



# Fair Access Protocol

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## SUMMARY

A document detailing local arrangements and statutory responsibilities in relation to supporting vulnerable children struggling to obtain a school place

## OWNER

Fiona Hostler -  
Head of Education Access and  
Support

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## 1. Purpose

The School Admissions Code 2021 (paras 3.14 – 3.22) requires Brighter Futures for Children (BFfC) and all admissions authorities within its administrative boundaries to adhere to a Fair Access Protocol, working in partnership to take a shared responsibility for the admission of our vulnerable children and young people.

***The purpose of the Fair Access Protocol is to ensure that, 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.***

In agreeing a protocol Brighter Futures for Children 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 have challenging behaviour.

## 2. Principles

In order for this protocol to be successful:

- 2.1 All in-year admissions will continue to be processed through the current co-ordinated in-year policy of Brighter Futures for Children. Where schools have places, children and young people should be admitted under the normal admission procedures unless the requested school demonstrates that criteria (see below) have been met. However, if the child already has a school place it is the responsibility of the existing school to exchange information transparently so that a receiving school is aware of potential challenges and resource implications once a pupil has been admitted.
- 2.2 Any information sought by previous educational settings will be used to ensure pupils have an appropriate plan of support, not to evidence grounds of a refusal in line with the School Admissions Code
- 2.3 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 (as set out in paragraphs 2.23-2.31 of the school admissions code 2021). 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.
- 2.4 All schools must be confident that there is a rational and consistent structure for decision-making which is seen as fair and transparent, including the sharing of data on the number of placements to each school (please see 4.4 for how data is collected)
- 2.5 All admission authorities **must** participate in it. All schools will take part, even if they are responsible for their own admissions, admitting a balanced share of pupils with challenging behaviour (includes those permanently excluded or managed moved from other schools).

- 2.6 Schools cannot cite over-subscription if they are asked to admit a pupil under the Protocol; this includes admitting pupils above the published admission number where the year group is already full.
- 2.7 A place can be allocated at a school that is full and also in the case of an Infant class which already has 30 children with one teacher. Admissions via a Fair Access Protocol, or children who cannot be offered a school place within reasonable travelling distance of their home, are 'excepted pupils' identified in the Infant Class Size Legislation 2012 and the school can continue with one teacher for the class for the remainder of the infant phase.
- 2.8 Fair Access pupils will be given priority for admission over others awaiting an appeal for admission, and on waiting lists.
- 2.9 Schools must treat all requests for the admission of a pupil through the Fair Access Protocol as a matter of urgency. Schools are expected to respond to BFfC within 7 calendar days (local agreement). 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. (School Admissions Code 2021)
- 2.10 Schools should not insist on an appeal hearing before admitting a pupil under this Protocol.
- 2.11 The Pupil Placement Panel (PPP) should take account of any genuine concerns about the admission, for example, a previous serious breakdown in the relationship between the school and the family, a strong aversion to or desire for the religious ethos of a school or an admission that would create a significant child protection risk for an existing pupil.
- 2.12 Parents' and carers' views and geographical factors will be taken into consideration, but these will not necessarily override the Protocol; there is no duty for BFfC or admission authorities to comply with parental preference when allocating places through the Protocol.
- 2.13 If the child is attending another school, within reasonable distance of the child's home then that child will not need to be placed elsewhere. If parents do not accept the decision of PPP and proceed to appeal, then the Appeal Panel will be provided with evidence that the decision was agreed according to the Fair Access Protocol.
- 2.14 This protocol will not apply to a Child Looked After (CLA), or a child with an Education and Health Care Plan (EHCP) naming the school in question, as these children **must be given the highest priority** via typical admissions arrangements. Page 29 of the Admissions Code 2021 states: *Where a looked after child has been refused a school place, it is likely to be more appropriate for the local authority looking after the child to use the powers of direction set out in paragraphs 3.27 to 3.29 of the Code, than to submit an appeal.* The School Admissions Code 2021 para 3.13 states *"Governing Bodies 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."*

- 2.15 The protocol recognises that, whilst Reading School and Kendrick School are part of the Fair Access Protocol pupils will need to meet the academic entrance requirements of the schools before they can be admitted.

### 3. Roles and Responsibilities

#### Role of Schools

3.1 School Admission Code 2021 places a statutory duty on all schools and Academies to participate in their local authority area protocol in order to ensure that unplaced children are offered a place at a suitable school in the home local authority as quickly as possible.

#### Role of Brighter Futures for Children (BFfC)

3.2 BFfC is required by the School Admission Code to have a Fair Access Protocol as part of the determined Admission Arrangements each year. It is the Council's role to ensure that no school in the area is asked to take a greater proportion of children with challenging behaviour including those with places available and to ensure that every child has been allocated a school place.

3.3 Under section 96 of the School Standards and Framework Act 1998 a local authority may direct the governing body of a foundation or voluntary aided school in its area to admit a child where the child is unplaced and cannot be placed elsewhere or has been permanently excluded from, every suitable school within a reasonable distance from the child's home.

3.4 Local authorities may direct other Admission Authorities for any maintained school to admit a child in their care to the school best suited to his or her needs.

3.5 Where a local authority considers that a particular Academy will best meet the needs of the child, they can ask them to admit that child even when the Academy is full. If the Academy disagrees with the local authority's reasoning and refuses to admit the child, the case can be referred to the Secretary of State.

#### Role of the Schools Adjudicator

3.6 The governing body of a voluntary aided or foundation school may, under section 97 of the School Standards and Framework Act 1998 refer a Local Authority's decision to direct the admission of a child to the School Adjudicator

#### The role of Cranbury College

The role of Cranbury College (Alternative Provision Academy), under a Service Level agreement, is to provide education for children and young people who have been permanently excluded from school. Children and young people with an Education, Health and Care Plan will only be admitted in collaboration with the SEND Assessment Team unless they have been permanently excluded and Cranbury College can meet the child's needs.

Cranbury College is an Alternative Provider (the definition of AP is 'the arrangements for the provision of suitable education at school or otherwise than at school for children of compulsory school age who because of illness, exclusion or other reasons may not for any period of time receive suitable education') and is therefore not normally a suitable location for in-year admissions; an exception maybe where a pupil

has been in Alternative Provision / PRU in another area prior to moving to Reading. Cranbury College can offer intervention in exceptional circumstances but cannot, normally, offer a permanent solution.

All placements from Cranbury College into mainstream schools will be via the fair access protocol, but not automatically via a managed move without agreement of all parties involved that it is in the child's best interests. The college will provide a robust transition and reintegration plan to support the pupil's engagement and secure transfer to their new setting. This may include:

- 1-2-1 support on a weekly basis to provide mentoring within receiving school
- Bespoke timetable guidance
- Providing a phased timetable from Cranbury College into mainstream
- Alternative Provision advice
- Work experience and careers advice and planning support
- Regular review process

#### 4. Children and young people considered eligible under the protocol

4.1 Fair Access Protocols may only be used to place the following groups of vulnerable 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:

##### Mandatory categories

- 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 the Code;
- k) children for whom a place has not been sought due to exceptional circumstances (*It is for the local authority to decide whether a child qualifies to be placed via the Protocol on this basis, based on the circumstances of the case.*)
- 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

#### Locally agreed exceptional circumstances categories

- n) Children currently on roll of an Alternative Provision, or PRU requiring in-year admission
- o) Children returning from Elective Home Education particularly when it is judged to be unsatisfactory
- p) Children with 'hard-to-place' indicators that require a school place on application to return from EHE via in-year application

#### What is challenging behaviour?

“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 or other pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment.” *Reference: School Admissions Code, 2021*

The following reasons on their own should not be grounds for considering that a child may display challenging behaviour:

- poor attendance elsewhere;
- a defined number of suspensions, without consideration of the grounds on which they were made;
- special educational needs; or
- having a disability

Not all these groups of children will automatically be identified with challenging behaviour or have issues that require additional support or placement under the protocol. Children recognised under the above categories will be agreed by case for Fair Access admission.

- 4.2 Where a young person who has a school place wishes to move schools in-year but there is evidence of challenging behaviour, then Brighter Futures for Children’s Managed Move process could be requested on completion of the **Managed Move and Fair Access Referral Form** to give a genuine opportunity for a successful managed move. The requesting school will demonstrate that it has put everything in place to support the child to stay in the school and have been unsuccessful.
- 4.3 Managed Moves are a school to school arrangement decided upon outside of the Pupil Placement Panel, unless in exceptional circumstances where schools are unable to resolve a request
- 4.4 Schools will ensure data is submitted to the LA to aid tracking of managed moves, and pupil placements by completing leaver/joiner forms as per their statutory duty, and by submitting updates to the CME team via [cme@brighterfuturesforchildren.org](mailto:cme@brighterfuturesforchildren.org) or within pupil placement panels.
- 4.5 Schools will provide monthly data on placements offered within the Pupil Placement Panel or directly to BFFC Officers

## 5. The Process: Pupil Placement Panel

The operation of the Protocol is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year admission arrangements and where the pupil meets the criteria of the additional categories.

### 5.1 Proportionate placements

- In any academic year a secondary school would not normally be expected to admit more than 2 per year group (excluding 6<sup>th</sup> form) through the Protocol
- For primary schools of under 250 pupils a maximum of 2 pupils per year; 250-499 would admit 3 pupils;
- These figures are meant as a guide to good practice and head teachers (or their representative) would consider individual school circumstances at each PPP to ensure fairness, transparency and responsiveness.
- An accurate spreadsheet which records admissions, including those from outside Reading, will be kept.

5.2 In the event that agreement cannot be reached the Local Authority will identify the school using the tracker system

5.3 **Criteria for decision making** will be transparent and be recorded at the meeting. Each young person will be discussed individually and the decision to place in a school (including places for managed moves) or AP will be based on:

- The best interests of the young person to include safeguarding and health concerns
- Parental and young person's views and preferences although these are not binding
- Evidence that the young person has a good likelihood of accessing a mainstream school successfully. Alternative provision and/or outreach support could be requested either on a permanent or temporary basis
- Numbers on roll and cohort information
- Numbers of previous admissions for the year group via the Protocol in the academic year
- Numbers of Managed Moves into the year group in the academic year
- Consideration of information from schools and AP/PRU on suitability of proposed placement including the matching of examination boards where applicable
- Transport and distance from home to school. Usually, PPP would wish to name the nearest suitable school. In most cases parents would be expected to arrange transport themselves or comply with BFFC's existing transport policy.

5.4 **Communicating decisions:** A decision will be made at PPP and recorded. Parents should be informed as soon as possible usually by the Admissions Officer for In-Year admissions and by the referring school in respect of a Managed Move. Outcomes will be retained for future reference by the BFFC and be available for scrutiny by all head teachers (PPP Tracker).

5.5 **Admissions:** the young person should be admitted as soon as possible, preferably within one week but with a maximum of 15 school days in exceptional circumstances, in line with the School Admissions Code 2021.

- 5.6 It would be expected that remaining pupil level funding would be transferred from the home school to the receiving school. Exceptions to this should be discussed at PPP. Further advice can be sought on this matter from the School's Business Manager/ Bursar or School Finance team at BFFC.

## 6. The Process: Pupil Placement Panel and appeals

- 6.1 Where a Governing Body does not wish to admit a child with challenging behaviour outside the normal admission round, even though places are available, it must refer the child to the Local Authority for action under the Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour in that year group. (School Admissions Code 2021 para 3.12) The Governing Body must inform the School Admissions Team if they wish to refuse a place on these grounds and must provide appropriate data and minutes of the Governor's meeting when this was discussed. The case will be considered by PPP. Only if the majority view of the school's representatives at PPP accepts the case submitted by the school and confirms the decision of the Governing Body, can the school refuse to admit the child. **If the PPP supports the Governors' decision they will need to decide which school will admit the child if the child is unplaced.**
- 6.2 The Pupil Placement Panel is BFFC Brighter Futures for Children's arrangement for adhering to the Fair Access Protocol. Schools and BFFC will work in partnership to co-design, participate, monitor and evaluate the process.
- [Fair access protocols: advice for local authorities and school admission authorities \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/fair-access-protocols-advice-for-local-authorities-and-school-admission-authorities.pdf)
- [School admissions code 2021 \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/school-admissions-code-2021.pdf)

## 7. Allocation of pupil – Tracker system

- 7.1 The school with the lowest admissions through PPP is normally the school to take the next pupil.

The principle of this are:

- The school with lowest PPP admissions is normally allocated the pupil
- No school has more than two vulnerable pupils under fair access in same year group in any 12 week period
- Pupils with no roll must be placed on roll of the receiving school
- It may be necessary to skip certain schools if PPP considers the school does not meet the needs of the pupil or it would not be an appropriate placement for the school
- If a school wishes to accept a particular pupil but it is not 'their turn' then this will be agreed at PPP and the school awarded the admission
- PPP will agree requests from schools that a particular in-year admission pupil meets vulnerable pupils' criteria and will appear on the PPP Tracker

- 7.2 The LA (BFFC) will maintain an accurate summary of the total numbers of in-year admissions on an individual school basis, to be used at PPP to prevent some schools taking a disproportionate number of previously excluded pupils or others considered to be vulnerable.

7.3 This data will be readily available to schools at every meeting and will support decision making under

7.4 To ensure that a complete picture of how schools are working with the BfFC to share vulnerable pupils is recorded, in-year admissions will include those pupils that could be considered to have been referred to the Panel, but were not, due to admission under the normal admission arrangements. This will assist the Panel when considering cases and ensure admission to schools is equitable.

## 8. Membership of Pupil Placement Panel and Conduct of Meetings – Secondary Schools

- 8.1 A representative from the following areas should attend each meeting:
- All secondary schools – Typically Head Teacher or Deputy Head Teacher. *The representative must have authority to act on behalf of their school with delegated decision making*
  - Cranbury College
  - Education Access and Support Manager
  - Admissions Team
  - CME Officer
- 8.2 Dates of meetings will be set before the beginning of the academic year.
- PPP meetings will usually be held every four weeks during term time.
  - For urgent admissions a virtual meeting or phone conversation may suffice.
- 8.3 A meeting will be deemed quorate if the majority of schools in the local group are represented. Schools must send an alternative representative in the deputy Head cannot attend
- 8.4 Whilst it is not preferable or best practice, in exceptional circumstances where a school cannot attend the PPP they may represent their views to BfFC's Admission / CME Officers or the head teacher chairing the meeting. Non-attendance of a school will not however preclude a placement decision being made at that school.
- 8.5 For pupils coming from outside Reading a best-fit approach will be taken, with consideration given to transport costs.
- 8.6 All paperwork and preparatory work will be completed in advance by BfFC School Admissions Officer who will facilitate the process. No decision will be made about a placement until all relevant paperwork has been received. A draft agenda and paperwork (where it has been received from the school) should be sent out by the Officer 5 working days before the PPP wherever possible. The final agenda and paperwork will be sent out 24 hours before the meeting.
- 8.7 An Education Access and Support Manager, Admissions Officer and CME Officer will attend to provide accurate relevant data; a representative of BfFC will minute and record the outcomes in an agreed format.

8.8 Chairpersonship of the meetings will be the Head Teacher or delegate of the hosting school with the support of BfFC representatives.

8.9 Representatives from other neighbouring schools can also attend, as these schools have areas of Reading as part of their designated area and serve Reading children. Other neighbouring schools, with a high proportion of Reading children may wish to join the group. Each request will be considered by the PPP membership.

8.10 The following may be invited for individual pupils:-

- Neighbouring Local Authority
- The Headteacher for Children Looked After
- A representative of Children's Social Care
- A representative from the Youth Offending Service

## 9. Membership of Pupil Placement Panel and Conduct of Meetings – Primary Schools

9.1 Primary Fair Access and managed moves case are rare and there is no justification for regular meeting. Meetings will be convened as necessary with BfFC officer and the head teachers of relevant schools as required or requested by schools

## 10. Monitoring

10.1 There will be an annual PPP review and consultation, open to all, to review the effectiveness of the Protocol.

10.2 BfFC will report the effectiveness of the protocol to the School Adjudicator each year in the annual Local Authority Report.

10.3 The protocol will be reviewed regularly (minimum annual) considering any changes in the School Admissions Code, views of PPP and the Schools Admission Forum.