

In-Year Admissions Fair Access Protocol

1.0 Background

- 1.1 The School Admissions Code sets out the mandatory requirements regarding the admissions process and makes clear that all local authorities and admission authorities are required to have a Fair Access Protocol, and that all schools and academies must participate in their local authority's protocol in order to ensure that children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. This includes admitting children above the published admission number to schools that are already full.
- 1.2 The School Admissions Code 2012 also makes clear that the local authority must ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour, under the Fair Access Protocol.

2.0 Aims of the Protocol

- 2.1 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 basis;
 - d. be fair and transparent, and to have the confidence of all schools;
 - e. ensure that all schools accept a fair and equitable share of pupils.

3.0 Main Principles

The majority of pupils are already admitted to Wirral schools through the routine admissions procedures operated by the Mainstream Admissions team and this will continue to be the case.

- Where schools have places, children should be admitted under the normal admissions procedures unless the requested school demonstrates that category 3.1(i) below applies and requests the case be considered under Fair Access.
- Where an application is made for a secondary school that has reached its admission number, in the majority of cases parents will be advised of alternative schools and the appeals procedure, unless the application falls into one of the Fair Access categories.

3.1 In order for this protocol to be successful:

a. **All schools will take part.**

b. There will be a single point of entry and a coordinated approach for all in-year admissions via the Mainstream Admissions team. These admissions include school to school transfers as well as those who are new to Wirral or the country.

c. The Fair Access protocol will apply to all school age pupils (4-16), with the partial exception of year 7 pupils transferring within Wirral. These pupils will only be admitted through the FAP process after 31st December and prior to that will be treated as Year 6 to Year 7 transfers.

d. The protocol will only apply to those pupils whose residence is within the borough boundaries.

e. All schools subscribe to a 'no walk-in' admissions process.

f. The protocol may require schools to admit pupils above their Published Admission Number (PAN) and ahead of pupils on their waiting list or awaiting an appeal.

g. A headteacher panel shall make the decisions about placement in an open and transparent way.

h. The distribution of pupils across schools under the protocol shall be fair, with due recognition given to the circumstances of the school, the year group (including the school's view on the impact on the provision of efficient education or the efficient use of resources), and circumstances of the individual.

i. Where a school does not wish to admit a child with challenging behaviour (as defined in categories 4.2(i) and 4.2(j) below) outside of the normal admissions round, even though there are places available, it can refer the case to the Authority for action under the Fair Access Protocol. Children who do not fall into these categories should be admitted if a place is available.

j. Undersubscribed schools must not be required to admit a greater proportion of those children referred to a Fair Access Panel, particularly those schools with a recent history of challenging behaviour greater than that of other schools.

k. Schools must respond immediately to requests for admission so that the admission of the pupil is not unduly delayed.

l. For schools that are their own admissions authorities, Headteachers and Governors are requested to agree a procedure to empower a subcommittee comprising the Head in consultation with the Chair to make immediate decisions regarding admissions where there is a place available in the year group. Where the year group is full, the Admissions Committee should be convened as soon as possible so that the decision regarding admission can be made without delay.

m. Schools should not refuse to admit a child who has been denied a place by an independent appeal panel, if the Fair Access Panel subsequently identifies that school as the one to admit the child. This could occur if the parental appeal to the independent appeal panel takes place before the Fair Access Panel meets.

4.0 Children Covered by the Protocol

It is a legal requirement that Looked After Children (LAC) and previously looked after children (as defined by the Admissions Code 2012) be given first priority for admission to all schools within their oversubscription criteria. Any consideration of a school move for a child in care must be preceded by a PEP. The PEP should have representation from the existing school, social care and LACES.

Children with Statements of Special Educational Need are not covered by this Protocol as their needs are covered by specific guidance in the SEN Code of Practice. Any consideration of a school move must be preceded by a Statement Review.

4.1 The Fair Access Protocol must cover children who fall into one of the following categories:

- a. children returning from the criminal justice system and children attending PRUs and/or have been permanently excluded and who need to be reintegrated back into mainstream education;
- b. children who have been out of education or without a school place (including those in Elective Home Education) for two months or more;
- c. children of Gypsies, Roma, Travellers, refugees and asylum seekers;
- d. children who are homeless;
- e. children with unsupportive family backgrounds, where a place has not been sought;
- f. children who are carers;
- g. children with special educational needs, disabilities or medical conditions who are 'school action plus' but without statements.

4.2 Wirral's Fair Access protocol also covers children in the following 'Hard to Place' categories:

- h. children known to the Police or other agencies;
- i. children with a history of challenging behaviour, defined as those who have been fixed term excluded on 3 or more occasions within a 12 month period;
- j. children without a school place and with a history of serious attendance problems (<85% in the last 12 months).
- k. recently arrived children whose level of English has been assessed as either 'survival' or 'basic' by MEAS or equivalent body.

l. Children whose parents have been unable to find them a place after moving to the area, because of a shortage of places within a reasonable distance (defined as statutory walking distance – 2 miles for children under 8, 3 miles for children aged 8 and over).

m. Children for whom a negotiated transfer has failed and no other requested school is able to offer a place as the year group is full.

4.3 Wirral's Fair Access protocol does not cover:

- Children with statements (see above); Any consideration of a school move must be preceded by a statement review.
- Children in care or previously in care, as these children must be admitted (see above). Any consideration of a school move for a child in care must be preceded by a PEP. The PEP should have representation from the existing school, social care and LACES.

5.0 Fair Access Protocol Procedure

5.1 Admission of hard to place children will be co-ordinated by the Mainstream Admissions team. Where the requested school identifies that an application meets the criteria for a 'Hard to Place' pupil as defined above, the case must be notified to the Mainstream Admissions team within 5 school days who will refer the case to the Clerk of the headteacher panel. Where none of the requested schools are able to offer a place and the Mainstream Admissions team identifies that the child meets the Fair Access criteria, the Mainstream Admissions team may refer an application to the Fair Access Panel.

- For secondary schools, Panels will be made up of three headteacher representatives and will meet monthly, or as required. Headteachers will not consider applications in relation to their own school.
- For primary schools, Panels will be made up of headteacher representatives from each of the five cluster groups. Primary headteachers will not consider applications in relation to their own school.

5.2 In reaching a decision on the placement of a Hard to Place child, each panel will consider the balance of circumstances of the pupil and the circumstances of the school, taking into account the following factors:

- i. the distance and ease of travel from home to school;
- ii. the fairness of any placement and proportion of hard to place pupils in each school as reflected in the weightings grid;
- iii. the school that is the parent/carer's preferred choice;
- iv. the religious affiliation of the pupil (where possible)

- v. genuine concerns from the requested school about admission (e.g. previous serious breakdown of relationship or local issues that will have an impact on the school, child or child's family);
- vi. other reasonable considerations.
- 5.3 **Failure to engage** - The Fair Access panel may request the Education Social Welfare Service intervene with a family where it can be shown that a pupil has been placed through the Panel but the family fails to engage with the named school when it tries to secure admission of the pupil, e.g. parent/carer has failed to engage in securing admission of the child to the school within 5 working school days of notification that a place has been allocated.
- 5.4 **Weightings Grid** - The Mainstream Admissions team will maintain a weighted list in order to identify the school with the lowest weighting score whose turn it may be to admit next. When a pupil is admitted under the protocol, this will add a positive factor to the school's weighting whilst transfers out will add a negative factor. (See 'The Schools Weightings'). Pupils admitted or leaving through a 'Managed Move' or 'Negotiated Transfer' will also be included on this grid.
- 5.5 **Outcomes of FAP panels** - Within 24 hours, the Clerk to the panel will inform any school not represented at a Panel if the decision relates to that school. The Clerk will inform parents in writing within 5 days with a copy to the previous and requested school and to the Mainstream Admissions team.
- 5.6 **Right to an appeal** - Parents/carers retain a legal right to an appeal to an independent appeal panel.
- 5.7 **Powers of Direction** - If a school is identified as the one to admit a child by a Fair Access Panel and refuses to do so, the local authority may use their powers of direction in the case of maintained schools or request the Secretary of State to intervene and direct an academy school. See 'Rules Governing Direction'.
- 5.8 **Placement Procedure** - for the purposes of this regulation a child is a pupil at the school from the beginning of the first day on which the school has agreed, or has been notified, that the pupil will attend the school.
- 5.9 Pupils join the school roll on the expected first day of attendance and must be listed in both admissions and the attendance registers from that day. If a child is the subject of a School Attendance Order, he/she only becomes registered at the school if the parents enrol him/her at the school and agree the first day on which the child will attend. If this does not happen the parent(s) are in breach of the Order. If the parents agree the first day that their child will attend, any subsequent absence should be treated in the same way as any other pupil.
- 5.10 **Monitoring** - In order to maintain transparency in the placement process and to facilitate the work of the Panels, the local authority will collect data on admissions and the weighted list of schools. This data will be made available to each of the

panels. An annual report will be presented to the Department's Senior Management Team; and to WASH (Wirral secondary heads forum) and PHCG (primary heads forum).

5.11 **Review** - The protocol will be reviewed annually.

APPENDIX A

Panel membership and terms of reference

The headteacher panel meets monthly in week 1 or 2 of the month.

Headteacher Panels

1. Membership will consist of a Clerk, Headteachers (or their representative) from secondary schools and an LA officer. The headteacher may appoint a senior representative, with full powers to act on his/her behalf in respect of decisions in relation to the placement of children brought to the panel.
2. The Panel will be chaired by a phase specific head teacher.
3. The quorum for the panel will be a minimum of three head teacher representatives
4. All in-year admissions will go through the Mainstream Admissions team.
5. All cases must be passed to the Clerk at least 7 school days prior to the meeting. The Clerk will be responsible for ensuring that all paperwork is prepared and made available to the panel members 5 school days prior to the panel meeting. They will also ensure that the decision is communicated to the parent/carer and the Local Authority within 5 school days.
6. A start date will be agreed that is no later than 10 school days following the panel meeting.
7. Where the offer of a place is not in line with parental preference, parent/carers will be advised of the appropriate course of action they can take, which will include the right to an appeal to an independent appeal panel.
8. Decisions on placement will be by majority view of the head teachers.
9. The Chair's role is pivotal to the success of the panel. This includes overseeing data, liaising with Head of School Admissions and school reps, providing support and acting as a mediator with some of the more difficult cases, negotiating with Heads and ultimately ensuring decisions taken are carried through.

Notes

1. Any difficulties or delay in securing the identified placement of any pupil by a Fair Access Panel will be brought to the attention of the Director of Children's Services who will make a decision about the most appropriate response which may include direction to admit or referral to the Secretary of State to direct. The Director of Children's Services may also write to the Chair of Governors if a school is deemed to be obstructing or not co-operating with the agreed protocol.
2. In order to monitor actions taken to place pupils presented to the panels, the Clerk to the panel will ensure that accurate minutes are maintained and that these are forwarded electronically within five working days to the Mainstream Admissions team. Data required will include allocated school, start date and pupil name.

Appendix B

The School Weightings

PRINCIPLES

1. The list will allow comparisons between schools so that the admission and transfer of pupils under Fair Access/Managed Moves/Negotiated Transfers can easily be tracked
2. The weightings will enhance the priority of very vulnerable groups of children

FORMAT OF THE WEIGHTINGS

3. The list will be a simple excel spreadsheet identifying all schools in the relevant phase (primary and secondary).
4. There will be columns to track transferred in pupils, i.e. hard to place pupils admitted by the school (plus 1 point).
5. Columns will also track transferred out hard to place pupils (minus 1 point).
6. The difference between the 'IN' and the 'OUT' columns will give a weighted score for the school. The school with the lowest or most negative weighted score will be deemed the next most likely school to admit a pupil.
7. The spreadsheet will also maintain a column that records the number of 'managed moves' involving each school. These pupils will attract a single weighting (+1 point for the receiving school and -1 point for the transfer out school), which will be added to the weighted score for each school to give a total weighting.

MAINTENANCE AND USE OF THE WEIGHTINGS

8. The Children and Young People's Department will maintain copies of the relative weightings and will ensure they are updated before the next relevant panel meeting.
9. The weightings will be used by Fair Access panels to inform their decision making about the school indicated to admit a pupil

Appendix C

Rules Governing Direction

Local authority powers of direction (general) - A local authority has the power to direct the admission authority for any maintained school in its area to admit a child even when 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 that is a reasonable distance from the child's home and from which the child is not permanently excluded. It **must not** choose a sixth-form that selects by ability unless the child meets the selection requirements, or a school that would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.

Before deciding to give a direction, the local authority **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 local authority 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 Schools Adjudicator within 15 days. If it does this, the governing body **must** tell the local authority. The local authority **must not** make a direction until the 15 days have passed and the case has not been referred. If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school **must** admit the child. The Adjudicator's decision is binding. The Adjudicator **must not** direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.

Secretary of State's power of direction (Academies) - Where a local authority considers that an Academy will best meet the needs of any child, it can ask the Academy to admit that child but has no power to direct it to do so. The local authority and the Academy will usually come to an agreement, but if the Academy refuses to admit the child, the local authority can ask the Secretary of State to intervene. The Secretary of State has the power under an Academy's Funding Agreement to direct the Academy to admit a child, and can seek advice from the Adjudicator in reaching a decision

Local Protocols on In-Year transfers

WIRRAL NEGOTIATED TRANSFER PROTOCOL

1.0 Under the following circumstances, the Wirral Negotiated Transfer protocol may apply.

- The transfer is between Wirral schools (not from out of Borough)
- The child is not suitable for the Managed Move Protocol, that is, they are not at risk of Permanent Exclusion.
- The child does not meet the definition of “challenging behaviour” as defined by the Fair Access Protocol
- BUT, the requested school has additional concerns about the pupil's behaviour or attendance.

1.1 These concerns must be notified by the requested school to the Mainstream Admissions team within 5 days of receipt of the transfer paperwork, identifying that a Negotiated Transfer may be considered.

1.2 The Mainstream Admissions team will notify the current school that a Negotiated Transfer has been requested.

1.3 The headteacher of the current school will:

- Contact the headteacher of the requested school personally within 2 working days to discuss and resolve any issues of concern if possible
- Contact the designated Local Authority Officer to arrange a meeting between the two headteachers (if required) to discuss terms for a negotiated transfer. This may include the parent/carer if deemed appropriate.

2.0 Negotiated transfer – standard terms

2.1 The child will attend the requested school on a trial basis for a period of six weeks, after which a review is carried out, as in the Managed Move Protocol

2.2 The parent/carer of the child and the child must agree to abide by the terms of the Negotiated Transfer.

- 2.3 Both current and requested schools must agree to abide by the terms of the Negotiated Transfer.
- 2.4 During the trial period, the child will remain on the roll of the current school. The child will be dual registered. The original school will mark the child as Main Dual registration and the transfer school will mark the child as Subsidiary Dual registration.
- 2.5 If the Negotiated Transfer is deemed successful at the six week review, the child will then formally transfer to the new school on a permanent basis. The decision must be advised within 5 working days to the Mainstream Admissions team who will advise the parent in writing that a place at the school is being offered.
- 2.6 If the Negotiated Transfer is deemed unsuccessful at the six week review, the child will remain on the roll of the current school and will be expected to continue to attend that school. The requested school will provide a refusal statement to the Mainstream Admissions team within 5 working days of the review taking place, setting out the grounds for refusing to offer a place.
- 2.7 The parent will be advised by the Mainstream Admissions team in writing that the school is refusing to offer a place, the grounds for this refusal, and advised of their legal right to an appeal.