

# Shropshire's Fair Access Protocol

July 2025

DRAFT

# **Shropshire Fair Access Protocol for Admission to Schools**

## **1.0 Introduction**

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

The FAP protocol 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 admit their fair share of children who present with needs and challenges that may relate to social/emotional/mental health, behaviour and forming positive relationships - and some of whom may have been excluded.

This Protocol has been consulted on with Head Teachers, the Fair Access Panel Working Group and has been agreed with the schools in Shropshire Council's area. 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 as education is a protective factor
- 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 EHCP Team ([EHCPTeam@shropshire.gov.uk](mailto:EHCPTeam@shropshire.gov.uk) ; [Contact the EHCP Team | Shropshire Council](#))

In most cases, use of the FAP should be unnecessary for a Previously Looked After Child (PLAC) 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 20 school days. Once they have been allocated a school place via the Fair Access Protocol, arrangements need to 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 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.
- Off-site directions and Managed Moves are separate to arrangements to those made under the Fair Access Protocol. A Managed Move is used to initiate a process which leads to the transfer of a pupil to another mainstream school permanently. If a temporary move needs to occur to improve a pupil's behaviour, then off-site direction should be used. Managed Moves should only occur when it is in the pupil's best interests. See [Suspension and permanent exclusion guidance](#) and [Behaviour in Schools - Advice for headteachers and school staff Feb 2024](#). Head Teachers communicate with each other as to initiating and making such arrangements. The LA can support and advise, this knowledge and involvement also supports the consideration that will be given to the number of successfully completed Managed Moves and Off-site Directions when identifying the LA recommended school to admit children through the Fair Access 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. Attendance will be noted at the beginning of each meeting for this purpose.
- 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 Plan 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 Support Officer will undertake a person-centred meeting with the young person and their parent/carer (at the child's home if possible) and explain the Fair Access Process. Parents may at this point, identify 3 school preferences, one of which must be the nearest school to home (not the excluding school) and these preferences are recorded. The child's best interests will be taken into account where there are Safeguarding considerations, this might mean (in an exceptional case) that the next nearest school to home is included instead of the nearest.

The Lead Education Officer for Inclusion in the Education Access Service in consultation with the Inclusion Support Officers 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 can 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. When new regulations with the OFSTED report card start in the Autumn term 2025, this will also apply for schools who become newly inspected with an outcome for the majority of areas in 'Causing Concern'.

#### **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.

Consideration will be given to the number of successfully completed Managed Moves, Off-site Directions, pupils integrating from Elective Home Education (or admitted to a school as an outcome of a School Attendance Order) and In-Year Admissions when identifying the LA recommended school to admit children through the Fair Access Protocol. The panels will also monitor the number of Fair Access placements (see appendix 2 for Terms of Reference).

In deciding on 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.

#### **5.0 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

## **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, 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 ; or
- 2.1.3 Refer to a suitable alternative

2.2 The remit of FAP is also to share data and good practice around inclusion and access to education. This gives schools and the LA an opportunity to develop ideas together which may in turn contribute to strategy/policy making.

### 3. Structure and Process

3.0 It is essential that all referrals to FAP have the most up to date information possible to aid transparency, safeguarding and fair allocation. The LA will triage referrals to FAP, may contact schools/partners for any necessary further information to support this process and/or recommend alternative action prior to discussion at Fair Access Panel.

3.1 The LA will undertake a meeting prior to FAP to scrutinise the triaged referrals and use all gathered information to support making a LA Recommendation. This Recommendation will be brought to FAP for consideration by attendees.

3.2 All schools **MUST** provide a representative at the meeting and a register will be taken. 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. Non-attendance will be followed up with schools.

3.3 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, a case can be heard at the secondary panel. However, in order to ensure fair representation, the LA will invite the Head Teachers relevant to the pupil's case (including the excluding school and the schools preferred by parents) as well as an independent primary Head Teacher to support equity and fairness. Alternatively, the LA may decide to call a separate primary FAP meeting and ensure timescales are met – for example if there is more than one primary referral.

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
- EHCP 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.

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 Representatives from the LA, schools and other partners must ensure that information provided in advance of FAP is fully completed, is accurate and as up to date as possible. At the FAP meeting itself it is imperative that any further updates are shared to ensure decision making is fair, safe and equitable.

3.8 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 as per 3.0 on page 6 in the protocol
- Pupil Profile

- Distance
- All current approaches being made under Fair Access
- Equitable Share.

Education Access Service will maintain a running total of exclusions from schools and those pupils admitted to schools. The Admissions team track and monitor relevant information on admissions, including those in-year.

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 10 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.

## **Appendix 1 - In-Year/Mid-Term Transfer Process**

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 is made via the admissions portal on the Shropshire Council Website: [synergy - homepage \(shropshire.gov.uk\)](http://synergy-homepage.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