



Hampshire  
County Council

## Fair Access Protocol for admission to schools

### Legislation

The February 2007 School Admissions Code placed a duty on each local authority to develop a Fair Access Protocol. The 2008 revised Code, in force from February 2009, develops the scope of the protocol. It requires that all schools ‘**must** participate in their local authority area’s protocol in order to ensure that unplaced children who live in the home local authority, especially the most vulnerable, are offered a place at a suitable school in the home local authority as quickly as possible’.

The School Admissions Code (2010) states that Fair Access Protocols exist to

- (i) ensure that access to education is secured quickly for children who have no school place, and
- (ii) ensure that all schools in an area admit their fair share of children with challenging behaviour. Along with devolved funding and responsibility for alternative provision, an agreed Protocol encourages schools to work together in partnership to improve behaviour, tackle persistent absence and help support improving behaviour partnerships.

### Key principles

Each local authority must have a Fair Access Protocol. All schools and Academies must participate in their local authority area’s protocol.

1. In deciding the appropriate placement account must be taken of the circumstances of the individual pupil, in terms of what is best for them, whether they are ready for mainstream schooling and, if so, which mainstream school will be best able to meet their needs.
2. All schools must play their part in admitting pupils from the Fair Access categories; this will relieve pressure on schools where the published admission number has not been reached. Local authorities must not require undersubscribed schools to admit a greater proportion of children who have been excluded from other schools or who have challenging behaviour or who are known to have a history of behavioural problems. All schools must provide data on all in-year admissions.
3. The fact that the published admission number (PAN) may have been reached in a particular year group cannot be given as a reason for not admitting a pupil under this Protocol. The local authority (LA) will support community and voluntary controlled schools at appeal where the PAN had been exceeded because of an admission through Fair Access: the School Admission Appeals Code states that panels must not treat the admission of children under the Fair Access Protocol as an indication that a further child could be admitted without causing prejudice.
4. The majority of children requiring a school place will continue to be admitted to their local school in accordance with the usual admission procedures, rather than through the Protocol.
5. A suitable school place must be found applying the following timescales.

The pupil must be placed in school within 20 school days.

Where the placement of a child cannot be decided locally the authority (School Admissions Principal Admissions Officer and local Education and Inclusion Service

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Manager) will determine the school that best meets the child’s needs on the 15<sup>th</sup> school

day after being notified of the need for admission. The school will organise admission on or before the 20<sup>th</sup> day.

As part of assessing the suitability of a placement for a pupil, the authority must take account of any genuine concerns about the admission, for example a previous serious breakdown in the relationship between the school and the family, or a strong views about the religious ethos of a school. Concerns of this type must be raised during the first 15 days of organising the placement.

6. Pupils from a Fair Access category must be given priority for admission even if there are other pupils on a waiting list or awaiting an appeal. Schools should not insist that an admission appeal be heard before a child is admitted under the Protocol.

7. A school must admit a pupil from a Fair Access category if required to do so in accordance with guidance in this Protocol, even if a place has previously been denied at appeal.

8. The LA will aim to maintain a fair balance of Fair Access category children across schools and so whilst the parents' and student's views will be considered they will not override the Protocol if the LA believes that the preferred school is not best able to meet the pupil's needs. However, admission authorities must comply with parental preference unless one of the statutory reasons for refusal applies.

9. In deciding a placement, every effort will be made to ensure that any transport costs are reasonable and cost effective.

10. The LA retains the right to direct the governors of admission authority schools to admit a pupil, in accordance with the provisions of sections 96 and 97 of the 1998 Education Act (foundation and voluntary aided). Governing bodies of community and voluntary controlled schools **must** implement any decision made by the local authority relating to admission of children (except where the pupil has been permanently excluded twice).

11. Admission Authority schools have the right to object to the Schools Adjudicator where the LA directs a pupil into their school.

12. The LA will monitor the success of their protocol in their annual report to the Schools Adjudicator.

### **Fair Access Categories**

The Code requires that all children that arrive outside the normal admissions round who may have difficulty in securing a place are covered by the Protocol. The Protocol applies to those pupils who, on the evidence available, are deemed capable of benefiting from attendance at a mainstream school.

Where the LA directs an admissions authority to admit a child in care the governing body must admit the child to the school at any specified time during the year, even if the school is full, unless the Schools Adjudicator upholds an appeal from the admission authority.

Statemented children are not included (but see key principle 8).

In their guidance, the Department for Children, Schools and Families (DCSF) emphasises that the pupils covered by any Protocol will be the ones who are hard to place in a school and who need to be admitted quickly. No list of categories of pupils to be included within a Protocol can ever be exhaustive but the following include the DCSF's mandatory categories as well as others included as a result of local consultations:

- a) Children attending PRUs who need to be reintegrated into mainstream education;
- b) Children who have been out of education for longer than one school term;

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- c) Children whose parents have been unable to find them a place after moving to the area, because of a shortage of places.
- d) Children withdrawn from schools by their family following fixed term exclusions and unable to find another place;
- e) Children of refugees and asylum seekers;

- f) Homeless children;
- g) Children with unsupportive family backgrounds where a place has not been sought;
- h) Children known to the police or other agencies;
- i) Children without a school place and with a history of serious attendance problems;
- j) Traveller children;
- k) Children who are carers;
- l) Children returning from the criminal justice system;
- m) Children who have to move school because of domestic violence (whether staying in a refuge or with friends/other relatives);
- n) Year 6 or Year 11 pupils;
- o) Individual children or categories of children whose school admission is approved under this protocol by agreement of local placement panels;
- p) Children with special educational needs (but without a statement);
- q) Children with disabilities or medical conditions;
- r) Children of UK Service personnel and other Crown Servants;
- s) Any other children who arrive outside the normal admissions round who may have difficulty securing a place.

Categories (a) to (o) are seen as exceptional admissions and will always be handled under the protocol. For categories (p) to (s), admissions under the protocol can take account of other complicating issues for the child or family or the fact that more than one category applies. In making a placement of a child in these four categories, factors to be taken into account will be the number of children on waiting lists at the schools being considered and the likelihood of an admission under the protocol denying a place to another child in one of these categories. All admissions must follow the timescales and process mentioned above.

### **Responsibility for placement decisions**

Admission under Fair Access will continue to be routinely overseen by the County Admissions Team although day to day placement decisions will still be taken locally. The Inclusion team, working with the placement panel, will place children ready to leave their provision, including those permanently excluded pupils who are judged to be suitable for immediate placement in a mainstream school. Pupils with statements of special educational need will be placed in accordance with the appropriate legislation by the SEN team within Children and Families Branch.

### **School specific protocols**

Schools may request a school-specific protocol which recognises the difficulties of finding alternate schools places in a particular geographical location and allows the admission of catchment children where no other suitable place is available.

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### **Funding and support**

The DCSF has not allocated any additional funding to support the placement of pupils. For Fair Access admissions being placed by the Education and Inclusion Service, support for reintegration may be available. Requests to the Service for such support will be assessed in the usual way. Headteachers' groups have indicated that they see no benefit in devolving limited finance to schools.

### **Record keeping**

The Children's Services Department will keep records of all pupils placed in accordance with the provisions of this Protocol, together with all notified in-year admissions. Schools may be asked for up-to-date information about recent admissions and departures of pupils, such as 'managed moves'. Schools will be expected to pass pupil records to other schools as a matter of urgency. Information on placements will be published by the LA at regular intervals, as determined by the Admission Forum.

### **Monitoring the protocol**

Once Fair Access protocols have been agreed Admission Forums **must** monitor how well they are working, how quickly the children are found places, and the contribution every school in the area is making.

*Revised July 2010*