

Birmingham's  
Fair Access Protocol  
2022

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## 1 BACKGROUND

The new Schools Admissions Code came into force in September 2021 and sets out the basic requirements for a Fair Access Protocol. Each local authority must have a Fair Access Protocol to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.

The Protocol must be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities must participate in it. 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<sup>1</sup>. Local authorities must provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the Protocol will take place.

The operation of Fair Access Protocols is outside the arrangements for coordination and is triggered when an eligible child has not secured a school place under in-year admission procedures.

All admission authorities must participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. All schools must participate in the Fair Access Protocol, whether they are community or controlled schools, grammar, voluntary aided or foundation schools<sup>2(d)</sup>.







Challenging behaviour is defined in the School Admissions Code (2021) as:

Behaviour 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 pupil's/other pupils'

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## 5.1 Children with Challenging Behaviour

If a governing body refers a child with challenging behaviour for placement through the Fair Access Protocol, under paragraph 3.10 of the School Admissions Code, they must provide information using the Referral Form (Appendix 1) to include:

- details of the child's challenging behaviour;
- evidence that the school has a particularly high proportion of children with challenging behaviour or previously excluded children.

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 (School Admissions Code, paragraph 3.13).

## 5.2 In-Year Applications

Under Birmingham's published admissions arrangements, parents/carers of children seeking a school place in-year are expected to apply directly to schools. In the event that a school receives a direct application from a child who they have good reason to believe may display challenging behaviour, the school may either choose to admit directly or refer to the Local Authority School Admissions and Fair Access Team.

## 5.3 Direct Admission by Schools of Children who meet Fair Access



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## 6. OPERATION OF THE FAIR ACCESS PROTOCOL AT PRIMARY PHASE

Fair Access panel arrangements differ for primary and secondary age children.

At Primary Phase, all Fair Access referrals will be considered by a City Fair Access Panel that will meet fortnightly with dates set in advance for the whole school year.

The City Fair Access Panel (primary) will be chaired by the Head of Service, School Admissions, Attendance, Exclusions and Pupil Tracking and will include representatives from the BCC School A

## 7. OPERATION OF THE FAIR ACCESS PROTOCOL AT SECONDARY PHASE

Children without school places who meet the criteria for challenging behaviour (see Section 4) will be considered at each local Fair Access panel, together with children from the criminal justice system, City of Birmingham School or Alternative Provision who need to be reintegrated into mainstream education. Normally, children will be referred to the school network in which they live, using the postcode calculator .

However, when a student has attended a Birmingham school within the last 12 months and still lives within a reasonable distance of that school, they will be referred to the network in which the previous school is located.

All schools within a network will be expected to send a representative to their nominated local Fair Access panel. The representative must have the authority to agree placement in their school. Representatives from City of Birmingham School must also attend. Local Sharing Panels will be supported by a member of staff from the School Admissions and Fair Access Team, who will record placement decisions and report to the Fair Access Board and all networks. Panels may make decisions to place children in schools that do not send a representative to the panel meeting.

All schools, whether or not they are formal members of a secondary LSP, will be expected to admit their fair share of pupils that meet the related LSP cohort criteria as described above (Section 7.1). In circumstances where a school is not a formal member of a Local Sharing Panel for Fair Access functions, the Council will allocate cases to the school after considering the proximity of the child's home address and will use the appropriate mechanisms to ensure the equitable distribution of Fair Access pupils amongst schools in the relevant geographical area.

To assist decision making, the School Admissions and Fair Access team will provide each local Fair Access panel with information on placements from the City Fair Access Panel.



level that is consistent with the relevant cohort in a selective school, meaning that a test may not be required.

The decision on whether or not a selective test is required rests with the representative of the school being considered for placement, but any test must be arranged so that the result is available and a decision can be made within the 20 school day deadline.

Where schools in particular areas are experiencing higher demand for in-year Fair Access placements, scoring grids may extend beyond the six nearest schools in order to ensure fairness and equity of placements.

Decisions on every case will be made at each meeting and will be reported to local Fair Access panels and the Fair Access Governance Board.

## 8. DECISION MAKING

Decisions on each case must be made at either the City or Local Sharing Panel meetings. Decisions will be binding on all parties and schools will be accountable for complying with the decisions of the panels, meeting with parent/carers at the first appropriate admission meeting and arrangements should be made for the child to start at the school as soon as possible. Placement will be c1.1 (b)-13 ((c),)-2.9 (a)-1 (n)-8 (l)3 (ys )1



## APPENDIX 1

### LOCAL AUTHORITY FAIR ACCESS REFERRAL FORM

Please complete this form in full to enable the panel to select the most suitable and appropriate placement for the pupil

Section 1



SEN Information (please complete as fully as possible)

Emotional/Behavioural/Social

Not on COP... SEN Support ... EHCP ... EHCP

Cognition/Learning

Not on COP... SEN Support ... ... 6s ft





Relevant Personal or Home Circumstances (Parental involvement, family structure, LACES, Foster Care, Children's Home, Child Protection, recent bereavements) Sensitive information should not be shared at this stage unless it is essential for the panel to know

Additional Information (Detailed picture of pupil, including positive attributes, any medical diagnosis, concerning behaviour with parties outside school, impact on peer group, interests and hobbies, membership of groups/clubs)

Gang related issues: Yes ... No ...

**Section 5 - Risk Assessment and Safeguarding questionnaire**

		0	1	2	3	4	5
0 = Unlikely	Theft						
1 = Improbable	Truancy						

2 = Small Possibility

3 = Possible

4 = Probable

5 = Certain

Persistent refusal to follow instructions						
Sexual inappropriate behaviour towards others						
Dangerous behaviour in the environment						
Confidential child protection information available on request	Yes			No		

**Safeguarding Questionnaire**

Does the child appear to be:	Yes	No	Not sure	Evidence/Comments
Healthy?				
Safe from harm?				
Learning and developing?				

Free from crime or antisocial

