

CITY OF  
WOLVERHAMPTON  
C O U N C I L

## **FAIR ACCESS PROTOCOL**

### **PURPOSE OF PROTOCOL**

The School Admissions Code 2021 determines that each local authority must have a Fair Access Protocol to ensure that unplaced and vulnerable and/or hard-to place children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible, where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures.

The Fair Access Panel (FAP) meetings can consider cases that would meet the HTP criteria. The Panel will also consider cases referred back to the panel by schools, for review after an allocation has been made. This will include where schools have further information on a pupil that leads them to believe that the pupil is potentially Hard to Place (HTP). In such cases the school will refer the case back to the FAP together with the evidence they have that requires a further consideration of the case.

No school - including those with places available – should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the Protocol. Fair Access Protocols must also set out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.

In accordance with paragraph 3.9 of The School Admissions Code 2021 Admission authorities **must not** refuse to admit a child on behavioural grounds in the normal admissions round (i.e., to start reception or Year 7) or at any point in the normal year of entry (i.e., at any point during Year 7 or reception).

### **FREQUENCY AND MEMBERSHIP**

FAP meetings take place on a fortnightly basis during term time and panel membership is made up as follows:

#### **Chair:**

The panel is Chaired by the Service Manager – School Organisation and Support (or their nominated representative)

#### **ConnectEd / Wolverhampton Secondary Headteacher Group Membership:**

Primary Headteachers Consultant  
Chair of Wolverhampton Secondary Headteachers

## School Membership:

### **Primary phase:**

One community/Voluntary Controlled school representative, one own admitting authority representative  
(Representative to change each term) **\*Representation must be a headteacher / principal\***

### **Secondary phase:**

One representative (representative to change each term) **\*Representation must be a headteacher / principal\***

## LA Membership:

Admissions and Appeals Manager or Officer

## HTP AGREEMENT

- In the secondary phase, schools have agreed that they will reserve **3** places above PAN in each of years 7,8,9 10 and 11 for HTP pupils. However, only when the numbers have been reached in all schools, they will have to be increased (one at a time) to accommodate the increased demand for HTP places. Schools will be informed when this has become necessary. The protocol will always keep 3 places as the aspirational limit. Avoiding the need to increase beyond three will always be a high priority for the LA and schools.
- In the primary phase, the panel will consider the PAN in the respective cohort, place availability and the circumstances of the pupil.
- Schools have agreed that any school subject to an inadequate OFSTED grading will only have to accept HTP pupils in exceptional circumstances.

## HTP CRITERIA

### **Pupils that can be classed as HTP**

- 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 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 School Admissions Code 2021. Please note that challenging behaviour is described in the code as “*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 that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil’s/other pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment.*”

- 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 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. **Schools have agreed that sibling groups will be kept together when allocating under this provision. Regard will be given to place availability in all of the year groups required by the siblings. In some instances, this could mean that allocations will be made even if the school has reached their PAN in a respective year group. By allocating siblings to the same school this will help negate any issues regarding attendance and lateness that results in an extra strain on resources for schools and parents.**
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

## INFORMATION PROVIDED BY SCHOOLS

- Where the application is for a pupil in a Wolverhampton school, Headteachers must complete section 8 of the in-year application form as the details disclosed will aid the identification of potential Hard-to-Place pupils. It also enables partnership working and an honest and open approach to transfers.
- As part of the in-year coordination of admissions scheme, the LA makes additional enquiries where concerns are indicated on an application, to determine whether or not the case meets the threshold to be discussed at FAP. Information requested must be provided in order to establish any concerns regarding challenging behaviour, risk of PEX and mainstream suitability. This information is required to enable the panel to make an informed decision regarding the most suitable provision and support required for the child. In accordance with the School Admissions Code 2021, an admission authority can refuse admission on the grounds of prejudice, if it is felt that admission would prejudice the efficient provision of education or use of resources at the receiving school.

## POTENTIAL OUTCOMES OF FAP

- **Mainstream School Allocation**

The panel may determine that the child is mainstream suitable, and a place will therefore be allocated at a mainstream school.

- **Referral to Primary or Secondary Inclusion Panel**

The panel may determine that a child is not ready for mainstream school, requires a preventive placement to stop a permanent exclusion or another form of alternative

provision. If so, the case will then be referred to inclusion panel for further consideration. This is to ensure the FAP sets out how the needs of children who have been permanently excluded, and children for whom mainstream education is not yet possible, will be met.

When there is a professional view that a pupil is not ready for mainstream school, the Fair Access Panel will refer the case to Inclusion Panel for further consideration.

The Inclusion Panel is a multi-agency panel with a number of representatives from various services such as headteachers, police, social care, inclusion, SEND, educational psychology, alternative provision etc. These professionals are best placed to identify the most suitable education provision, for example where children may require additional support and intervention, including Alternative Provision.

The panel will discuss the information pertaining to the pupil that has been collated by professionals and will determine the most suitable educational provision as a result.

- **Refusal of Application (prejudice / challenging behaviour)**

Where it is deemed that a child is mainstream suitable but where behavioural concerns have been identified, the panel may refuse the application on the grounds that admission would prejudice the efficient provision of education or use of resources at the receiving school.

The panel are mindful of moving students that have ongoing behavioural concerns and, as part of their decision-making process, they must consider the fairness and reasonableness of the receiving school picking up these concerns.

## **PUPILS REINTEGRATING FROM ALTERNATIVE PROVISION**

When a young person is on roll at alternative provision, but the provider recommends a return to a mainstream setting the case will be considered at FAP.

All referrals for children and young people deemed mainstream ready will be presented at Fair Access Panel. The Pupil referral Unit (PRU) / Alternative Provision (AP) setting will ensure completion of the Readiness to Reintegrate Journey report and arrange to share this with the LA Inclusion Manager. The LA Inclusion Service will also provide a supplementary report in support of referrals, confirming interventions delivered. The PRU / AP Centre Manager along with the LA Inclusion Service/Team Manager will present referrals at FAP.

## **NOTES FOR CONSIDERATION**

In accordance with the following paragraphs of the School Admissions Code 2021:

3.10 Where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child to the Fair Access Protocol.

3.11 An admission authority should only rely on the provision in paragraph 3.10 if it has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

3.12 The provision in paragraph 3.10 cannot be used to refuse admission to looked after children, previously looked after children; and children who have Education, Health and Care Plans naming the school in question.

3.13 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.

In accordance with the DfE Fair Access Protocols guidance 2021, 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 that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil's/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.

The following reasons should **not** be grounds for considering that a child may display challenging behaviour:

- poor attendance elsewhere
- a defined number of suspension, without consideration of the grounds on which they were made
- special educational needs
- having a disability