

Fair Access Protocol for the Placement of Vulnerable and Hard-to-Place Pupils

1. Rationale

- 1.1. The School Admissions Code 2021 states all Local Authorities (LAs) **must** operate a Fair Access Protocol (Protocol) and all admission authorities **must** participate to ensure that unplaced children, especially the most vulnerable, are offered places promptly and at a suitable school.
- 1.2. The Fair Access Protocol is not applicable to admissions made through the normal admissions round for primary, infant, junior or secondary schools.
- 1.3. Most in year admissions will continue to be processed through the normal admissions process.
- 1.4. Eligibility for the Fair Access Protocol does not limit a parent's right to make an in-year application to any school for their child. Admission authorities **must** process these applications in accordance with their usual in-year admission procedures. Admission authorities **must not** refuse to admit children on the basis that they may be eligible to be placed via the Fair Access Protocol. The parent will continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via the Fair Access Protocol.
- 1.5. When placing pupils through the Protocol we will seek to place the child in a school that is appropriate to any particular needs they may have.
- 1.6. If a pupil is permanently excluded from school, provision will be coordinated by the Pupil Referral Unit until it is determined that the child is ready to reintegrate into mainstream provision.

2. Vulnerable and Hard-to-Place Pupils

Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard-to-place children, where they are having difficulty 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 procedures¹

¹ For example, where an application has been made to at least one school and this has been refused, or the local authority has confirmed that there are no places available at any school

- a) children either subject to a Child in Need Plan or Child Protection Plan or having had a Child in Need Plan or Child Protection Plan within 12 months at the point of being referred to the Protocol
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol
- 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 Protocol in accordance with paragraph 3.10 of the Code;²
- k) children for whom a place has not been sought due to exceptional circumstances;
- l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable walking distance of their home. This does not include circumstances where a suitable place has been offered to a child and 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. The Panel

Membership

Core

Senior Leadership School Representative (voting rights)

Access and Inclusion Officers

School Admissions Officer

² Behaviour can be described as challenging where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour **or** it is of such severity, frequency, or duration that it is beyond the normal range schools can tolerate i.e. the behaviour would significantly interfere with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.

Case-by-Case

SEND Representative
Youth Justice Service Officer
Educational Psychologist
Early Help Officer
Child Centred Policing
Others as appropriate

- 3.1. The panel must have senior leadership representation from **all Cumberland** schools in accordance with their local area
- 3.2. The representatives must be nominated by the respective Head Teachers and membership may be rotated to ensure representation from each school at every meeting
- 3.3. Panel representatives must have the authority of their Head Teacher to make decisions relating to the placement of students at the panel meeting
- 3.4. The panel must appoint a chair in accordance with local arrangements; where this is not an independent chair it should be rotated at least once a year
- 3.5. The meeting will be minuted by the chair's organisation for the period of their incumbency or as agreed by the panel
- 3.6. Minutes of discussions under Protocol must be detailed and clearly record all the issues considered prior to a decision being reached including previous placements via the Protocol
- 3.7. In exceptional circumstances, when a voting member is unable to attend, the minimum number of voting members to ensure a quorate body is two thirds of the members. A simple majority is sufficient to place a pupil
- 3.8. in the event of a tied decision the LA representative will make the final decision
- 3.9. The referring body should present the Protocol case at the panel meeting.
- 3.10. The referrer should advise the family of the outcome of the meeting.
- 3.11. School Admissions will write to parents advising of the offer a school place following the meeting

4. Underlying principles

- 4.1. All schools and academies are to fully participate in this Protocol
- 4.2. Schools, academies, and the local authority can refer cases to be considered under the Protocol
- 4.3. Schools and academies wishing to refer an admission request under the Protocol should forward a copy of Form SA8 to the appropriate school admissions assistant for their school, setting out the basis for referral in line with the criteria set out in Section 2, above. A SEND (Special Education Needs and Disabilities), Education and Inclusion Senior Manager will decide whether the case should be referred to Protocol or progressed through the normal in-year process
- 4.4. If an admission request meets the Protocol criteria parents/carers must be advised of the process, their right to pursue a 'normal' application should they so wish, and their right of appeal in accordance with the School Admissions Code

- 4.5. Parental consent is required for a pupil to be progressed under Protocol
- 4.6. Oversubscription in any year group/school and the availability of the admission appeals procedure must not be cited as reasons for exemption from this Protocol. Where there is a decision that any given school represents the best placement for any Protocol pupil, the school will admit regardless of oversubscription
- 4.7. Parental preference will be considered by the panel but will not override this Protocol
- 4.8. Protocol Allocations will be closely recorded, monitored, and reported as appropriate to the Office for the Schools Adjudicator in Cumberland's annual report
- 4.9. No school will be asked to admit a disproportionate number of pupils. No school to become a 'receiving school.' The size of school and the ratio of pupils with additional needs will be considered
- 4.10. All decisions will be fair and transparent. The decision to offer a place at a panel will be binding
- 4.11. All cases will receive due consideration, with the principle aim of finding the right placement for the individual pupil. A 'next in line' system of place allocation will not be appropriate

5. The Protocol

- 5.1. The Panel should meet at least every six weeks. The dates of the meeting must be agreed on an annual basis
- 5.2. The chair must maintain records and be able to account for their responsibilities as outlined in the protocol, including informing the LA of data pertaining to action taken as a result of the Protocol
- 5.3. The referring school/academy/LA will provide the panel with comprehensive information regarding the pupil, obtained from all relevant agencies
- 5.4. All relevant admissions request information should be forwarded to the chair as far in advance as possible (ideally 10 days before the meeting). Exceptionally, a late referral could be considered provided papers were circulated to the panel no later than three working days prior to a meeting so as not to delay a decision. With the exception of late referrals all paperwork will be circulated with the agenda to members of the panel at least one week before the meeting
- 5.5. Minutes of the meeting should be circulated to all members of the panel, the referrer and the SEND, Education, and Inclusion Senior Manager
- 5.6. As an outcome of the meeting each pupil will be offered a place at a school
- 5.7. The School offering a place will contact the family to arrange admission

- 5.8. In cases of normal admission, pupils must be on roll within 5 days of the action being agreed at the panel and follow up confirmation made to school admissions. In exceptional cases, where assessment is needed this may take longer as agreed with the LA
- 5.9. No pupil should be without the offer of a school place for more than four weeks unless further assessment of their needs is considered essential
- 5.10. In exceptional, time-sensitive situations, an extraordinary meeting will be called. If this is not possible then discussions with relevant schools will be held via email. A decision must be agreed within 72 hours

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