

## FAIR ACCESS PROTOCOL

### 1. Introduction

1.1 Each local authority **must** have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that - outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a protocol, 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. The protocol **must** include how the local authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met through school practice and school provision being ready and available for students to access.

### 2. Principles of the Fair Access Protocol

2.1 The Fair Access Protocol will apply to all admission requests outside the normal admission round with the exception of:

1. A child seeking admission to a sixth form;
2. A child with an Education, Health and Care Plan (EHC Plan) which names the school in question;
3. A looked after child or a previously looked after child.

In the case of points 2 and 3 above, paragraph 3.12 of the School Admissions Code directs that such children must be admitted to the school in question and that the principles of Fair Access do not apply to such cases.

2.2 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.

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

2.4 All admission authorities **must** participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol although parents' wishes will be taken into account.

2.5 The Protocol encourages the local authority and schools to work together in partnership to improve behaviour, tackle persistent absence and help support Behaviour Improvement Partnerships. This protocol has been updated to take account of new regulations and incorporates guiding principles against which to place children who may have difficulty securing a school place outside the normal admissions round.

### 3. The Plymouth Context

3.1 This protocol covers all admission requests outside the normal admissions round and applies to all Plymouth maintained schools including Academy, Community, Foundation, Free, Studio, Trust, University Technical College, Voluntary Controlled and Voluntary Aided schools.

3.2 In line with the requirements set out in paragraph 3.15 of the School Admissions Code 2014 the following criteria will be used as indicators that a child of statutory school age should be considered for allocation under this protocol:

- Applicants for admission to year 11 in a mainstream school (assessed);
- Children from the criminal justice system (assessed);
- Children on the roll of a Pupil Referral Unit who need to be reintegrated into mainstream education (reintegration);
- Children of Gypsies, Roma, Travellers, refugees and asylum seekers (assessed);
- Children who are homeless (assessed);
- Children with unsupportive family backgrounds for whom a place has not been sought (assessed);
- Children who are carers (assessed);
- Children with special educational needs, disabilities or medical conditions (but without an Education, Health and Care Plan) (assessed);
- Children of UK Service personnel (assessed);
- Children who have been out of education for two months or more (assessed);
- Children whose parents have been unable to find them a place after moving to the area, because of a shortage of places (assessed);
- Children with English as an Additional Language (assessed);
- Children withdrawn from schools by their family, following fixed term exclusions and unable to find another place (reintegration);
- Children permanently excluded or with a managed transfer within the last two years (reintegration);
- Children without a school place and with a history of serious attendance problems i.e. 85% or below (assessed);
- Children who have attended two or more schools within a phase of education with no change of address (reintegration)
- Children with a conviction or caution for criminal behaviour in the previous two years (reintegration);
- Children at significant risk of permanent exclusion (reintegration);
- Children known to another agency/other agencies (assessed).

3.3 Whilst it is recognised that children that fall into the categories identified above **may** be vulnerable, not all children meeting a particular criterion will be vulnerable and require assistance to access a school place. The majority of children will be dealt with through Standard Admission procedures. Other children not listed above may also experience difficulties in attaining a school place, the majority of whom will also be admitted through routine admissions procedures operated by admission authorities or their agents. This Protocol will work as a failsafe for a minority of children who for whatever reason may find it particularly difficult to access a school place.

3.4 These children may face challenges, which require additional consideration and support in the form of alternative provision. Schools should be reminded that they can contact an alternative provision provider directly and are encouraged to use alternative provision as an intervention to avoid a permanent exclusion or a managed transfer.

3.5 Children of year 11 age will be allocated a place at school as for other year groups until the end of term two in December. After term two, students will be registered with Plymouth's commissioned

alternative provision where appropriate. Every year 11 applicant has a right to a personalised response that will involve the Inclusion Manager, the School Admissions Team Manager and the Head of the parents preferred school. They will agree the best provision for the child's programme of education that is in the interest of the child in negotiation with the Headteacher.

3.6 On receipt of an application form, the admission authority (or its agent) will review the request in the light of the City Council's Fair Access Protocol and will determine the application to fall under the:

1. Standard In-Year Admissions procedure (see paragraph 4);
2. Assessed In-Year Admission procedure (see paragraph 5);
3. Reintegration In-Year Admission Procedure (see paragraph 6).

3.7 Schools cannot cite oversubscription as a reason for not admitting a pupil under a Fair Access Protocol. Equally, no school, including those with places available, is asked to take a disproportionate number of children in each year group who have been excluded from other schools or who have challenging behaviour or who are known to have a history of behavioural problems and whose cases have been considered under the reintegration provision. The allocation of pupils should be equitable across the schools in Plymouth.

3.8 In this context, each case thought to present challenging behaviour will be considered on individual circumstances by the Inclusion and Attendance Manager and the Team Leader School Admissions (or other nominated officer within those teams). Challenging behaviour will normally be defined as:

- Where the child has attended two or more schools (in an education phase) without a change of address;
- Children transferring from a Pupil Referral Unit to a mainstream school;
- Criminal behaviour resulting in a conviction or a police caution that could impact on the school within the previous two years preceding the request for a school place;
- Behaviour resulting in a permanent exclusion or managed transfer within the last two years preceding the request for a school place;
- Children at significant risk of permanent exclusion where the school can evidence that the child has met the threshold.

Children with attendance problems, or those for whom English is an additional language will not, as a result of these problems alone be considered 'challenging' under the Fair Access Protocol.

3.9 Schools and the LA must respond within the agreed timeframe (appendix 1) to requests for admission so that the admission of the pupil is not delayed and cannot insist on an appeal being heard before admitting a child under this Protocol.

3.10 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 School Admissions Team for consideration under the Fair Access Protocol. This will normally only be appropriate where a school can provide evidence that it has a particularly high proportion of children with challenging behaviour or previously excluded children and that evidence is supported by the School Admissions Team. If agreed, the School Admissions Team will refer the case to the Secondary Placement Panel (SPP) for consideration under the reintegration procedure.

3.11 Schools cannot refuse to admit a pupil who has been denied a place at that school at appeal, if within the parameters of the Protocol it has been identified that the school is the one to admit the child.

3.12 Wherever possible, pupils with a religious affiliation should be matched to a suitable school (which could result in the school being asked to admit over PAN). If the pupil identified for the school does not have that affiliation the school will still be expected to admit the pupil.

3.13 Where Plymouth local authority directs an admission authority to admit a looked after child or previously looked after child, the governing body must admit the child to the school at any specified time during the year, even if the school is full, unless the School Adjudicator, or for academies the Secretary of State, upholds an appeal from the admission authority.

#### **4. Standard In-Year Admission Procedure**

4.1 Most requests received will be considered under the standard admission procedure. Applications will be considered up to PAN or other agreed limit. Looked after children and previously looked after children will be admitted to the preferred school even if the school is above PAN or other agreed limit as long as the admission does not prejudice provision of efficient education or the efficient use of resources.

4.2 If a school fails to confirm a decision to an admission request within five school days of the request being submitted to the school, a school place will be allocated at that school.

4.3 If the decision of the school is to refuse the application and the LA determines that the refusal does not comply with the provisions of the School Admissions Code, the case will ultimately be referred to the Secretary of State for direction to admit.

4.4 If the decision of the school is to refuse the application and the LA determines that the refusal does comply with the provisions of the School Admissions Code, the case will be refused with the right of appeal against the refusal and will also be referred to the SPP for placement under this Protocol.

#### **5. Assessed In-Year Admission Procedure**

5.1 Categories of applicants specified in 3.2 above as assessed will be considered for the requested school(s) up to PAN (or other agreed limit) for the relevant year plus 3% (rounded to the nearest whole figure where the minimum is 1).

5.2 A school will not be asked to admit above PAN or other agreed number to meet the preference of a parent for a child:

- Who already has a school place within statutory walking distance;;
- Has voluntarily given up a school place in order to seek a place under this scheme;
- Where the school has been assessed by Ofsted as grade 4 (inadequate) in the overall effectiveness of the school (or has been so assessed within the previous 2 years)
- is moving from elective home education.

#### **6. Reintegration In-Year Admission Procedure**

6.1 As an over-arching principle in placing pupils, Plymouth City Council will balance the requirement to consider the circumstances of the individual pupil, with finding a place quickly. Depending on the circumstances, admissions requests for children dealt with by the SPP will normally be resolved within 15 calendar days of the date of the recommendation. Note: The desire to meet this timescale should not override a comprehensive consideration of the needs of individual pupils and a subsequent decision about which school or setting will be best able to meet their needs.

6.3 Reintegration Admission Procedures will operate for the following groups of children:

1. Those children for whom a Managed Transfer from one school to another is considered appropriate;
2. Those children permanently excluded from a school (and not reinstated at an appeal);
3. Those children for whom an education setting has not been agreed and where the School Admission Team has been unable to allocate a place via the Standard Admission or Assessed Admission procedures;

4. Those children who are seeking reintegration from a Pupil Referral Unit into a mainstream school;
5. A child with challenging behaviour as defined in paragraph 3.9.

6.4 All Plymouth Secondary Schools will take up to four allocations per year above PAN (irrespective of whether the school has already exceed their PAN) or other agreed limit (see appendix 4). This does not preclude schools voluntarily exceeding this limit where they feel they can best meet the needs of the child.

6.5 Schools will not usually be expected to reintegrate more than one pupil into any single year group per year but there could be instances where the SPP has no choice bearing in mind the needs of the child. This does not preclude schools voluntarily exceeding this limit.

6.6 Schools must abide by the decision of the SPP. An LA has the power to direct/refer for direction the admission authority for any maintained school in its area to admit a child even if that school is full.

6.7 In the case of dispute following a decision of SPP, where the child is not on the roll of a Plymouth school, they will be admitted to Plymouth's commissioned alternative provision or, in the case of non-Plymouth resident applicants, referred to their home LA so that that LA can make suitable alternative provision for the child until resolution is reached. Where the child is on the roll of a school, the school must continue to maintain the child to avoid an illegal exclusion.

## **7. Funding**

7.1 Where there is physical movement from a mainstream setting to Plymouth's commissioned alternative provision the pupils place will be allocated top up banding on a case by case basis

7.2 If the student is moving from Plymouth's commissioned alternative provision to a mainstream school the remaining age weighted pupil unit will follow the pupil to their new school.

7.3 If a student moves from a mainstream school to another mainstream School, it is the responsibility of the new school to include the pupil on their PLASC return in order to receive funding.

## **8. Parental Preference**

8.1 Parents will be consulted in all reintegration cases. Parents have the right to turn down the offer of a school place, unless the pupil has been permanently excluded twice. If a reintegration placement is refused by the parent, the case will be referred back to the SPP or the parent can make alternative arrangements for the child to receive a suitable education. It is the responsibility of the allocated school, to inform the local authority immediately if the allocation has been refused by the parent. The local authority will ensure the pupil receives full-time education at school or otherwise. Where the SPP determines that all avenues have been explored to find a suitable school placement but the parent refuses all placement offers and makes no alternative arrangements, the Council shall consider issuing the parent with a School Attendance Order.

## **9. Review**

Plymouth Admission arrangements are subject to regular consultation and review. The Inclusion and Attendance Manager in conjunction with the Team Leader, School Admissions will monitor the effectiveness of the Protocol and consider how well existing and proposed admission arrangements serve the interests of children and parents in Plymouth. The Fair Access Protocol will be revised according to on-going trends and circumstances related to individual schools. Schools will be consulted initially with PLT Inclusion and then agreed with PLT.

**Glossary**

<b>Term</b>	<b>Description</b>
In-Year admission procedures	Admission procedures in place for admissions outside the normal admissions round. The LA offers a local scheme of co-ordination.
LA	Local authority
Maintained School	The collective name for Academy, Community, Foundation, Free, Studio, Trust, University Technical College, Voluntary Controlled and Voluntary Aided schools
Ofsted	The Office for Standards in Education, Children's Services and Skills
PAN	Published admission number (or other agreed admission number)
Parent	Any person with parental responsibility
PLASC	Pupil level annual school census
PLT	Plymouth Learning Trust
PLT Inclusion	A sub group of PLT
Plymouth's commissioned alternative provision	A provision determined as suitable by Plymouth City Council
Pupil Referral Unit	A short stay education provision
School Admissions Team	The team dealing with school admissions within Plymouth City Council
SPP	Secondary Placement Panel

**Appendix attachment**

		<b>Page numbers</b>
1	Timetable for standard and assessed applications	8
2	Direction flow chart (when a school fails to comply with a decision by the SPP)	9
3	Ancillary pages connected to Fair Access	10
4	Criteria for and list of schools with other agreed limit for reintegration admissions	14

## Appendix I

**Timetable for standard and assessed applicants**

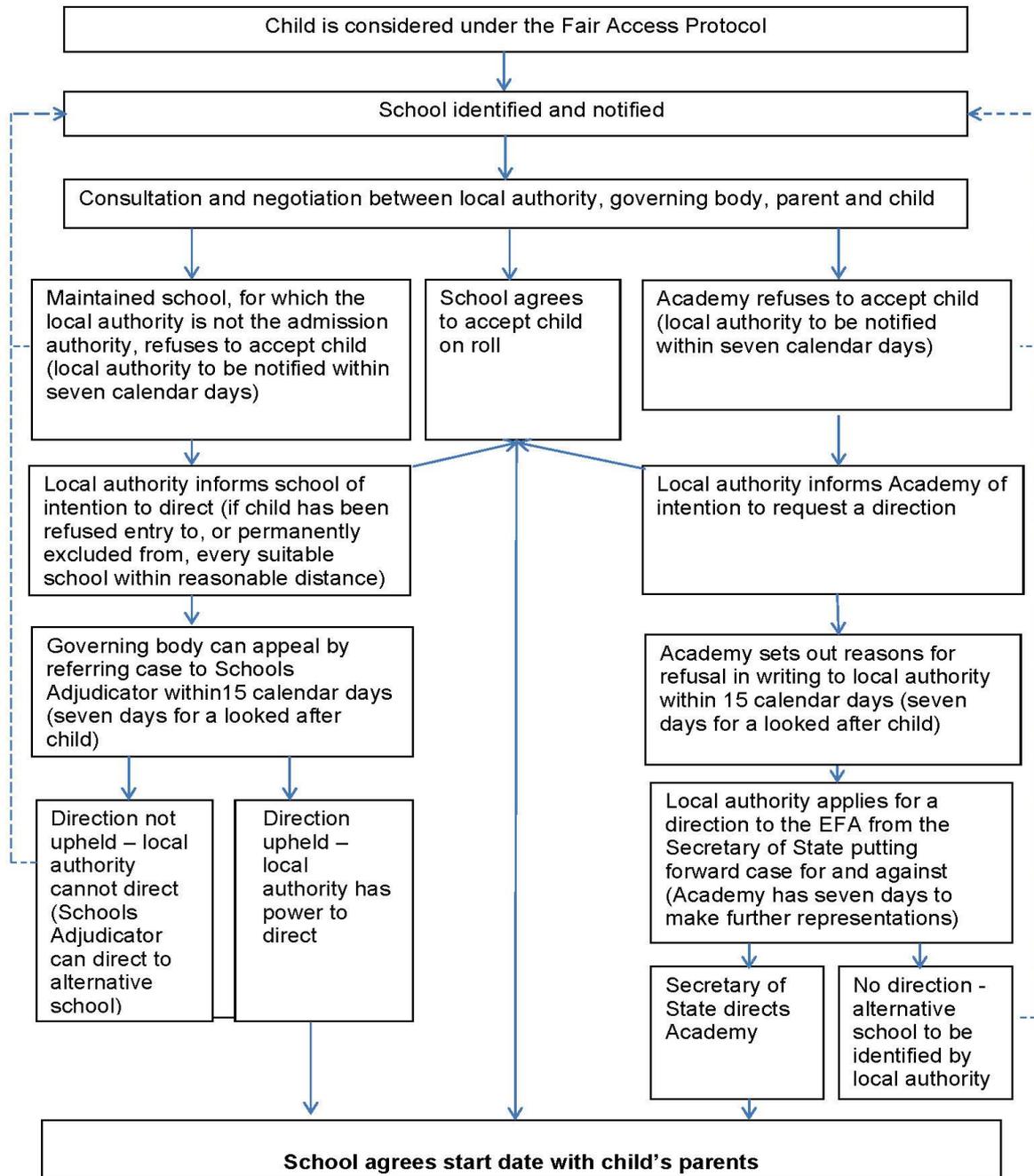
<b>All admission requests outside the normal admissions round</b>	<b>Fair Access Protocol applies</b>
Up to six school weeks before the date a school place is required (extended for UK service families and children attending a Plymouth specialist unit)	Application forms accepted from parents.
Within 20 school days of receipt of the application	<ul style="list-style-type: none"> <li>▪ Where a place is available, an allocation will be made in accordance with either a standard or assessed procedure.</li> <li>▪ If a school correctly refuses an application, the application will be refused with the right of appeal. In addition, the case may be considered for referral under the reintegration procedure of this protocol.</li> <li>▪ If a school refuses an application and the decision is not compliant with the School Admissions Code, the case will be referred for direction to admit.</li> </ul>

Please refer to the in-year school admission webpages at [www.plymouth.gov.uk/schooladmissions](http://www.plymouth.gov.uk/schooladmissions) for more information regarding the in-year admission process.

Appendix 2

**Direction flow chart where a school refuses to comply with a decision of the SPP – from DFE guidance issued November 2012**

**Directions flow chart (overview of process)**



\* Note: A community or voluntary controlled school cannot refuse to admit a pupil if requested by its own admissions authority.

## Appendix 3

### **Ancillary pages connected to Fair Access**

#### **Secondary Placement Panel**

The Secondary Placements Panel (SPP) makes recommendations for the placement or provision for secondary school aged children:

1. Where the child has attended two or more schools (in an education phase) without a change of address;
2. Children transferring from a Pupil Referral Unit to a mainstream school;
3. Criminal behaviour resulting in a conviction or a police caution that could impact on the school within the previous two years preceding the request for a school place;
4. Behaviour resulting in a permanent exclusion or managed transfer within the last two years preceding the request for a school place;
5. Children at significant risk of permanent exclusion where the school can evidence that the child has met the threshold.

#### **Managed Transfer Request Forms**

The Managed Transfer Request form is to be used by schools and academies to make referrals to the Secondary Placements Panel. Click [here](#) for further information and papers relating to the Secondary Placements Panel.

#### **Arrangements for the education of children who cannot attend school because of health needs**

All children and young people are entitled to an appropriate education, one that is appropriate to their needs, promotes high standards and the fulfilment of potential. The arrangements in Plymouth are intended to promote good practice across the City between the local authority, schools, academies and parents to ensure we are working together to make informed assessments about educational provision for those children who are either unable to attend school due to a specific medical need, or, in fact, would be able to access mainstream provision with additional support. Click [here](#) for further information.

## Appendix 4

**Criteria for and list of schools with other agreed limit for reintegration admissions**

In agreeing a Fair Access protocol, Plymouth City Council must ensure that no school is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour. In order to fulfil its responsibilities, secondary schools with an exceptionally low PAN may formally request another agreed limit for reintegration admissions. Requests must be made in writing to the Chair and Vice Chair of the secondary placements panel. If the request is granted, it will be subject to annual review.

Currently the school(s) with another agreed limit are:

Scott Medical School – 1 place for reintegration admissions. Due for review July 2019.