



**WARRINGTON**  
Borough Council

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**LOCAL AUTHORITY'S**  
**FAIR ACCESS PROTOCOL**

## **WARRINGTON LOCAL AUTHORITY'S FAIR ACCESS PROTOCOL**

### **1. PURPOSE**

- 1.1 Each local authority must have a Fair Access Protocol, agreed with schools in its area including Academies, Faith and Free Schools, to ensure that, unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible.
- 1.2 In agreeing a protocol, the local authority must 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 who have challenging behaviour compared to other schools in the area.

### **2. BACKGROUND**

- 2.1 Children may only be placed in accordance with the fair access protocol when an application is made to transfer from one school to another part way through a school year. Children admitted to school during the normal admissions round cannot legally be considered or placed using fair access procedures.
- 2.2 There is no requirement to comply with parental preference when placing children in accordance with the Fair Access Protocol however; if an applicant is refused any of their preferred schools, they must be informed of their statutory right of appeal against the decision(s) not to offer a place at the school(s) of their preference.
- 2.3 This provision does not apply to Children in Care, former Children in Care or a child with an Education, Health and Care Plan naming the school to which admission is sought, as these children must be admitted without delay.
- 2.4 Admission authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for Special Educational Needs.
- 2.5 The Fair Access Protocol does not require a school to automatically take another child with challenging behaviour in the place of a child excluded from the school.

### **3. THE LOCALLY AGREED SCHEME FOR FAIR ACCESS PLACEMENTS**

- 3.1 Parents/carers who wish to transfer their child to another school part way through a school year must complete the local authority's in-year admission form. The parent/carer must submit the completed form to the school admissions team for consideration.
- 3.2 At this stage, the admissions team will assess all applications to identify those which meet the requirements of the Fair Access Criteria which are as follows:

#### **Fair Access Criteria – Primary Education Establishments (Primary Schools)**

- a) Children from the criminal justice system or Pupil Referral Unit (PRU) who need to be reintegrated into mainstream school;
- b) Children who have been out of the UK education system for 2 months or more;
- c) Children of gypsies, Roma, travellers, refugees and asylum seekers;
- d) Children who are homeless;
- e) Children with unsupportive family backgrounds for whom a place has not been sought;

- f) Children who are carers;
- g) Children with SEN, disabilities or medical conditions (but without a statement);
- h) Key stage one children whose attendance is less than 85%;
- i) Key stage two children whose attendance is less than 90%;
- j) Children who have accessed support from New Horizons;
- k) Children who have required behaviour support;
- l) Children who have a period of exclusion during the last 12 months to date;
- m) Children who have been permanently excluded;
- n) Children who have required support from outside agencies
- o) Number of school moves during the last academic year

**Fair Access Criteria – Secondary Education Establishments (Secondary Schools)**

- a) Children from the criminal justice system or Pupil Referral Unit (PRU) who need to be reintegrated into mainstream school;
- b) Children who have been out of the UK education system for 2 months or more;
- c) Children of gypsies, Roma, travellers, refugees and asylum seekers;
- d) Children who are homeless;
- e) Children with unsupportive family backgrounds for whom a place has not been sought;
- f) Children who are carers;
- g) Children with SEN, disabilities or medical conditions (but without a statement);
- h) Children whose attendance is less than 90%;
- i) Children who have been issued with:  
3 or more fixed term exclusions during the last 12 months to date or  
10 or more days of exclusion during the last 12 months or  
a significant number of internal exclusions
- j) Children who have been permanently excluded\*

\*Children who have been permanently excluded are placed at schools in accordance with a rotation system. This is a separate process which is administered by the LA through a process which has been agreed between the LA and schools.

- 3.3 In addition to the above criteria for both primary and secondary schools, the local authority will have regard for pupils who have not been on the roll of a mainstream school for more than four weeks.
- 3.4 In addition to the secondary schools criteria, the local authority will also have regard to the number of key stage 4 in-year transfers admitted to each school.
- 3.5 In the first instance, the admissions team will assess each application which meets at least one of these criteria taking the following factors into account:
  - The preferences expressed by the applicant
  - The home to school walking distances from the applicant's home to the preferred schools
  - The total number of Fair Access admissions for each of the preferred schools
  - All other schools within a reasonable distance to the applicants' home address were reasonable distance is defined as a home to school walking distance of 2 miles for primary aged children and 3 miles for secondary.

- The total number of Fair Access admissions (not including permanent exclusions) for each of the schools which are within a reasonable distance.
- 3.6 When assessing where to place pupils who meet the FAP criteria, the admission team will identify the receiving school on a rotation basis ie which school is next in line to admit a FAP applicant. However, if places are available at the preferred school but it is not their turn to take, the preferred school will be given the opportunity to consider and subsequently offer a place to the applicant. In doing so, the admissions team make it clear that it is not 'their turn to take' but as they have places available, they may wish to admit if they are in a position to do so.
- 3.7 The local authority will provide schools with statistical data at the WAPH and WASCL meetings which sets out the total number of children offered a place at each school in accordance with the FAP.
- 3.8 All Academies, Studio Schools and Free Schools must participate fully in the locally agreed fair access protocol. This is a legally binding requirement and is not up for question. Where the local authority considers that an Academy should admit a child, the local authority and Academy is expected to come to an agreement. If, however, an Academy, Studio School or Free School refuses to admit a child, the local authority can ask the Secretary of State to intervene. The Secretary of State has the power under an Academy's, Studio School's or Free School's funding agreement to direct an Academy to admit a child, and can seek advice from the Adjudicator in reaching a decision.
- 3.8 The Local Authority has the power to direct the admission authority for any maintained school in its area to admit a child even if the school is full. The Local Authority can only make such a direction in respect of a child in the Local Authority's area who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance. The Local Authority must choose a school within a reasonable distance from the child's home address and from which the child is not permanently excluded.
- 3.9 Before deciding to give a direction, the LA must consult the governing body of the school, the parent of the child and the child if they are over compulsory school age. If, following consultation, the LA decides to direct, it must inform the governing body and head teacher of the school. The governing body can appeal by referring the case to the school's adjudicator within 15 days. If it does this, the governing body must tell the LA. The local authority must not make a direction until the 15 days have passed and the case has not been referred.

**All other in-year admission applications which do not meet the fair access criteria will be processed using standard in year admission procedures. This means that if there is a place available in the required year group and the applicant does not meet the criteria for fair access consideration, the school must offer a place for the child.**

#### **4. APPEALS PROCEDURE**

- 4.1 Paragraph 3.24 of the School Admission Appeals Code states that the allocation of a place in accordance with a Fair Access Protocol does not override a parent's right to appeal against the refusal of a place at any school for which they have applied. If an application has been refused despite there being places available, the admission authority must present their case for refusal, demonstrating how admission of the child in question would prejudice the provision of efficient education or efficient use of resources. When considering such an appeal, in addition to considering the appellant's argument for their

child to be admitted, the panel must take account of the requirements set out in the local authority's Fair Access Protocol. The panel must then carefully consider whether the presenting officer has clearly proven that admission of the child would be prejudicial to the school or other children in attendance at the school.