

# ***Hertfordshire Fair Access Protocol for Primary Schools***

## **1. Context**

- 1.1 This protocol was implemented on 1<sup>st</sup> December 2012 and applies to all state funded first, infant, primary and junior schools, including academies, in Hertfordshire. It is a requirement of paragraph 3.11 of the School Admission Code that “all admission authorities **must** participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly”.
- 1.2 The protocol describes the principles to be applied and procedures to be followed in relation to the In Year admission of “hard to place” children outside the normal admission round.
- 1.3 This protocol applies only to children resident in Hertfordshire and to Hertfordshire schools, though it may be applied to children resident in Hertfordshire seeking a place at a school outside Hertfordshire if the admitting authority for the school is prepared to accept this.
- 1.4 This protocol does not apply to children whose parents did not secure provision at their preferred schools at the beginning of statutory schooling or at the regular transfer stages, i.e. between infant and junior schools, or first schools and middle schools, or middle and upper schools, or at secondary transfer.

## **2. Main principles**

- 2.1 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. foundation and voluntary aided schools and academies;
  - this protocol provides a fair, equitable and open method of admitting hard to place children to schools to ensure that these admissions are spread fairly and do not fall disproportionately upon schools which are undersubscribed;
  - the needs of children who are not ready for mainstream schooling will be met in accordance with the procedures established on a local basis for alternative provision. Given the size and diversity of the county, alternative provision is offered through a variety of methods, including Primary Support Bases, Education Support Centres and individual tuition. Individualised support within a mainstream school setting is also a possibility;
  - subject to the provisions of the School Admission Code and relevant legislation, the LA will provide schools with as much

background information as it is able to gather about any hard to place pupil they are asked to admit. Similarly, schools will, in timely fashion, supply such information when requested by the LA;

- 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;
- the application for school places of children not agreed as having reached the threshold to be considered hard to place will be processed in accordance with the normal procedures for In Year admissions;
- schools may not cite oversubscription as a reason not to admit a hard to place child if they are asked to admit a pupil in accordance with this protocol;
- hard to place pupils must be given priority for admission above others who may be on the school's continuing interest (waiting) list as mentioned in paragraph 2.14 of the School Admission Code;
- schools will respond within two days to requests for admission under this protocol so that the admission of hard to place pupils is not delayed
- hard to place pupils should be attending school within the timescales described in this protocol to ensure that these children do not remain out of education and awaiting placement any longer than is absolutely necessary;
- 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;
- parent(s)/carer(s) of hard to place pupils do not have the right to demand a place at the school(s) they would prefer their child to attend under the provisions of this protocol. They may, however, apply for a place at an undersubscribed school via the normal In Year admission procedures;
- Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it must refer the case to the Local Authority for action under this protocol. This will normally only be appropriate in exceptional circumstances, e.g. where a school has a particularly high proportion of children with challenging behaviour or previously excluded children (this provision does not apply to a Child Looked After, a child previously looked after or a child with a statement of special educational needs naming the school in question as these children must be admitted). Such referrals will be considered on their merit, the totality of the circumstances being taken into account and will not necessarily lead to the child being refused admission to the school in question;
- parent(s)/carer(s) of hard to place children retain their legal right of appeal for their preferred school if this school is not identified under

the protocol as the school which should admit the child. It is hoped that because it can be demonstrated that a robust and fair protocol for the admission of hard to place pupils is in place, and because a place has been offered at another school under the FAP, that an Independent Appeal Panel will be less likely to uphold an appeal lodged for a different school;

- in applying this protocol due regard will be given by the LA to the totality of the circumstances in each case, taking account of each school's situation and the needs of the child. The school which is approached by the LA to admit a hard to place child will be the one which is deemed to provide the best overall solution;
- the LA will take account of any concerns about the admission of a particular pupil, for example a serious breakdown in the relationship between the school and the family that may have happened in the past or a strong aversion to, or desire for, the religious ethos of a particular school
- where possible and where indicated, pupils with a religious affiliation will be matched to a school of the appropriate faith. However it is anticipated that faith schools will admit hard to place children even if the pupils identified do not have that religious affiliation. Similarly, hard to place pupils with a religious affiliation will not necessarily be placed at a school of the same faith if this might mean the school in question being required to take a disproportionately large number of hard to place pupils.

2.2 This protocol will be reviewed regularly and all partners involved will be given the opportunity to comment on how effectively and fairly it is operating.

### **3. Definitions of hard to place pupils and timescales for placement under this protocol**

3.1 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.

3.2 It follows that there is a need to define those categories of pupil who may justifiably be described as "hard to place" in accordance with the principles expressed in paragraph 3.1 and to comply with the requirements of the School Admission Code. It is only these specific categories of pupil whose admission to school is required outside the normal admission rounds who will be considered under this protocol. Schools will continue to admit pupils not defined as hard to place and whose admission is required outside the normal admission rounds in accordance with established In Year admission procedures.

- 3.3 Pupils identified as falling within the scope of this protocol should be allocated a school place and be on roll no later than twenty school days after the place was sought and no later than fifteen school days after the school identified under the protocol has been approached.
- 3.4 Children defined as “hard to place” for the purposes of this protocol are defined below. Each category of hard to place child has been included in one of two groups, A and B. Group A encompasses those categories of hard to place pupils who are likely to place a significantly higher demand on the resources of a school than the average child and who are likely to present challenging behaviour. Group B encompasses those categories of hard to place pupils who are likely to place a significantly higher demand on the resources of a school than the average child but who might not necessarily present challenging behaviour.
- 3.5 In determining whether or not an individual pupil falls within the scope of this protocol the Local Authority will consider the totality of that individual’s circumstances, including the extent to which the criteria are met.

#### Group A

- *Children attending Pupil Referral Units (PRUs) or Primary Support Bases (PSBs), who need to be reintegrated back into mainstream education – to include both permanently excluded pupils and those who have not been permanently excluded (DfE required)*
- *Children withdrawn from schools by their families following fixed period exclusions and unable to find another place – this provision will apply where there is a history of fixed period exclusions for persistent disruptive behaviour rather than for a few isolated incidents.*
- *Children returning from the criminal justice system (DfE required)*
- *Children who are at serious, but not imminent, risk of permanent exclusion – the transfer of a child between schools in these circumstances will be referred to as a managed move.*

#### Group B

- *Children who have been out of education for two months or more (excluding children with an allocated school place which the parent has rejected) (DfE required) – this includes children who have no identified school place or provision who have been out of education for this time*
- *Children of refugee and asylum seekers (DfE required)*

- *Homeless children* (DfE required)
- *Children with unsupportive family backgrounds where a place has not been sought* (DfE required)
- *Traveller children* (DfE required)
- *Children who are carers* (DfE required)
- *Children with significant special educational needs (but without a statement)* (DfE required)
- *Children with serious disabilities or serious medical conditions* (DfE required)
- *Children of serving UK Service personnel\**
- *Children for whom there is no school place within a reasonable travelling distance from the home address*

\*Including children of service families whose countries have a “Memorandum of Understanding” with the UK Home Office

#### **4. Process**

- 4.1 Where it is proposed that the application for a school place of a child be considered under this protocol the case will be referred to the Integration Officer for the area of Hertfordshire in which the child resides. If the Integration Officer agrees that the pupil fits the criteria of a hard to place child according to the definitions above, finding suitable educational provision becomes the responsibility of the Integration Team, who takes ownership of the case. Such acceptance automatically means that this protocol will be invoked.
- 4.2 The Integration Officer will nominate a school for each hard to place pupil based on:
- the number of hard to place pupils of the same category that schools have recently admitted to ensure that there is as even a distribution of these pupils as possible across all the schools in the area
  - the number of hard to place pupils of the other categories that schools have recently admitted to ensure that there is as even a distribution of these pupils as possible across all the schools in the area
  - the number of hard to place pupils from each of Groups A and B as described in paragraph 3.4 already admitted by schools during the academic year to ensure that, as far as possible, each school of a given area admits an appropriate share of pupils from each Group
  - the stated preference(s), if any, of the parent(s)/carer(s)

- the home to school journey distance and whether or not it would be appropriate for the pupil to attend a school that was either in or not in his/her immediate locality
  - the number of children that have been permanently excluded from or subject to a managed move from each school during that academic year
  - the number of permanently excluded children and children subject to a managed move that each school has admitted during that academic year
  - the specific Year groups into which hard to place pupils have been admitted during that academic year
  - the context of each school's circumstances, evidenced as necessary
  - representations made in advance by schools to avoid placing hard to place children in specific Year groups (which would need to be supported by evidence of the case)
  - considerations as to the appropriateness of schools in relation to the profile of the child in question, e.g. the child's interests and the schools' specialisms.
- 4.3 In certain cases children and their parent(s)/carer(s) may be invited to attend a meeting of the relevant area's Integration Panel to discuss the child's next steps in education.
- 4.4 In reaching a decision it may not be possible to reconcile each and every factor mentioned above and thus there may well be an element of "best fit". The Integration Officer will, however, do his/her utmost to satisfy as many of the criteria mentioned above as possible.
- 4.5 Wherever possible the Integration Officer will not ask a school to accept a child into an infant class under this protocol if it will result in the class exceeding 30 pupils and the school having to take qualifying measures as specified in paragraph 2.15 of the School Admissions Code, February 2012. This paragraph identifies those categories of children excepted from the infant class size regulations.
- 4.6 The Integration Team will contact the hard to place child's most recent provider of education (and, if necessary, previous providers) to request background information that may be of assistance to a future provider
- 4.7 Once a school has been identified by the Integration Officer, the Officer will contact the school with an urgent request to admit the child. This will be done immediately to alert the school to the need for a place, even if the previous providers of education have not responded to the request for information. This information will be forwarded by the Integration Team at the earliest opportunity.
- 4.8 It is anticipated that in the vast majority of cases, the school will agree to the request. In any event, schools should respond within two days of the approach by the Integration Officer to avoid delay in the process.

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.

- 4.9 If the school agrees to the request for a place, an initial meeting will be arranged at the earliest opportunity to involve (at least) the child, the parent(s)/carer(s), a representative of the school and typically in the case of a permanently excluded child or one being transferred as the result of a managed move, the Integration Officer for the relevant area. 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.
- 4.10 The Integration Officer's role is to secure provision for the child, keep a record of the initial meeting as appropriate (which will be shared with the school), clarify any issues around the admission (e.g. transport arrangements, matters of uniform), agree actions to be taken by the parties involved and determine an admission date within the target range specified in paragraph 3.3).
- 4.11 The school will inform the Integration Team that the admission has taken place on the date specified. The Integration Officer will conduct any reviews that were agreed as part of any support package arranged and assist the school in acquiring any further resources identified as being needed.
- 4.12 In the event that a nominated school does not agree to the request for a place, another solution may be sought. However, it may be necessary to return to the school initially identified if another way forward cannot be established.
- 4.13 In the event that a place cannot be found by agreement the Integration Manager will identify the school to admit the child under the terms of this provision of the protocol. If necessary the LA will direct an admission authority to admit a child or, in the case of an academy, request the Secretary of State to intervene and direct the academy to admit under the academy's funding agreement.
- 4.14 The Integration Team will keep suitable and appropriate records which will track progress through the various stages of the process for all children dealt with under the protocol.
- 4.15 When agreement has been reached as to which school a hard to place child should be admitted to, the child will go on that school's roll without a trial period. The admitting school will assume all the same responsibilities for the child as any other pupil on its roll.

## **5. Managed moves**

- 5.1 The term “managed move” refers to the transfer of a pupil who is at serious risk of permanent exclusion from one school to another. Managed moves are intended to provide a way to avoid the need for permanent exclusion in cases where a full range of inclusion strategies has been applied and these have not been lastingly effective. A managed move may either be direct, i.e. from one school to another, or indirect, i.e. via the local Primary Support Base.
- 5.2 A managed move may not be invoked in the case of a child who is not at serious risk of permanent exclusion. In particular, parent(s)/carer(s) will not be allowed to use a managed move as a means of achieving their preference for a certain school.
- 5.3 The purpose of a managed move to another school is to enable a pupil at serious risk of permanent exclusion the opportunity of a fresh start in a new school. Managed moves should only be done with the full knowledge and cooperation of all the parties involved, including the parent(s)/carer(s), the schools involved and the LA, and in circumstances where it is deemed to be in the best interests of the child concerned. Parent(s)/carer(s) should never be pressured into removing their child from a school under threat of permanent exclusion, as specified in the DfE document “Exclusion from Maintained Schools, Academies and Pupil Referral Units in England”. Parent(s)/carer(s) will be informed that there is no guarantee that a request for a managed move will be approved.
- 5.4 In the spirit of this protocol, it is anticipated that all schools will assist each other wherever possible and be willing to both accept as well as suggest pupils for managed moves. Schools should not request a managed move before the full range of inclusion strategies have been attempted and been found to be ineffective. The school will have to demonstrate the inclusion strategies that have been employed.
- 5.5 The Integration Team of the LA may act as a “broker” of managed moves.
- 5.6 If the LA is asked to act as the broker of a managed move, the Integration Team will request information about the child from the current school. This will be passed on to the school to which it is proposed that the pupil is transferred. The parent(s)/carer(s) will also be contacted to ascertain their view on the proposed move and written consent must be obtained for the process to continue.
- 5.7 All parties, including the child, the parent(s)/carer(s) and representatives of both schools concerned will typically be invited to a meeting of the Integration Panel to discuss the issues involved



## **6. Review**

- 6.1 This protocol will be subject to regular review. All parties will have the opportunity to express their view as to how well and how fairly the protocol is working, to express any concerns and suggest ways in which the protocol should be modified. If agreed by the Primary Heads' Forum and the County Council's Admissions Forum, any changes proposed will be effected.