

## ***Bracknell Forest Fair Access Protocol***



### **Context**

This Protocol was implemented on 1 September 2021 and applies to all state funded schools including academies in Bracknell Forest under the School Admissions Code 2021.

The Protocol describes the principles to be applied and procedures to be followed in relation to the admission of unplaced and vulnerable children and those who have difficulty securing a school place in year are allocated a school place as quickly as possible.

This Protocol applies only to children resident in Bracknell Forest and to Bracknell Forest schools, though it may be applied to children resident in Bracknell Forest seeking a place at a school outside Bracknell Forest if the admitting authority for the school is prepared to accept this and vice versa.

This Protocol does not apply to children whose parents did not secure provision at their preferred schools when starting school, infant to junior or secondary transfers.

### **Main principles**

The best interests of the child are of paramount importance and should be at the centre of all decisions made.

It has been agreed that:

- All schools will take part in the scheme as specified in the School Admissions Code including those which are or will become responsible for their own admissions, e.g. voluntary aided schools and academies;
- This Protocol provides a fair, equitable and open method of admitting unplaced and vulnerable children to schools to ensure that these admissions are spread fairly and do not fall disproportionately upon schools which are undersubscribed;
- The LA will, as far as it is possible, not ask a school to admit hard to place pupils in quick succession, especially into year groups that have recently admitted children under this Protocol;
- 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 should be made for the child to start at the school as soon as possible.
- Formal admission appeals for hard to place pupils are not required before a pupil may be admitted under this Protocol;
- A pupil who has been denied a place at a school by the Independent Appeal Panel may be admitted by that school if it is identified under the terms of this Protocol as being the one to admit the pupil;

- 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. They must not refuse to admit such 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. All related elements of the formula budget and pupil premium (if relevant) will transfer with the child.
- School at or above their admission number will also admit a fair share of pupils referred under this Protocol.
- Regulations prescribe those exceptions which are permitted in cases where the infant class size limit applies.
- This Protocol applies only to those children who, by virtue of their circumstances, are likely to find it significantly harder than the average child to settle at school. Such children are likely to place a significantly higher demand on a school's resources and this is why it is important that all the schools share these admissions fairly. This is one of the central aims of this Protocol.

### **Hard to Place/vulnerable/Unplaced Pupils**

The Fair Access Protocol may *only* be used to place the following groups of vulnerable and/or hard to place children, where they 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:

- 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 this Code;
- 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; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

*\*Elective Home Education (EHE)*

- *If a child is registered as EHE then the parent has accepted the responsibility for educating their child. If the parent is no longer able to home educate and would like to admit the child back into a Bracknell Forest school, the In-year process will need to be followed to obtain a school place and to be removed from the Elective Home Education register. Until that time they will be considered as being in receipt of education.*

*\*Child Not Attending School*

- *If a child has an education provision in place but the parent has chosen not to send their child (or the child is refusing to attend) then the school will be required to refer the family to EWO / CME to investigate the child's non-attendance. If the parent wants to transfer their child to an alternative Bracknell Forest school, they will be required to follow the In-year process to obtain a school place.*

**Behaviour:**

The School Admissions Code defines behaviour for use in Fair Access as:

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.

A child with challenging behaviour may also be disabled as defined in the

Equality Act 2010. When considering refusing admission on these grounds, admission authorities must consider their duties under that Act. Admission authorities should also consider the effect of the decision of the Upper Tribunal in *C & C v The Governing Body of a School, The Secretary of State for Education (First Interested Party) and The National Autistic Society (Second Interested Party) (SEN)* [2018] UKUT 269 (AAC) about the implications of the Equality Act 2010 when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability.

## Process

- The School Admissions Team will process *all* in year applications received in line with parental preference and work to ensure all children are admitted as required. All applications will be processed in the agreed way.
- The school should work to admit every child where they have places and children must be admitted within 5 school days of receipt of the application or referred back to School Admissions for referral to Fair Access for consideration.
- Where a school wishes to refer a child for consideration under the Protocol the school should complete the Referral to Fair Access Form and return it to School Admissions. The school should ensure it is fully completed with all relevant information attached.
- School Admissions will inform parents that their application has been referred to Fair Access for review and their offer may no longer stand.
- The Integration Officer will review the paperwork and make their decision as to whether the application meets the criteria and if all necessary paperwork is submitted.
  - If the application does not meet the Protocol the school and School Admissions will be informed and the child must be admitted as a matter of urgency in the usual way.
  - If the application does meet the Protocol and has been accepted then the Integration Officer will contact the parent, child, School Admissions and the school and discuss the situation. The Officer will also contact the current school to gather all relevant information.

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 should be made for the child to start at the school as soon as possible.

The original offer of a school place through the school admissions process will no longer stand and will be withdrawn where necessary.

- The Integration Officer will then work with all departments and teams (including but not limited to, Children's Social Care, Early Help, Education Welfare Service, Youth Offending Service, Exploitation Team) in order to obtain all relevant information. It

could be possible to support the child to remain in their mainstream setting after intervention or if support is put in place.

- The Integration Officer may also contact the child's previous schools (and, if necessary, previous agencies involved) in order to request background information that may be of assistance to the decision making process.
- The Officer will record their decision making process and possible further discussions.

If a move is deemed to be appropriate for the child then the Integration Officer will nominate a school for that pupil based on:

- Parental preference as a result of a visit by the child and parent to that school
- the number of hard to place pupils that the school has recently admitted to ensure that there is as even a distribution of these pupils as possible across all schools. A record of all placements will be kept.
- the number of permanently excluded children that each school has admitted during that academic year
- the context of each school's circumstances, evidenced as necessary

The Integration Officer will contact the nominated school and that school should respond within **two** days of the approach by the Integration Officer to avoid delay in the process. The Integration Officer will share all relevant information with that school to facilitate the integration and admission of the child. If the school has concerns over the admission of the pupil they will raise them with the Integration Officer and evidence them where necessary. An integration package may be deemed necessary.

Where necessary the details of an appropriate support package will then be agreed. Where appropriate, this may include the application of additional funding within the limits of available resources to contribute towards costs incurred as part of integration process.

If the school agrees to the request for a place, an initial meeting may be arranged if appropriate at the earliest opportunity to involve (at least) the child, the parent(s)/carer(s). Other professionals may also be included, being mindful of the need to balance the need for their attendance against the creation of a situation which the child may find overwhelming.

The Integration Officer will support the child and the school for a term following placement.

## **Panel**

- **Composition**

The Panel will be chaired by an independent member. The core members of the panel will be two primary school headteachers, two secondary school

headteachers on a planned rota published 12 months in advance, the Integration Officer, their line manager, their Head of Service and a Children Social Care representative (where appropriate). However, at each Panel meeting there may be a need for representatives from various agencies that have been involved with a child. This could be (but not limited to) officers from the Family Hub, School Admissions, Youth Offending Service, Educational Psychologist.

- **Role and Responsibility of Panel**

The main role of the Panel will be to have an overview of the process and journey for each child following their referral. Any headteacher on the Panel will step out of the meeting where their school is involved in any discussions. They will scrutinise the process and the decision making for each child. It will take on a safeguarding role to ensure the child's wellbeing is at the centre of all decision making.

Where necessary the Panel will challenge those schools not fully participating in the Protocol and where necessary direct the school to admit or advise the ESFA of non-compliance and request to admit.

#### **Further information**

- **Additional Funding**

Schools admitting in year pupils living in Bracknell Forest at the time of placement and admitted under the Fair Access Protocol may receive financial support of up to £1000, regardless of when in the academic year the pupil is placed on roll.

Funding will be approved according to need. Funding will be forfeited if a child withdraws within 12 school weeks of the placement being made. Where funding has already been paid, the local authority will seek to recover monies from future payments.

Payment will only be made once the placement has lasted four weeks or more, in line with the following timescales:

- placements made in the autumn term which have lasted four weeks or more by the end of that term – payments will be made at the start of the subsequent Spring Term
- placements made up to the end of the Spring Term -which have lasted four weeks or more by this point - payment will be made by the end of the Spring Term remaining payments will be made in the summer term.

In all cases a proportion of the funding will be reclaimed if the child subsequently leaves the school.

#### **Alternative Provision**

The DfE define alternative provision as education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour.

Should there be a need to use alternative provision this will currently be at a variety of different provisions dependent on the needs of the child, for example the Pupil Referral Unit or resource units as appropriate and available.

Dependent on the success of the current bid with the DfE for an SEMH school within Bracknell Forest the availability of provision could change.

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.

- Those children permanently excluded
  - All children who are permanently excluded will be referred to the Pupil Referral Service for Day 6 provision.
  - After the GDC meeting or in the case of an appeal, after the IRP, the Integration Officer will prepare and implement a plan for the education provision for the child.
  - The School Admissions Code states that admission authorities **must not** refuse to admit children in the normal admissions round on the basis of their poor behaviour elsewhere. Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to children who were below compulsory school age at the time of the exclusion, children who have been re-instated following a permanent exclusion (or would have been had it been practicable to do so) and children with special educational needs statements or Education, Health and Care Plans.