

Fair Access Protocol for Schools in Shropshire

August 2024

Shropshire Fair Access Protocol for Admission to Schools

1.0 Introduction

The school admissions code places a statutory responsibility on all Local Authorities (LA) to have a Fair Access Protocol (FAP) which all schools in their area comply with, to ensure that all unplaced children, especially the most vulnerable, are offered a suitable school place without unnecessary delay.

This Protocol has been consulted on with head teachers and has been agreed with the schools in Shropshire Council's area. It exists to ensure that access to education is secured for children without a school place, for whom a place at a mainstream school/ alternative provision is appropriate, and to ensure that all schools in an area admits their fair share of children with challenging behaviour or who have been excluded from other schools.

To assist in the smooth operation of the Protocol, panels that include Head Teachers should meet on a regular basis to discuss individual pupils and partnerships. Relevant data should be shared with all schools and academies so that the process is transparent.

1.1 Aims of the Fair Access Protocol

The protocol is designed to:

- a. Acknowledge the need for vulnerable young people who are seeking a school place to be dealt with quickly and sympathetically
- b. Reduce the time that these pupils spend out of school
- c. Ensure that schools admit pupils including those with challenging educational needs on a fair and equitable basis
- d. Be fair and transparent
- e. Ensure that all schools accept a fair and equitable share of pupils

The Fair Access Protocol does not apply to:

- a. Looked After Children, as these children **must** be admitted.
- b. Children with Education, Health and Care Plans **must** not be referred to Fair Access Panels, as their admission will be in accordance with the appropriate legislation managed by the SEND Team

In most cases, use of the FAP should be unnecessary for a Previously Looked After Child given that they have priority admission and admission authorities are expected to co-operate with promptly securing a school place, which may include through a Direction.

In most instances parents are able to secure a mainstream school place; however, there are occasions where parents are not successful.

1.2 Legislation

The latest revision of the School Admissions Code came into force in September 2021 and restates the principles and scope of the revised Protocol in August 2021 [Fair access protocols: advice for local authorities and school admission authorities](#)

All admission authorities must participate in their local authority's Fair Access Protocol. Where Shropshire's Protocol refers to 'schools' this relates to all state funded schools including academies and free schools.

1.3 Key Principles

The following principles will need to be applied across every school:

- All schools will be required to participate and be fully committed to the protocol.
- The LA has introduced a co-ordinated approach for all in year admissions via the School Admissions Team.
- The Protocol may require schools to admit pupils over their PAN and ahead of pupils on their waiting list, unless to do so would breach the class size legislation in KS1. Pupils who fall within this protocol will have priority over any pupils on a waiting list or awaiting an admission appeal, regardless of the school being over-subscribed.
- Referrals under this Protocol will not be accepted unless parents are having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures. The FAP must not be used to circumvent the in-year admissions process; parents are also entitled to appeal against any refusal to admit during this process.
- Where it has been agreed that a child will be considered under the Fair Access Protocol, a school place **must** be allocated for that child within 14 school days. Once they have been allocated a school place via the Fair Access Protocol, arrangements should be made for the child to start at the school as soon as possible
- There is an expectation that consideration should be given to parental preference; however, there is no duty placed upon LAs/Fair Access Area Panels (FAP) to comply with such preference(s) when allocating places under the Fair Access Protocol, but parents' views should be taken into account

- If a parent does not make suitable arrangements even though the LA has identified a place through the Fair Access Protocol, the LA may consider an application for a School Attendance Order.
- 'Managed Moves' are separate to arrangements to those made under the Fair Access Protocol; however, consideration will be given to the number of completed Managed Moves when identifying appropriate schools to admit children through the Protocol.
- All schools **MUST** provide a representative at the meeting. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full. Non- attendance at Fair Access Area Panel (FAP) meetings will **not** mean that those schools are exempt from participating in the allocation of places either in placement panels or being identified for direction
- Schools cannot cite oversubscription when asked to admit a pupil under the protocol.
- Where the school is identified by the LA or Fair Access Panel as the one which would best meet the needs of a child's circumstances and the school refuses to admit the child, the appropriate powers of direction to admit the pupil will apply.
- Where a school is directed to accept a pupil, there will be no additional funding other than through the normal funding arrangements for pupils counted on roll on the previous October's School Census

2.0 Operating the Fair Access Protocol

As per section 2.28 of the School Admissions Code, with the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have places available must offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria, unless admitting the child would prejudice the efficient provision of education or use of resources.

In-year admissions will be co-ordinated by the School Admissions Team. Where they identify that an application meets the criteria for FAP and schools have refused places under the normal in-year admissions process, the case will be referred to FAP.

In certain circumstances, where a child was previously excluded or has challenging behaviour as defined in accordance of 3.10 of The School Admissions Code, the school may refer the case to the Shropshire Council admissions department for consideration under this protocol.

It is a legal requirement that every child considered under the Fair Access Protocol must be allocated a school place

2.1. Categories of children to be included in the Protocol

FAPs are intended to act as a safety net for the most vulnerable. As such, they may only be used to place the following categories of children, where a child is having difficulty in securing a school place in-year.

- a) children either subject to a Child in Need Plan or a Child Protection Plan⁹ or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the FAP;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP;
- c) children from the criminal justice system;
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e) children with special educational needs (but without an education, health and care plan), disabilities or medical conditions;
- f) children who are carers;
- g) children who are homeless;
- h) children in formal kinship care arrangements
- i) children of, or who are, Gypsies, Roma, Travellers, refugees and asylum seekers;
- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the FAP in accordance with paragraph 3.10 of the Code
- k) children for whom a place has not been sought due to exceptional circumstances

- l) children who have been out of education for 4 or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place

3.0 Permanently excluded Pupils

On receipt of notification of the Permanent Exclusion, the Inclusion Caseworker will undertake a person-centred meeting at the child's home (usually) and explain the Fair Access Process. Parents may at this point, identify 3 school preferences and these are recorded. The Inclusion Team Leader in consultation with the Inclusion Caseworkers will agree on the appropriate way forward considering any relevant circumstances. These will include whether the incident which lead to the Permanent Exclusion was out of character and a one-off incident, in which case there would strong reason to try to secure a new school placement without the need for utilising a period of time in AP. In such circumstances, an approach to the schools will be made by the EAS representative and an offer of a place secured outside of panel, where meeting the child's needs can be managed without impacting the efficient education of others and reduces the time spent out of full-time education.

4.0 Fair Access Protocol Arrangements

Schools who are classed by Ofsted as inadequate will not be considered when placing a pupil through FAP.

4.1 Fair Access Panel

Children referred to the Fair Access Panel for the determination of a school place with a supported planned integration if necessary. The panel will take account of the circumstances of the individual pupil, as well as which school will be best able to meet their needs, bearing in mind concerns from schools about admission and seeking to protect any one school from a disproportionate number of placements of children with challenging behaviour.

In deciding a placement, every effort will be made to ensure that transport arrangements, which may be the responsibility of parents, are reasonable and cost effective. School Transport will only be provided in accordance with the LA schools transport policy.

If the panel agree the pupil is not ready for admission to mainstream school, alternative provision may be offered to parents.

The panels will also monitor the number of Fair Access placements (see appendix 2 for Terms of Reference).

6.0 Powers of Direction

If the identified school objects to the decision, the LA will then follow the direction process as per the Schools Admissions Code

Appendix 1 - In-Year/Mid-Term Transfer Process – from September 2024

Parents, carers and social workers who want to apply for a school place are encouraged to visit the prospective school(s) and make an application. This should be made via the admissions portal on the Shropshire Council Website: [synergy - homepage \(shropshire.gov.uk\)](https://www.shropshire.gov.uk) If schools receive an enquiry and parents wish to make an application, schools will direct applicants to the above website.



Application received and processed by the local authority (LA) in line with the Schools Admissions Code and the schools oversubscription criteria.



The LA will contact the school to discuss an application before offering or refusing a place.



Whatever the outcome, a letter will be sent to the applicant advising of next steps.



If a place can be offered, a mutually agreed start date can be finalised between the school and the applicant, but the place must be taken up/child start at the school within 6 school weeks



If a place cannot be offered, the applicant will be advised of their right of appeal and placed on the school waiting list



Local Authority can provide alternative placement advise. Consideration given to Fair Access Protocol

Appendix 2

Terms of Reference for Shropshire Council Fair Access Panels

Note: These terms of reference are part of the Shropshire Fair Access Protocol for admission to schools.

1. Role of the LA

- 1.1. To ensure that all unplaced children, especially the most vulnerable, are offered a suitable school place without unnecessary delay.
 - permanently excluded pupils (from day six of a permanent exclusion)
 - Pupils under Section 2.1 (Fair Access Protocol) and subsequent guidance.
- 1.2 Provide a fair and equitable and open method of allocation of schools for these vulnerable pupils, that is as simple and transparent as possible
- 1.3 To reduce the amount of time such pupils spend without a school place and to enable the pupil to engage with the next placement as soon as possible.
- 1.4 To take into account the Special Educational Needs Code of Practice and the Shropshire Education Needs Framework where these are appropriate.
- 1.5 Ensure all schools work together collaboratively when placing a child through Fair Access the Panel. Providing evidence when identifying a school to ensure all schools are treated in a fair, equitable and consistent manner.

2. Remit of the Fair Access Panel

2.1 To receive information about such pupils in 1.1. above and potential receiving schools and make a judgment to:

2.1.1 Allocate a place in a mainstream school; or

2.1.2 Refer to the area alternative provision service i.e TMBSS:

3. Structure and Process

3.1 All schools **MUST** provide a representative at the meeting. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when

asked to do so in accordance with the Protocol, even when the school is full. Non-attendance at Fair Access Area Panel (FAP) meetings will **not** mean that those schools are exempt from participating in the allocation of places either in placement panels or being identified for direction

3.2 The Fair Access Panel will comprise of phase appropriate invites.

For secondary Fair Access Panel will compromise of all invites being sent to the whole school community of Heads for them to attend or send a representative if they are unavailable. The person attending needs to be able to make necessary representation and share rationales for any representations made.

For primary Fair Access Panel, the LA would convene a group of Head Teachers from the surrounding locality, including the excluding school and those schools preferred by parents, to consider the case.

Representatives should be present from the following groups at each Fair Access Panel:

- Education Access
- School Admissions
- TMBSS

And where appropriate from the following group:

- Head of Centre PRU representative
- SEN Team
- CAMHS representative
- Educational Psychologist
- Schools' Funding Policy Officer
- Integrated Passenger Transport Services

3.3 The meeting will be chaired by representative from the LA who will summarise the discussions in each case and confirm a decision reflecting the view of the Panel. The final decision will be made by an anonymous poll where all delegates can vote. The LA will make a recommendation as to which school they feel is the most appropriate placement.

3.4 Meetings of the panel will be scheduled regularly in term time only. Where there are no pupils to be placed, the meeting will be cancelled.

3.5 The relevant Officer will be present to answer any questions Head Teachers may have about a case and to clarify points of fact for the panel.

3.6 All appropriate schools will be notified by e-mail, before the Panel meeting, of the pupils being considered. Head teachers are able to present information via email concerning their schools to inform Panel discussions concerning the pupil's next placement.

3.7 Outcomes will be circulated electronically to relevant parties within 2 school days after the panel meeting.

4. Information Protocol

In deciding a mainstream school place, panels will take into consideration:

- Parental Preference, parents are able to notify panel in writing of their school preference
- Pupil Profile
- Distance
- All current approaches being made under Fair Access
- Equitable Share. Equitable share for each school is calculated by the local authority's
- Schools who are classed by Ofsted as inadequate will not be considered when placing a pupil through FAP.

Education Access Service who maintain a running total based on exclusions from schools and excluded pupils admitted to schools.

In the interest of equity, the following factors will be taken into consideration, but will not prevent the placement of a child:

- Admissions Numbers
- Indicated Admission Numbers
- Accommodation levels at schools

Admission authorities must implement any decision made by the panel in relation to the admission of these pupils, in accordance with the statutory School Admissions Code and in line with the agreed timescales.

5. Escalation Procedures

5.1 If a school fails to respond or refuses to admit a pupil within 14 days of being asked to take a pupil under the Fair Access Protocol the case will be escalated in accordance with the School Admissions Code.

6. Powers of Direction

6.1 The Schools Admission Code 2021 summarises the powers of direction given to Local Authorities under section 96 & 97 of the Education Act 1998, and the differing requirements in relation to admissions to Academies.

7. Funding for Receiving School

Where pupils have been permanently excluded, receiving schools will receive:

- The remainder of the AWPU funding calculate pro-rata

8. Monitoring of Effectiveness of the Fair Access Panel

8.1 A termly and yearly audit will be made of all the decisions taken by the Fair Access Panel to monitor consistency and effectiveness which will be included in the LA report to The Schools Adjudicator yearly.