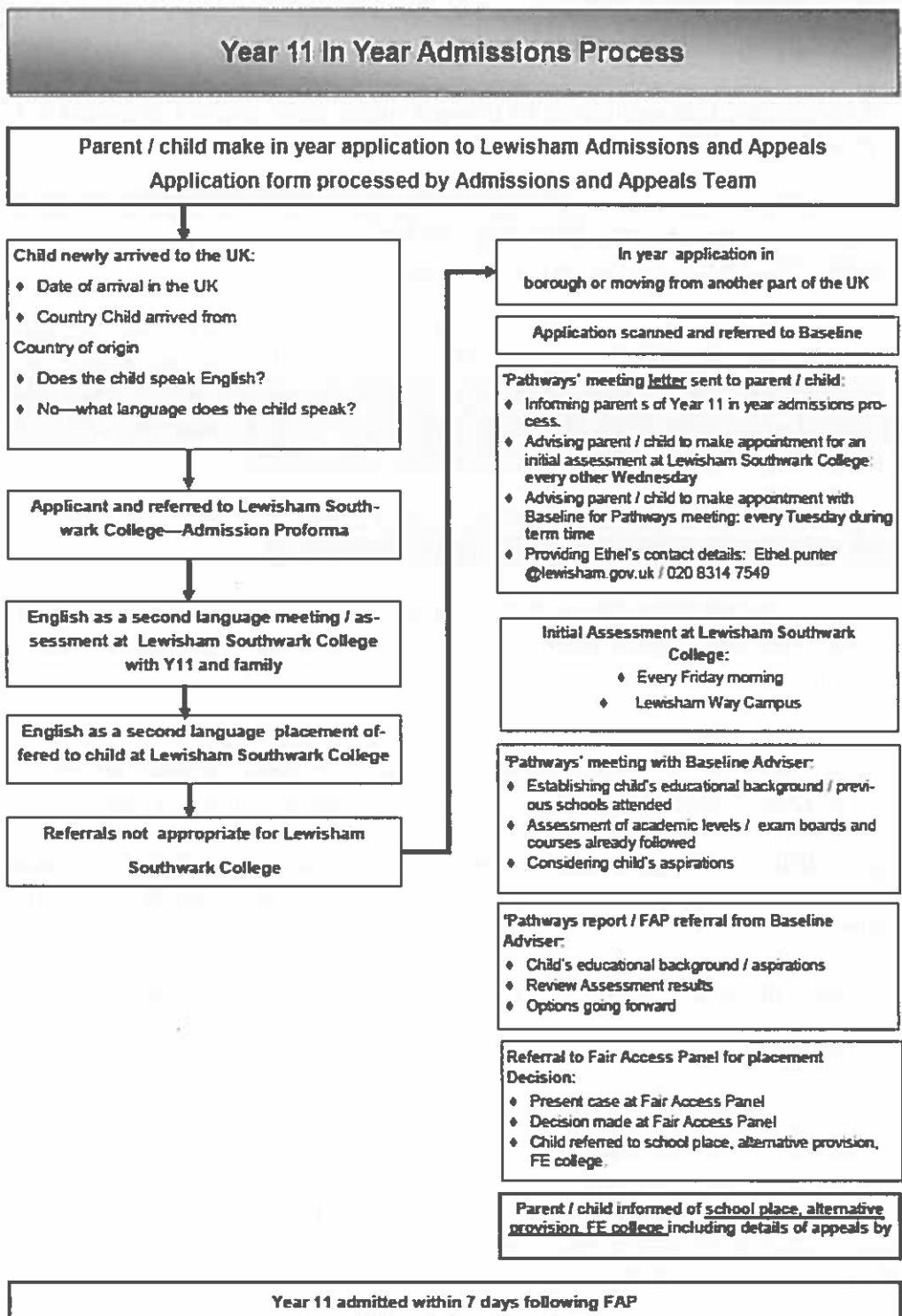
Please let me know if there is anything you do not understand or would like clarified.

Yours sincerely etc etc

Notes

- Phrases highlighted in yellow required named provision/pupil name/date to be inserted.
- Phrases highlighted in pink are optional and only if appropriate.
- Please note this should come from the governing body. You can use heads delegated powers if the direction needs to be immediate, but need to inform chair and then present the above decision at next governors meeting.

Appendix 2:



LEWISHAM FAIR ACCESS PROTOCOL – PRIMARY

- 1. Definition**
- 2. Purpose of the Fair Access Protocol**
- 3. Admissions outside the scope of the Fair Access Protocol**
- 4. The scope of Admissions under the Fair Access Protocol**
- 5. Principles for admissions under the Fair Access Protocol**
- 6. Fair Access placement criteria**
- 7. Processes for admissions under the Fair Access Protocol**
- 8. The Fair Access Panel**
- 9. Operational processes under the Fair Access Panel**
- 10. Fair Access Panel referrals**

1. Definition

The Lewisham Fair Access Protocol is based on the requirements of the Admissions Code of Practice issued December 2014 and regulations relating to children missing from education. It takes account of the particular circumstances relating to primary schools in Lewisham and builds on current good practice.

Local authorities have a duty to ensure that each student in its area can secure access to education. A Fair Access Protocol supports the local authority in this duty, while providing an equitable system for allocation of places. Students in Lewisham are placed under the Fair Access Protocol by the Fair Access Panel.

The operation of the Fair Access Protocol is outside normal admissions arrangements and is triggered when a parent of an eligible student has not secured a school place under:

- in-year admissions; or
- Reception or secondary transfer procedures.

2. Purpose of the Fair Access Protocol

All Lewisham primary schools, including those that have their own admission authority e.g. church schools, are required to adhere to the requirements of this protocol. Lewisham's Fair Access Protocol is designed to:

- Respond to the needs of vulnerable students who are not on the roll of any school, placing them in education provision quickly and without delay, taking account of their specific needs.
- Aim to place them in education provision quickly so that students are on roll within 10 days of the Fair Access Panel meeting, taking into account their specific needs.
- Provide a fair, equitable and open allocation of school places, particularly for students who may present difficult behaviours.
- Be fair and transparent, to have the confidence of all primary schools and to include representatives of mainstream primary schools in the decision making process.
- Ensure no primary school or academy – including those with vacancies – is asked to take a disproportionate number of students who have been excluded from school, or have challenging behaviour. Information such as number of students on roll, exclusions and in year admissions is held by the local authority Access, Inclusion and Participation Service and will be monitored and taken into consideration.
- Respond to the needs of vulnerable students who are not on the roll of any school, placing them in education provision quickly and without delay, taking account of their specific needs.

- Reduce the time all students and particularly vulnerable students spend out of education.
- Strengthen and develop the existing admissions arrangements and procedures, taking into account the local authority's duty to coordinate all in year admissions to school.

3. Admissions outside the scope of the Fair Access Protocol

The majority of school admissions are outside of Lewisham's Fair Access Protocol arrangements and include:

3.1 In year admissions

The majority of in year admissions relate to all admissions to school from reception to Year 11 which are not covered by the Reception or Secondary transfer schemes. In most cases the admissions process is straightforward. The parent arrives in the area, applies for a place in a school where there is a vacancy and the student is admitted to school (see flowchart A).

All applicants are required to complete an In Year Common Application Form (iCAF) and return it direct to the local authority; schools will not accept direct applications. The In Year Admissions Officer will determine, based on the details supplied with the application, whether the student qualifies for admission as In Year or Fair Access and either refer the case direct to the school applied for or to the Fair Access Panel.

Further information about the in year admissions process can be found on the website at: <http://www.lewisham.gov.uk/myservices/education/schools/school-admission/Pages/Transferring-to-a-different-school-mid-year.aspx>

3.2 In year transfers between schools

Students who request a transfer from their current school in Lewisham and who have completed an In Year Common Application Form do not take priority over those who qualify under the Fair Access or in year admissions arrangements as detailed below.

Primary schools – where both Headteachers are supportive of the transfer the receiving school will arrange admission for the start of the next half term or sooner if there are compelling reasons to do so earlier. Students who have not moved address and request more than two transfers of school should be notified to the local authority as a safeguarding case.

Lewisham's iCAF requests for information about the student to be completed by the current headteacher. This will include information about the student's attendance, behaviour and other interventions. This information will assist the local authority in determining whether the application is to be dealt with under the Fair Access policy.

3.3 Students with statements of SEN or an Education Health Care Plan

Admission of students with a statement of special educational needs (SEN) or an Education, Health and Care Plan (EHCP) are not covered by these arrangements, as there are different legislative requirements relating to their school placement.

4. The scope of admissions under the Fair Access Protocol

Fair Access will be used for students whose admission under in year admissions has failed either because there are no vacancies (within a reasonable distance to the home address) in any school in Lewisham in the student's year group or the admission is not straightforward (see flowchart B) that have created an exception.

The Admissions Code of Practice 2014 states that local authorities **must** consider the following groups of students under the Fair Access arrangements:

- Reintegration of students returning from the criminal justice system.
- Reintegration of students from Pupil Referral Units.
- Gypsies, Roma, Travellers, refugees, asylum seekers.
- Homeless children.
- Young carers.
- Students with SEN, CWD or medical needs (without statement / EHCP).
- Students from unsupportive backgrounds for whom a place has not yet been sought.
- Students who have been out of education for two months or more.

In addition, Lewisham local authority and primary schools have locally agreed to include the following groups to be considered under the Fair Access arrangements:

- Children Looked After - by other authorities (see 4.1 below).
- Students attending a PRU on an intervention placement where a complex situation has arisen and it is not in their interest to return to the initial school.
- Managed moves in the event of a complex situation or breakdown in the relationship between the school and the parent – the Fair Access Panel can facilitate a managed move. The school should be able to provide appropriate evidence that every effort to facilitate a managed move has been exhausted.
- Students at risk of permanent exclusion (see 4.2 below).
- Students at risk of CSE, self-harming, substance misusing and are believed to be vulnerable by relevant agencies supporting the student.
- Students who have been out of education for longer than 20 school days.
- Students whose parents have been unable to find them a place after moving to the borough, because of a shortage of places.
- Students withdrawn from schools by their family and who are unable to find another place.
- Students without a school place and with a history of serious attendance problems.
- Students for whom the Local Authority is pursuing a School Attendance Order with parents.
- Students known to the Police, CSC and other agencies.
- Any student who has returned to the borough, including those who had left the country, and who were previously attending a Lewisham school.
- Students of UK service personnel and other crown servants.
- Students who have returned to the borough (expectation is that these students are referred to their previous school who either readmit or make a referral to the Fair Access Panel for an alternative school place).
- Students with known behavioural problems who have transferred between two or more Lewisham schools but have NOT been permanently excluded. For example a student who may have accessed previous school placement through an in year admission.
- Students withdrawn by their parents to be 'educated otherwise' and are now seeking a school place (expectation is that these students are referred to their previous school who either readmit or if not appropriate the school need to make a referral to the Fair Access Panel for an alternative school place).
- Students who have been victims of severe bullying or harassment (as supported by current school) and require an urgent transfer.
- Students are being admitted into a known vulnerable year group*.

There may be other circumstances as to why the student's admission should be treated as an exception and placed in school under the Fair Access Protocol. These circumstances can include:

- A newly arrived student who was not previously permanently excluded but who was attending a Pupil Referral Unit (PRU). For example, a student may have recently arrived in Lewisham and was previously attending a PRU in an outside borough therefore needs to be considered by the Fair Access Panel for an educational placement.

- A newly arrived student who had previously attended two or more Lewisham primary or secondary schools.
- A newly arrived student whose parent/carer states that the student has medical or educational needs but does not have a statement of special educational need or Education Health Care Plan.
- A newly arrived student who has not previously attended a mainstream school or who has not attended a mainstream school for more than one school term.
- A newly arrived student who has been placed in school under the in year admissions arrangements and where the receiving school has identified difficulties which had not previously been disclosed.

*At the start of each academic year, primary schools can identify up to two vulnerable year groups which will be considered as part of a Fair Access decision. However this will not be the only factor taken into consideration and on some occasions schools may be required to admit to the vulnerable year groups.

For more complex cases further investigation may need to be carried out by local authority officers within the Access, Inclusion & Participation Service.

4.1. Children Looked After (CLA)

- Children Looked After are given first priority in all Lewisham schools' admissions criteria and must be placed within 10 school days.
- CLA who require admission to a school outside the normal admissions round will be offered a place at their first preference school. A CLA may be placed as an acceptable exception in a Key Stage 1 class. Applications from CLA will be prioritised and normally processed within three working days. The expectation is that the student will be offered a place in mainstream provision within ten working days of the application, unless there are compelling reasons otherwise. Details about CLA should be transferred between schools as quickly as possible and ideally within a week of the student starting at their new school.
- If an admission is disputed, the case must be referred to the Fair Access Panel giving detailed reasons **within five school days**. **The local authority reserves the right to direct admission if necessary.**

4.2 Students at risk of permanent exclusion

Lewisham local authority in partnership with all primary schools has agreed, as part of the overall strategy to reduce permanent exclusion, that cases of students at risk of exclusion could be referred to the Fair Access Panel for consideration prior to a making a decision to permanently exclude a student.

It is acknowledged that in some instances there are early warning signs or that a student may be at risk of permanent exclusion, for example a student that has received more than two fixed term exclusions due to persistent disruptive behaviour. It is agreed that collaborative working within the following guiding principles in respect of making an offer of an alternative school place for those student who are at risk of exclusion:

- Student centred focus.
- Honesty and transparency.
- Ensuring safeguarding is paramount.
- Avoid negative outcomes of permanent exclusion.
- Shared responsibility for reducing exclusions.
- Greater understanding of the wider implications of permanent exclusions.

4.3 Managed Moves

Fair Access Panel will consider requests for complex managed moves between schools or Academies, after all reasonable attempts have been exhausted by the school or Academy.

A managed move to another school or Academy is an option to enable the student to have a fresh start.

By consideration of a managed move, the Headteacher recognises:

- If the student has a history of challenging behaviour and other support strategies have not been successful
- If there has been a 'one off' incident which means the student would benefit from a fresh start.
- If the relationship between the student / family and the school / school community has broken down to an irrevocable degree.

The referral to Fair Access Panel would require the Headteacher to provide information that there has been a serious breach of behaviour policy within the school/academy and that all support mechanisms to improve behaviour have been exhausted.

Cases for managed moves can only be submitted to Fair Access Panel if the prior consent of the parents/carers and the student concerned has been obtained.

Further information about managed moves can be found in Lewisham's Managed Moves Protocol.

4.4 AWPU claims for managed moves

Schools are able to claim funding for managed moves using an agreed formula. Managed moves are reported at every Fair Access Panel meeting and recorded by the local authority.

Additional funding from the sending school may be required to support a successful managed move. For example, if a student was receiving part or full time adult support or any additional support, this should continue during the managed move and be funded by the sending school.

For further information on AWPU claims, please see the Managed Moves Protocol.

4.5 Directing a Student to Alternative Provision

Section 154 of the Education and Skills act 2008 amends section 29 of the Education Act and introduces a power for governing bodies to require a registered student to attend off-site provision with a view to improving their behaviour.

4.5.1 The power is given to governing bodies and not Fair Access Panel. Headteachers can bring suitable cases to Fair Access Panel asking for a supportive allocation, but the panel and associated procedures would not have the authority to progress the allocation as the power resides with governing bodies.

The requirement residing with governing bodies is a 'power' and not a 'duty'. There is a clear difference in law whereby a 'power' is only discretionary and a 'duty' placed on a person/organisation must be discharged/fulfilled.

A parent refusing to send/comply with the requirement stating reasons for this refusal would need that reason considered by the governing body not Fair Access Panel.

An example of refusal might be because of perceived gang culture or postcode issues. Each case would need to be considered on its own merits by governing bodies.

As long as a governing body is able to rationalise and document the reasons for requiring the student to attend off-site provision using the power given, a parent could be prosecuted for the student's non-attendance.

Headteachers are asked to consider using the power to refer students to off-site provision, including alternative provision, as a last resort option. This will allow for Fair Access Panel and the associated Protocols to deal with the overwhelming majority of cases that would be considered within the 'power'.

Headteachers and governing bodies **MUST**:

- provide written notice to the parent, of the off-site direction at least two school days before the educational provision is due to start;
- hold a review meeting within 30 days of the student being directed off-site, and at least every 30 days thereafter whilst the direction remains in force;
- invite a representative from the local authority to a review meeting where the student has a statement of special educational needs.
- ensure that any referral does not extend beyond the end of the academic year in which it is issued.

Further information on Direction to Alternative Provision and process can be found at Appendix 1.

4.6 Permanently excluded students

- Lewisham local does not expect any school in the area to permanently exclude a CLA, a student with a statement of SEN or EHCP or a student who is subject to a student protection plan.
- Lewisham students who are permanently excluded from mainstream school are expected to attend a Pupil Referral Units (PRU) or an appropriate and suitable alternative education provision so their needs can be assessed and suitably addressed. Once they are ready to return to mainstream school the PRU will make a recommendation to the Fair Access Panel who in turn will identify a school place.
- All schools should admit a fair share of permanently excluded students. In determining admission the Fair Access Panel will consider relevant factors, such as the distance from the home address to school and other student focused matters. An annual report will be presented to the Lewisham Inclusion Board and Directorate Management Team to ensure that all schools operate in line with this policy.

5. Principles for admissions under the Fair Access Protocol

- All admission authorities must participate in the Fair Access Protocol in order to ensure that unplaced students are allocated a school place quickly.
- There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, although the panel may consider this when making a decision.
- Primary schools will continue to admit students who apply for a vacancy under normal in year admission arrangements.
- Primary schools cannot cite going over PAN as a reason for not admitting a student once they are classified as qualifying for admission under the Fair Access Protocol.
- Fair Access students will be given priority for admission over others on a waiting list or awaiting an appeal.
- Where an applicant expresses a strong aversion to or desire for the religious ethos of a school, this will be taken into consideration. Where possible, Lewisham will refer active

church members to the appropriate denominational school but this cannot be guaranteed.

- Decisions to recommend placement at a particular school will take into account that school's organisational and structural factors. These will include the Published Admission Number (PAN), the number currently on roll in that year group, whether there would be an impact on the delivery of the National Curriculum and constraints involving the school site, such as building work. It is important to note that whilst these will be taken into consideration they will not be the factors that will make the over-riding decision.

Where required schools must exceed their Published Admission Number (PAN) to admit:

- Children Looked After
- Students with special educational needs but without a statement or EHCP.
- Students with disabilities or medical conditions.
- Students of UK service personnel and other Crown Servants.

6. Fair Access placement criteria

The Fair Access Panel will decide which school should be required to admit a student using the following criteria:

- The closest school to the student's permanent home address. Distance will be measured in a straight line from the student's home address to the nodal point.
- Data on in year admissions, Fair Access admissions and managed moves will then be considered. If data/allocation table shows that the identified school has already admitted more than two per cent of the total number of students on roll in the specific year group of Fair Access students, the next closest school will be identified.
- However, in identifying an appropriate school or education provision, the Panel's prime consideration should be the educational needs of the student. At every meeting the panel members will be provided with data showing the placement of vulnerable students previously placed at each school.

The Panel should also consider any of the following factors when making placement decisions relating to school places:

- Specific issues in relation to the individual case
- Numbers of placements made by Fair Access Panel to individual schools as reflected in the allocation table
- Parental preference
- Religious or cultural affiliations
- Any particular ethos or specialist status of the identified school

Primary schools already at or above their PAN for the year group in question will also be required to admit a fair share of these students. Schools which already admit students under the in year arrangements should not admit a disproportionate number of students under the Fair Access protocol.

Minutes of the previous meeting, progress updates on students placed through Fair Access Panel and profiles for each student to be considered for placement will be circulated to all panel members at least three days before the meeting.

7. Processes for admissions under the Fair Access Protocol

The local authority will make the offer of a school place under the Fair Access Protocol under the established in year process.

The school must admit the applicant within 10 days of the Fair Access Panel outcome letter.

If the school has genuine concerns about the student's admission, for example information is revealed which had not been disclosed at the point of application, the school must contact the local authority within five school days in writing, clearly outlining the reasons why the student should not be admitted.

The local authority will discuss the appeal with the chair of the Fair Access Panel, taking into account any genuine concerns about the admission, for example a previous serious breakdown in the relationship between the school and the family and will determine whether to

- pursue the original placement; or
- accept the school's rationale for not admitting the student and agree another school placement.

If the Panel decide to pursue the original placement the school must admit the student by a date specified by the Panel which will be no longer than five school days.

Permanently excluded students attending a Pupil Referral Unit or alternative education provision must be reintegrated to mainstream schools via the Fair Access Panel, as soon as practicable. All schools should re-integrate a fair share of excluded students. No school should have to admit an unreasonable number of reintegrations.

8. Fair Access appeals

A school or Academy placement made through Fair Access Panel shall not remove a parent/carer's right to appeal for a school or Academy place elsewhere. Parents will be guided to the process of appeals if necessary.

Appeal panels will be made aware of the conditions of the Protocol, and that the admission of an additional student under this Protocol is different from a school/academy voluntarily exceeding its Published Admission Number. Panels will also be made aware that any decision made to allow appeals will place further pressure on the school/academy's resources.

8.1 Where a school feels that they cannot meet the needs of a student who has been admitted by the local authority:

- Schools must communicate or provide an appeal form to:
Chair of Fair Access Panel: Ruth Griffiths: ruth.griffiths@Lewisham.gov.uk or 020 83413499
Fair Access PanelLewisham@lewisham.gov.uk
- This must provide compelling evidence as to why the school cannot meet the student's needs.
- This must be within 5 school days
- The school should inform parents of referral to Fair Access Panel.
- The Chair of the Fair Access Panel will consider if the case is sufficient to be heard by the Panel or make a decision to direct the school to admit.

9. Operational Processes under the Fair Access Panel

9.1 Membership (reviewed an annual cycle)

The Fair Access Panel is chaired by the Service Manager for Access, Inclusion and Participation. Members for Primary FAP include representatives from Heads/Deputies or Assistant Heads from a Lewisham primary schools, local authority officers from relevant services. Current membership is as follows:

Primary Schools:

- Eddie Dove, Marvels Lane School
- Rebecca Dove, Sandhurst School
- Mary Collins, Holy Cross RC School
- Dean Houson , St Saviour's RC School
- Julie Loffstadt, Horniman School
- Sharon Lynch, St William of York RC School
- Graham Voller, Beecroft School
- Sally Williams, Myatt Garden School
- Head/Deputy or Assistant Head from New Woodlands

Local Authority:

- Fair Access, Elective Home Education and Alternative Provision
- Admissions & Appeals
- Attendance
- Inclusion and Reintegration
- Children's Social Care
- Educational Psychologist / SEN
- Lewisham Virtual School

9.2 Terms of Reference

Meetings

- Held once every six weeks and dates circulated before the start of the academic year
- Local authority and primary school core panel members have reserved seats at the panel.
- Half hour timing slots are provided for colleagues to present FAP cases. Other colleagues should sit as observers and will be invited to the panel to present cases. Once the case is concluded colleagues can leave the meeting or return to the observation seating.
- Other colleagues can observe the meeting but are expected to sit in the observation seating.
- Comments and questions are welcome from local authority colleagues and from the primary school core panel members.

The Panel will convene every half term for primary schools.

Data confirming the admission of students under the Fair Access Protocol will be circulated to all primary schools after each meeting.

9.3 Chair's Action: The Chair may be required to take decisions outside of Fair Access Panel throughout the course of the academic year. These cases will be considered on an emergency basis and will require ratification at the next appropriate panel meeting.

- The membership of the Fair Access Panel and the appointments of Panel members is regularly reviewed (at least annually) by the Service Manager of the Access, Inclusion & Participation.
- The Fair Access Panel is responsible for having regard to the scope, principles and processes of the Fair Access Policy and Protocols, accepting and tracking referrals, and identifying for each case referred an appropriate mainstream school or alternative education provider.
- Based on the information from schools, relevant professionals, parents and students, and in the light of provision available, the Fair Access Panel agrees either a referral to appropriate provision, or appropriate action.
- Meetings proceed in accordance with the Council's Code of Conduct, and decision is reached by a consensus (general or widespread agreement) sought among the whole

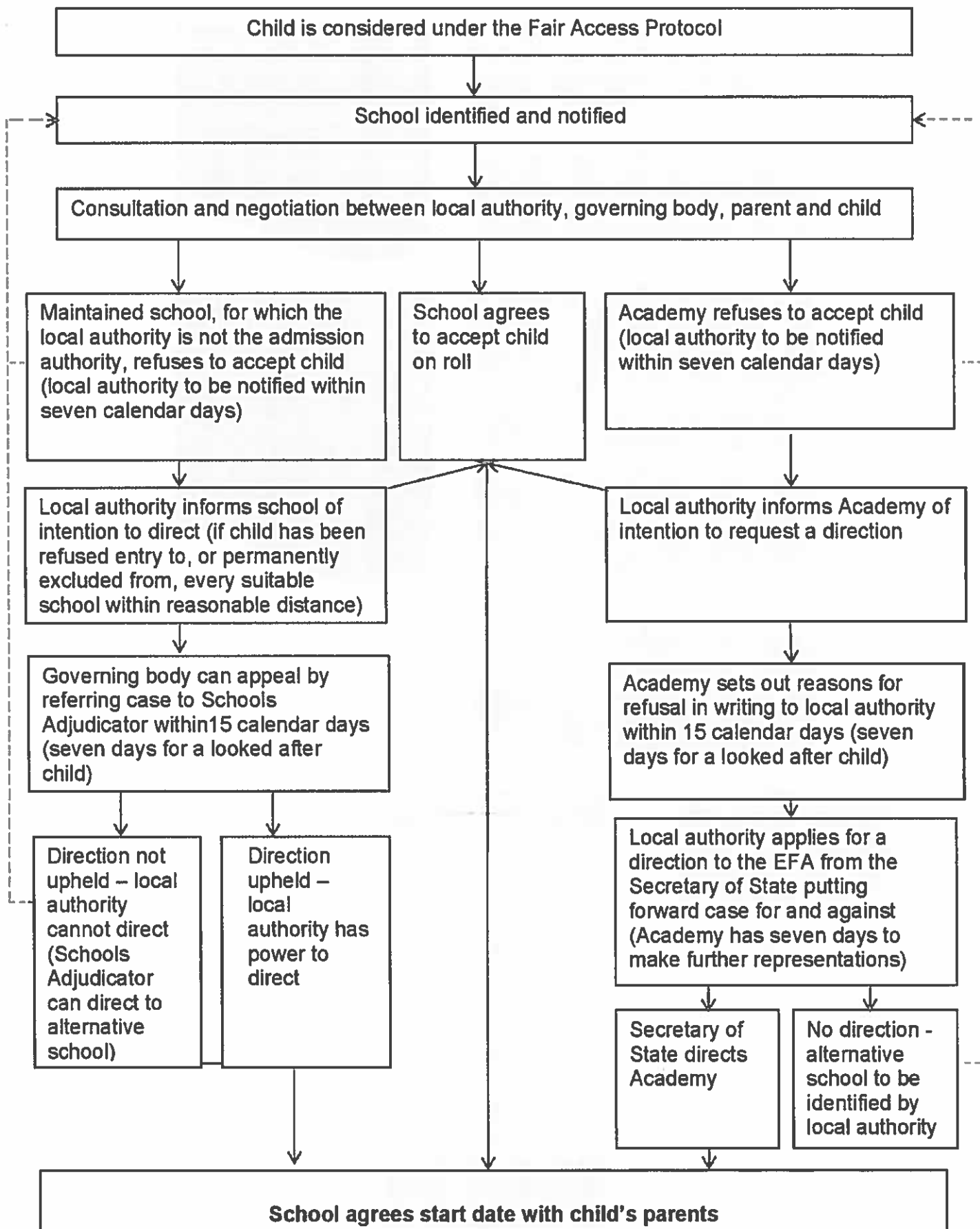
membership. In some cases further meetings and/or further information may be required to achieve consensus.

- The Fair Access Panel members can acquire information that has not been made public. As such, Panel members should never disclose or use confidential information for personal advantage or for the advantage of anyone known to them, or to the disadvantage of the Panel or anyone else.
- For meetings to be valid and quorate there must be at least four Panel members present.
- The Fair Access Panel can:
 - Direct students to mainstream schools.
 - Refer students within the agreed criteria to New Woodlands or alternative education provision eg permanently excluded students.
 - Arrange the reintegration of permanently excluded students into mainstream school.
 - Agree alternative education placements for a student not on roll of a school.
 - Agree action to be taken forward by a named officer.
 - Arrange a one-off home visit by an Attendance and Welfare Officer
 - Ensure, where appropriate, that links are made to early help services Children's Social Care processes.
 - Agree to the implementation of School Attendance Order Proceedings.
 - Agree action to be undertaken by a named officer
 - Escalate any concerns to senior officers (eg conduct of a service, school, professional etc)
 - Arrange intervention referrals to alternative provision for a student on roll of a school.

The Fair Access Panel cannot arrange education provision for students with Statements of Special Educational Needs or an EHCP.

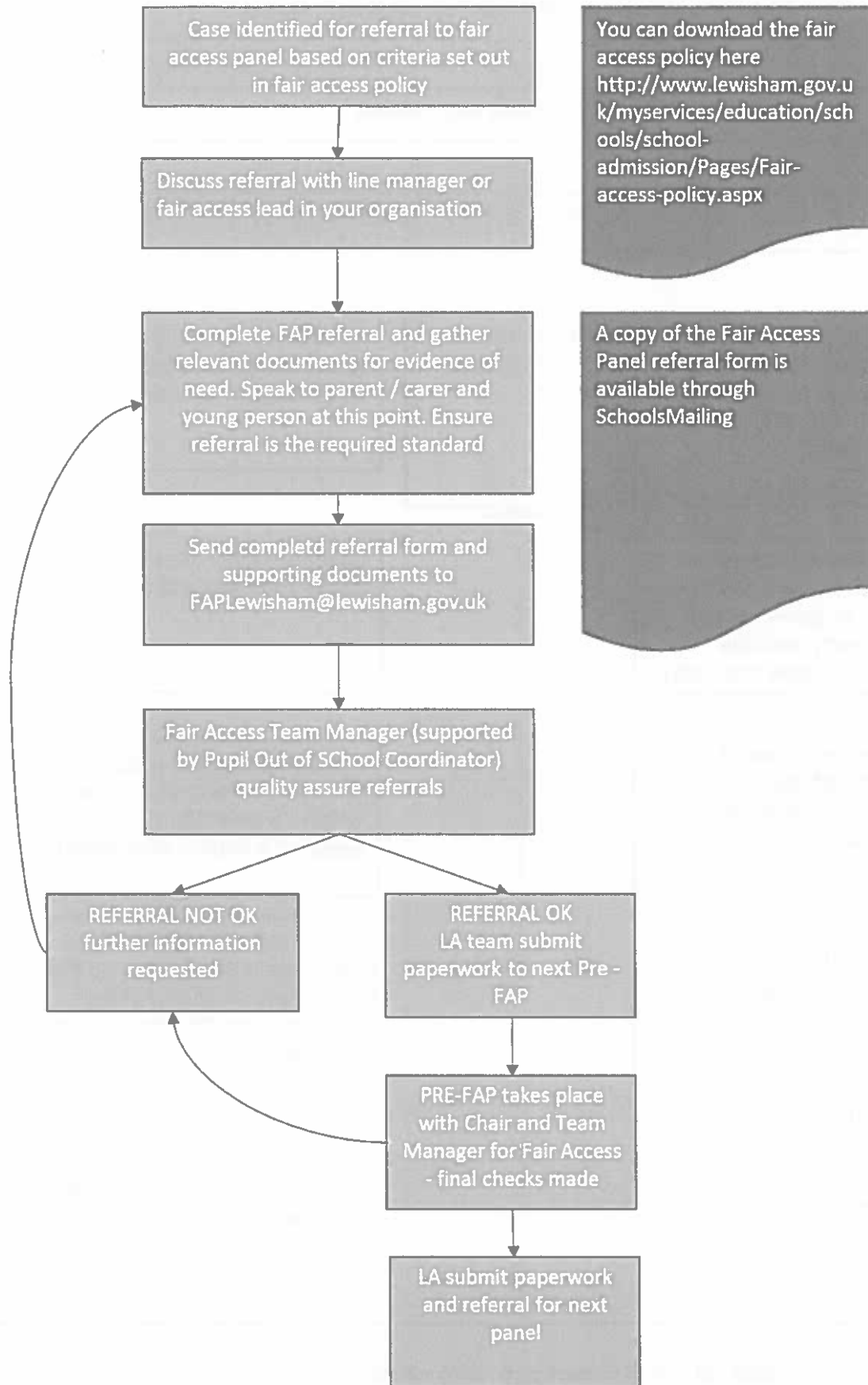
- 10. Fair Access Panel Referrals:** [Fair Access PanelLewisham@lewisham.gov.uk](mailto:FairAccessPanelLewisham@lewisham.gov.uk)
- The person responsible for referring a student to Fair Access Panel will need to include copies of all paperwork for example Fair Access Panel admissions form and appeal form, and ensure that they are completed comprehensively.
 - If local authority officers feel that there is insufficient evidence to make a fair and appropriate Fair Access Panel decision the paperwork and forms will be returned to the referrer and may not be included on the Fair Access Panel agenda.
 - Colleagues will be invited to Fair Access Panel within half hour time slots to present the Fair Access Panel case and do not need to stay for the entire Fair Access Panel meeting.

Directions flow chart (overview of process)

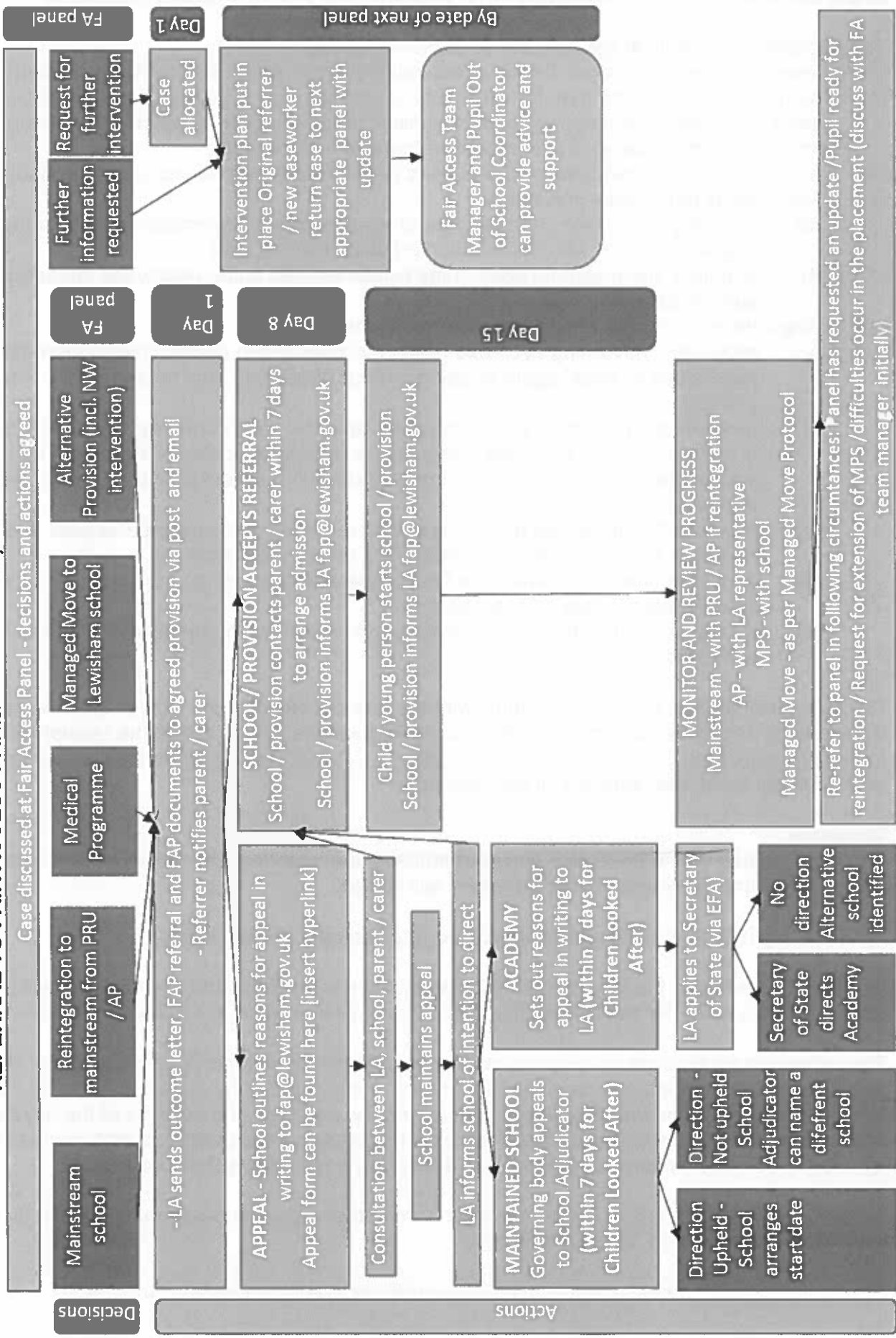


* Note: A community or voluntary controlled school cannot refuse to admit a pupil if requested by its own admissions authority.

REFERRAL TO FAIR ACCESS PANEL - PREPARATION AND SUBMISSION FLOW CHART



REFERRAL TO FAIR ACCESS PANEL - DECISIONS, APPEALS AND FOLLOW UPS



Appendix

Legal Background For Schools Directing Students Off Site to Improve Behaviour

The relevant provision is at section 29A Education Act 2002.

[29A Power of governing body in England: educational provision for improving behaviour]

- (1) The governing body of a maintained school in England may require any registered pupil to attend at any place outside the school premises for the purpose of receiving educational provision which is intended to improve the behaviour of the pupil.
- (2) In subsection (1) "maintained school" does not include a maintained nursery school.
- (3) Regulations must make provision—
 - (a) requiring prescribed persons to be given prescribed information relating to the imposition of any requirement under subsection (1), and
 - (b) requiring the governing body of the school to keep under review the imposition of any such requirement.
- (4) Regulations under this section may also make provision—
 - (a) requiring a governing body exercising functions under subsection (1) or under the regulations to have regard to any guidance given from time to time by the Secretary of State,
 - (b) prohibiting a governing body from exercising the power conferred by subsection (1) in such a way that any pupil is required to receive educational provision outside the school premises for a greater number of days in a school year than is specified in the regulations,
 - (c) requiring the governing body to request prescribed persons to participate in any review of the imposition of a requirement under subsection (1),
 - (d) about the time within which the first review must be held and the intervals at which subsequent reviews must be held, and
 - (e) in relation to any other matter relating to the exercise of the power conferred by subsection (1).]

The school will also be required to comply with the relevant Regulations . These are the Education (Educational Provision for Improving Behaviour) Regulations 2010. I attach the relevant link http://www.legislation.gov.uk/ukxi/2010/1156/pdfs/ukxi_20101156_en.pdf and specifically draw your attention to the requirements of Regulation 3.

Guidance

Properly it should be the governing body but arguably the head teacher with delegated authority for day to day management of school matters will suffice.

The letter has to comply with all the prescribed requirements of Regulation 3.

At 4(b) it is referring to the provision at Regulation 3 which provides that any direction will have effect until the end of the last school day of the school year in which the relevant day falls.

The school will be required to carry out reviews in accordance with the Regulations and I draw your attention to Regulation 5 requiring that at least 6 days before the review meeting various persons are to be given written notification of the review meeting. The purpose of the regulations is to provide safeguards to ensure that the power is exercised reasonably, so that pupils are not required to be out of school any longer than is necessary to improve their behaviour

For completeness I attach an extract from the "Alternative Provision Statutory Guidance for local authorities January 2013" for your attention.

"Power of schools to direct a pupil off-site for education to improve behaviour

23. Governing bodies of maintained schools have the power to direct a pupil off-site for education to improve his or her behaviour

23. The Secretary of State has made regulations 24, as is required by the related

24. Under revised off-site regulations

26 the governing body must:

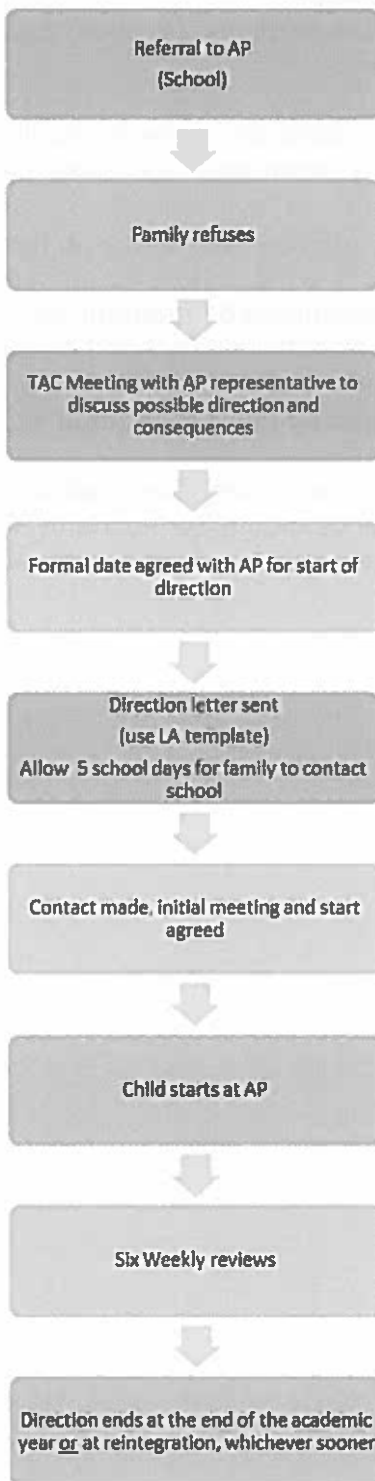
- ensure that parents (and the local authority where the pupil has a statement of special educational needs) are given clear information about the placement: why, when, where, and how it will be reviewed;
- keep the placement under review and involve parents in the review. The regulations specify regular reviews but do not specify how often reviews must take place (that should be decided on a case-by-case basis). Reviews should be frequent enough to provide assurance that the off-site education is achieving its objectives and that the pupil is benefitting from it; and
- have regard to guidance from the Secretary of State on the use of this power – new statutory guidance on this issue can be found below at paragraph 41.

25. This legislation does not apply to Academies. They can arrange off-site provision for similar purposes under their general powers, set out in the Academy Trust's Articles of Association. Though the regulations and guidance do not apply, they can provide Academies with an example of good practice. "

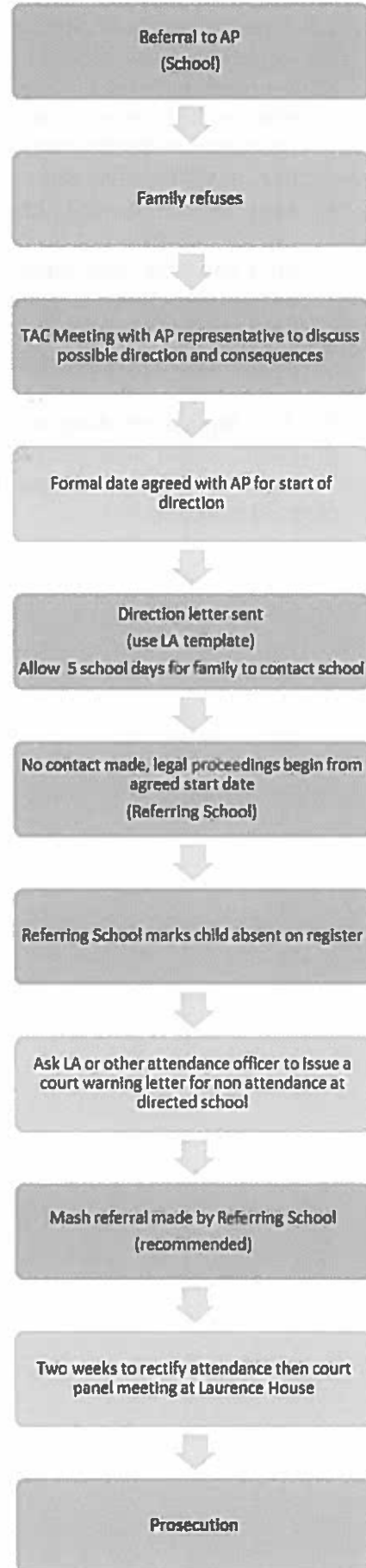
1. Referral to AP



2. Direction (successful)



3. Legal Proceedings



Process

1. Ideally, schools refer to AP and the family accepts
2. If the family disagrees, then the direction process starts.
3. If the direction is unsuccessful, legal proceedings are followed.

School actions are green
 Joint actions are yellow
 Parent Actions blue

Template letter

Dear,

Further to my letter/our recent discussion about XXXX, I need to formally put in writing the statutory basis for PUPIL's placement at DIRECTED PROVISION. This is to ensure CURRENT PROVISION is complying with the law.

The CURRENT PROVISION is exercising its powers under s29A of the Education Act 2002. This must be done in writing and include the following prescribed information:

1. From xx/xx/xxxx, PUPIL will be on roll at FULL ADDRESS AND POSTCODE OF DIRECTED PROVISION and will not attend CURRENT PROVISION.
2. On arrival at DIRECTED PROVISION, PUPIL will report to _____
3. This is a placement at specialist provision to meet PUPIL's needs; it is not an exclusion.
4. PUPIL is being placed at DIRECTED PROVISION to improve HIS/HER behaviour. At DIRECTED PROVISION s/he will have the opportunity to learn the skills s/he needs to access a mainstream education. S/HE will be assessed for additional support and where necessary funding will be allocated so that a mainstream school is able to support HIM/HER.
5. S/HE will be required to attend DIRECTED PROVISION from _____ to _____ each day. Transport will be provided from home to DIRECTED PROVISION.
6. PUPIL's placement at DIRECTED PROVISION will be reviewed every 30 school days. The first review will be held in the week commencing XX/XX/XXXX and you will notified of the date at least six days beforehand.
7. This direction will last until DIRECTED PROVISION'S assessment of PUPIL is that s/he is able to access a mainstream education or xx/xx/xxxx (LAST DAY OF LAST TERM OF THE ACADEMIC YEAR WHEN THE DIRECTION IS MADE) when there will be an annual review of the placement.

From xx/xx/xxxx PUPIL will not be allowed to attend CURRENT PROVISION and must attend DIRECTED PROVISION. If S/HE does not attend DIRECTED PROVISION it will become an attendance matter.

Please let me know if there is anything you do not understand or would like clarified.

Yours sincerely etc etc

Notes

- Phrases highlighted in yellow required named provision/pupil name/date to be inserted.
- Phrases highlighted in pink are optional and only if appropriate.
- Please note this should come from the governing body. You can use heads delegated powers if the direction needs to be immediate, but need to inform chair and then present the above decision at next governors meeting.

