

## **In-Year Fair Access Protocol**

### **Why is a Fair Access Protocol Required?**

All admission authorities must have Fair Access Protocols in place and all schools must participate in the protocol in order to ensure that unplaced children are offered a place at a suitable school as quickly as possible. This includes admitting children to schools that are already full. The Fair Access Protocol is triggered when an eligible child has not secured a place under in-year admission procedures.

Admission authorities are asked to ensure that no school, including those with places available, is asked to take a disproportionate number of children who have been excluded from other schools or have challenging behaviour. They must also ensure that all children who arrive outside the normal admission round who may have difficulty securing a place are covered by a protocol.

Agreement was reached with the Secondary Headteachers Forum that the way forward was to develop the role of the Headteachers' Panels (District Inclusion Partnerships) to take overall charge of the placement of children where a school place could not be found quickly. These partnerships deal successfully with a significant number of difficult issues, particularly with regard to excluded or children who are close to permanent exclusion.

Along with devolved funding and responsibility for alternative provision, an agreed protocol can encourage schools to work together in partnership to improve behaviour and tackle persistent absence.

### **Aims of the Fair Access Protocol**

The Fair Access Protocol is designed to:

- Be fair and transparent.
- Acknowledge the need of young people who are not on the roll of any school to be dealt with quickly and sympathetically.
- Recognise the success of proactive work already being undertaken cooperatively between schools to prevent exclusion, and to support children, e.g. through managed moves.
- Reduce the time that these children spend out of school.
- Ensure that schools admit children with challenging educational needs in a manner which takes account of the proportion of children they have already admitted through the District Inclusion Partnership (DIP) process.

## Who is covered by the Fair Access Protocol?

It is a legal requirement that “looked after children and previously looked after children” be given first priority for admission to all schools within their oversubscription criteria. It is expected that all schools will settings will act without delay when approached to admit a child who is presently looked after.

Looked After Children, previously looked after children, children with an Education, Health and Care Plan or Statutory Statement of Special Educational Need are not covered by this Protocol as their needs are considered separately.

Although there is some evidence that at times other children not listed below experience difficulties in attaining a school place, there is already an agreed procedure for dealing with their applications that should be adhered to in all cases including an independent admission appeals system. Guidance in relation to individual school and admitting authorities responsibilities in relation to the in-year application for school process can be found at <http://education.staffordshire.gov.uk/Pupil-Support/School-Admissions/Admissions.aspx>

The children covered by the Protocol will be the ones who are vulnerable and for whom it is even more important that they be admitted to a school quickly.

The Fair Access Protocol in Staffordshire covers children who fall into one of the following categories:

- they have been permanently excluded from their previous school;
- they are ‘children in care or were previously in care;
- they are returning to maintained education from secure units; or
- they are deemed vulnerable due to their circumstances
- e.g. history of poor attendance or fixed term exclusions, new arrivals to the UK
- they are attending PRUs and need to be reintegrated back into mainstream education;
- they have been out of education for longer than two months;
- they are children whose parents have been unable to find them a place after moving to the area, because of a shortage of places;
- they have been withdrawn from schools by their family, following fixed term exclusions and unable to find another place;
- they are children of refugees and asylum seekers;
- they are homeless children;
- they have unsupportive family backgrounds, where a place has not been sought;
- they are known to the police or other agencies;
- they are without a school place and with a history of serious attendance problems;

- they are Gypsies, Roma or traveller children;
- they are carers;
- they have special educational needs (but without a statement);
- they have disabilities or medical conditions;
- they are returning from the criminal justice system; and
- they are children of UK Service personnel and other Crown Servants.

### **Main Principles of the Fair Access Protocol**

- All schools take part in the Fair Access Protocol.
- There is a general expectation that if a child moves into an area, he/she is admitted to the local catchment area school unless there are very exceptional reasons as to why this should not be the case. Having reached the admission number is not usually considered to be very exceptional unless other circumstances apply.
- Schools cannot cite oversubscription as a reason for not admitting pupils under the protocol.
- Children considered under this protocol have priority for admission over others on a waiting list or awaiting an admission appeal.
- Schools cannot refuse to admit a child who has been denied a place at that school at appeal, if the protocol identifies that school as the one to admit the child.
- It is essential that all children are found places quickly. All parts of the Local Authority should be prepared to deal with school admission requests as a matter of urgency.

The majority of pupils are already admitted through routine admission procedures. If parents approach the Local Authority for a school place and there appear to be issues that could make the school reluctant to admit, then the procedure is set out in the action table included within this document.

Each case will be considered on an individual basis and where appropriate may be referred to the District Inclusion Partnership (DIP), which will make a recommendation. In exceptional circumstances, District Inclusion Partnership's may consider that particular pupils would be better placed in an alternative to a school placement, such as a short-stay school (PRU), a local FE College, or a place provided by a voluntary organisation.

Where Partnership's work well, shared ownership at local level means all services share information and take joint responsibility for placing children in the District. There are now eight District Inclusion Partnerships operating across the county whose function is the prevention of permanent exclusions, managed moves and other strategies to support fair access for young people. These Partnerships also play a strategic role in developing and supporting ways of working in each district regarding Inclusion. It is not necessary for all the areas to have identical practice however, there does need to be common outcomes for the children involved. It is expected that schools will organise a

meeting with District Support Staff to discuss the arrangements for the child's admission if necessary.

### **What happens where no panel exists?**

Where there is no DIP then a procedure exists for ensuring admission of children within a reasonably short time scale as follows:

### **Voluntary Aided, Foundation and Trust Schools**

Where a foundation, voluntary aided or trust school has been approached by the Local Authority and has refused to admit the child concerned, parents must be advised of their decision and provided with a right of appeal to an independent appeals panel. Details of the appeal hearing and the outcome afterwards must be provided to the School Admissions and Transport Service. An officer of the School Admissions and Transport Service will then liaise with the designated officer over the appropriate course of action. This will either be the issuing of a direction letter or an alternative placement found.

### **Community and Voluntary Controlled Schools**

In all cases the decision as to whether or not a child can be admitted to a community or voluntary controlled school will be made by the Local Authority who is the admitting authority. If a school feel unable to admit a child, the school will need to provide full reasons for this refusal to the School Admissions and Transport Service. An officer of the School Admissions and Transport Service will then liaise with the designated officer over the appropriate course of action. This will either be the issuing of an instruction to admit letter or a refusal letter to parent advising them of their statutory right of appeal. Where the local authority refuses to admit the child an alternative placement must be found.

### **Academies**

Where an academy has been approached by the Local Authority and has refused to admit the child concerned, parents must be advised of their decision and provided with a right of appeal to an independent appeals panel. Details must be provided to the School Admissions and Transport Service of the appeal hearing and the outcome afterwards. An officer of the School Admissions and Transport Service will then liaise with the designated officer over the appropriate course of action. This will either be a referral to the Secretary of State for the issuing of a direction letter or an alternative placement found.

### Fair Access Protocol - Table of Actions

	<b>Actions</b>	<b>Notes</b>
1	<p>If parents approach a school requesting a place, they should be given an application form to complete.</p> <p>The school must: admit the child, or</p> <ul style="list-style-type: none"> <li>- community and voluntary controlled schools: indicate in writing, detailed reasons why they feel unable to accommodate the child</li> <li>- academies, trust, foundation and aided schools: refuse in writing and provide a right of appeal with copy to School Admissions and Transport Service, or refer the child to the DIP (where available)</li> </ul>	<p>An application form for use by parents is available from the School Admissions and Transport Service or via the intranet / internet.</p> <p>If a school considers that they have admitted a vulnerable child outside of this protocol they should inform the District Inclusion Partnership (DIP) / Inclusion Officer so that this may be recorded.</p> <p>On arrival of the application form/letter of notification to refuse, the number of days for the admission of the child begins to be counted.</p>
2	<p>An officer of the School Admissions and Transport Service consults the designated officer to determine if the case should be covered under the protocol.</p>	<p>It may be decided that a referral should be made to the DIP through the Fair Access Protocol or to the Chair of DIP for power to act between meetings.</p> <p>If it is decided that the case is not covered under the protocol then the normal admissions procedure will apply.</p>
3.	<p>The DIP should decide which school is to admit, a meeting should then be arranged between school, parent and others to agree an admission plan. If the child cannot be placed within 10 days, go to step 4.</p>	<p>If case is referred to the DIP a decision should be reached within 10 school days.</p> <p>The DIP may recommend that alternative provision is required (this would usually be in a short-stay school (PRU) but this will usually require entry onto a school roll with a reintegration planned in most cases.</p>
4.	<p>If the school does not admit following the recommendation of the DIP, the school will be asked to make a detailed written case for not admitting if they have not already done so.</p>	<p>Officers will consider the case, including the reasons for the schools refusal and make a recommendation.</p> <p>A decision will then be taken as to whether or not it is appropriate to direct admission or refer back to the District Inclusion Partnership for an alternative placement.</p>
5.	<p>If it becomes clear within the operation of the procedure at any stage that a place is not to be offered at a school requested by the parents, parents must be notified and given a right of appeal to an independent admission</p>	<p>Officers will consider the case, including the reasons for the schools refusal and make a recommendation.</p> <p>A decision will then be taken as to whether or not it is appropriate to direct admission.</p>

	<b>Actions</b>	<b>Notes</b>
	appeal panel.	
6.	If no DIP exists.	<p>Officers will consider the case, including the reasons for the schools refusal and make recommendations.</p> <p>A decision will then be taken as to whether or not it is appropriate to direct admission or identify an alternative placement.</p>