

**North East Lincolnshire
Fair Access Protocol (FAP).
July 2021**



1. Purpose:

The purpose of this protocol is to establish a transparent system for ensuring that vulnerable children, and those who are having difficulty in securing a school place in year, are allocated a school place as quickly as possible, minimising the time the child is out of school.

The high number of schools that are their own admission authority makes this collective commitment to all Children and Young People even more important. We can only aim to provide an equitable system with the full participation and commitment of all Schools, Academy Trusts and Partnership agencies.

The protocol aims:

- To provide a fair, equitable and open allocation of school places.
- To ensure that vulnerable children and young people who require a school place are admitted without unnecessary delay.
- To support the Local Authority's priority for vulnerable children and young people by delivering their entitlement to full-time education and timely, smooth transitions.
- To be fair, transparent and robust, and to have the confidence of all stakeholders.

2. General Principles:

All schools within North East Lincolnshire are expected to provide education for the range of children and young people living within the local area. At times it will be necessary for mainstream schools to consider the need to admit pupils:

- Who have moved into the authority and have not been able to access a place through normal admission arrangements.

3. Children and young people covered by this protocol:

Most school admission applications will be dealt with in the normal admission round as children enter Year Reception, Year 3 or Year 7 classes. Others will need a school place mid-year, and are entitled to apply to the admission authority for the parent/carers' preferred school with applications processed according to the school's published admissions procedures. The Fair Access Protocol (FAP) will apply in the minority of cases where the normal systems have failed to deliver a school place in a timely manner. The FAP must not be used in place of the in year admissions process and is not an alternative to an appeal.

In line with 3:14 of the School Admissions Code 2021:

'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 identified lists of children and young people who must be covered by the protocol are (School Admissions Code 3.17):

- 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 FAP;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP;
- 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 FAP in accordance with paragraph 3.10 of the Code;
- k) children for whom a place has not been sought due to exceptional circumstances;
- l) children who have been out of education for 4 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;
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

Children and Young People with Education, Health and Care Plans (EHCPs):

Children and young people with special educational needs and / or a disability that names a school as detailed in their EHCP are required to be admitted to that school even if the school is full. The use of the FAP will not apply to children/young people with an EHCP.

Looked After Children and Previously Looked after Children:

In accordance with the School Admissions Code all admission authorities must ensure that their admission arrangements give priority to Looked after Children and previously looked after children in their oversubscription criteria. The use of the FAP will not apply to a looked after child, as these children/young people must be admitted, even if the school is full, and, in most cases, should be unnecessary for a previously looked after child.

Key Principles:

In order for this protocol to be successful for all stakeholders:

- All admissions authorities and their respective schools will continue to admit children and young people who apply for a place under normal admissions arrangements in accordance with published procedures;
- All schools will take part, including those which are their own admissions authorities;
- All schools agree not to cite oversubscription at the normal point of entry as a reason for not admitting a child or young person under this protocol. However, if a school can demonstrate reasonableness and has a compelling case in relation to evidenced capacity issues in particular year groups this will be considered as part of the Fair Access Protocol's process;
- Children/young people who are referred to the FAP will be given priority for admission over those on a waiting list, or awaiting an appeal;
- All schools will seek to respond immediately to requests for admission so that the admission of the child/young person is not delayed, and establish delegated operational arrangements to allow this;
- All schools will not insist on an appeal being heard or an assessment undertaken before admitting a child/young person under this protocol;

- Children/young people with special educational needs and / or a disability that do not have an EHCP will be treated the same as other applicants;
- Where there is a prior need for particular support or for reasonable adjustments to be made for a child/young person with special educational needs and or a disability, such children/young people will be placed quickly;
- The local authority will refer cases to the Pupil Placement Panel (PPP) when a new or return to area child/young person's in year school admission application process has been exhausted and a place has not been secured and / or the pupil/student has not secured a school place within 20 school days
- Where appropriate the parents/carers' views will be considered, but will not override a decision of the PPP;

The PPP will always take account of any genuine concerns about the admission, for example:

- A previous serious breakdown in the relationship between the school and the family;
- Impact of alternative or previous educational provision and readiness for transition into a mainstream setting;
- Previous educational past behavioural evidence including the child/young person's exclusion record;
- Evidence of drugs or substance misuse;
- Evidence lack of parental support;
- Previous known experience of social mix issues and peer group perception (either from the primary phase or for previously known secondary aged children/young people returning to the area); and
- The possibility of placement failure.

Where under 3:10 of the School Admissions Code a governing body has expressed their wish not to admit a child on the grounds of challenging behaviour outside the normal admissions round, even though the school has places available, it may refuse admission and refer the child to the FAP.

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. 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.*

Any child / young person who is new or returning to North East Lincolnshire and is refused a place under these criteria should be referred immediately to the local authority for consideration at the next FAP. A copy of the refusal letter along with evidence to support the refusal should be submitted with the request.

If a child / young person who is currently on the roll at another North East Lincolnshire school is refused under these criteria then there should be a discussion as to whether the case should be referred to the ASPIRE panel for placement or ongoing advice/guidance.

How the Fair Access Protocol will work:

Normal admissions procedures will apply in most cases. If they fail to secure a school place for a child/young person, then:

- If parents/carers have made no application, the Education Welfare element of the local authority's Inclusion Service should encourage them to do so;
- If one or more applications have been made without success due to the preferred school having no places, then the local authority's School Admissions Team should invoke the FAP.
- If a child/young person has been refused a place due to challenging behaviour the refusing school should request that the case is referred to the FAP.

The risk of a child/young person missing from education is greater than that of an inappropriate referral.

A Pupil Placement Panel (PPP) (see Annex 2) will be established to ensure timely access to a school place by applying the FAP where it is needed to deliver the aims in section 1. The clerk to the panel will collate referrals for consideration by the panel. The essential role of the panel is to ensure the delivery of the aims in section 1 above. This includes identifying the recipient school in each individual case.

Details of a child/young person's current or most recent educational provision needs to be acquired by the local authority's School Admissions Team to determine whether a secondary mainstream school placement is appropriate. If a child/young person has previously been attending a mainstream school in another local authority it is expected that the pupil/student will be placed in a mainstream school in North East Lincolnshire.

All parties involved recognise the importance of placing children and young people within mainstream schools where that is in the best interest of the children/young people.

Where the PPP has failed to allocate a place in a mainstream school they will seek to place the child/young person in appropriate educational provision, this would normally be aligned to an identified school and will take into account ASPIRE and FAP allocation, and be subject to agreement of the PPP. The PPP will recognise that this is not exhaustive and each school's individual challenges may need to be considered.

The requirement for a child to be on a school roll

Ofsted issued a report in November 2013, "Pupils Missing out on Education". The report makes specific recommendations including that "***every child must be on the roll of a school regardless of circumstances unless parents have elected to educate their child at home.***" The PPP will endeavour to ensure that this is the case for all children / young people, however, it is to be noted that any Year 11 pupil who is referred after January census may be single registered with 'other' educational provision.

Allocation of school places:

The Pupil Placement Panel (PPP) will allocate places at schools so that, as far as possible, each school admits an even share of children/young people. An allocation will be based on:

- The child/young person's needs;
- Nearest school to the family's home address;
- Number of children/young people already admitted to that school under the protocol, compared with other secondary schools in North East Lincolnshire;
- Individual children/young people already attending the school who share a common and difficult history with the child/young person to be placed;
- The protocol must operate as far as possible within the context of parental preference. However, in certain circumstances, it may override it where it contradicts this protocol.

- The protocol will operate on a rolling school year basis, so that the position at the end of the summer term will be considered when determining new allocations for the following autumn term.
- Education Transport will be provided in accordance with North East Lincolnshire's Home to School Transport Policy related to distance (see below).

Elective Home Education (EHE)

Even though parents/carers are provided with detailed information about the expected requirements of elective home education, they can sometimes change their minds after a short period of time and request a place back at school. Where a parent decides that they want their child to return to school and subsequently apply for a school place, applications should be processed in accordance with the in year admissions process. For those children who experience difficulty accessing a school place through the normal process they will qualify to be placed via the FAP under category (I).

Provision of Education Transport:

Education Transport will be provided if a decision made by the PPP meets the criteria for free transport in accordance with the local authority's Home to School Transport Policy.

Role of the Parent / Carer:

Although parents/carers cannot be forced to support an application, it may be suggested under a multi-agency plan as a strategy to avoid a parenting order being sought through the court that they should support this application. The lack of parental support will not prevent the case being referred to the PPP.

Role of the Governing Body

Governing bodies that are the admission authority for the school are recommended, once they have agreed to the FAP, to delegate the management of the process to the head teacher / principal of the school subject to regular reports to the governing body on school admissions under the protocol.

Whilst the governing body of a community or voluntary controlled school has no role to play in individual admissions to school, head teachers of those schools are also recommended to report regularly to the governing body admissions to the school under the protocol.

Review

The FAP will be reviewed on an annual basis.

Appendix 1 - Background and Legislation

The School Admissions Code 2021 <https://www.gov.uk/government/publications/school-admissions-code-->

Fair Access Protocols Guidance for school leaders, admission authorities and local authorities https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001153/Fair_access_protocols.pdf

Admissions to school - Children admitted to the Reception Year and those pupils transferring from Year 2 in an infant school to Year 3 in a junior school and from Year 6 in a junior / primary to year 7 in a secondary school do so during the normal admissions round in a process co-ordinated by the local authority. Parents can also make applications in year to transfer their child from one school to another outside of the normal admission round at any time of year. Such admissions to school are in year admissions and with these; problems can arise with particular pupils, both of primary and of secondary school age. The purpose of this FAP is to deal with applications to school outside of the normal admissions round and to focus on pupils defined in the categories as defined by the School Admissions Code, in other words, where a placement has not been secured under normal admissions procedures.

Parental Preference - An admission authority has a duty to comply with a parental preference for a place except under specific circumstances. This duty is not relieved by having a Fair Access Protocol. Where an admission authority has determined that a child will not be offered a place at a school, the parents have a right to an independent appeal. For twice excluded pupils there is no duty to comply with the preference or offer an appeal, but the duty to provide education does and the LA power of direction may still apply.

Admission Appeals - Where the admission authority determines not to offer a place, the parent can appeal against the decision and the admission authority has to defend the legality of its decision.

Links to Other Provisions - The FAP is consistent with and complementary to, the DfE guidance on identifying and maintaining contact with children missing, or at risk of going missing from education. It contributes to the prevention of children falling out of the education system because they:

- Fail to start the appropriate provision and hence never enter the system;
- Cease to attend, due to exclusion or withdrawal (e.g. illegal unofficial exclusions);
- Fail to complete a transition between providers (being unable to find a new school place after moving to a new LA or moving across the borough).

The FAP is further underpinned by the Schools Standards and Framework Act 1998 and Equality Act 2012

Appendix 2 - Pupil Placement Panel

Constitution, Quorum and Proceedings:

The core membership of the PPP shall be representatives from the local authority i.e. Inclusion Lead, School Admissions and Children Missing Education Manager (non-voting members) and senior representation from all schools and alternative provision (voting members).

The Local Authority will facilitate the meeting and the panel will meet as and when required. The clerk to the panel will be drawn from Access and Inclusion Service and a record of the proceedings will be kept.

When appropriate, other representatives may be invited to attend the panel

Cases referred to the FAP will be circulated to all school representatives in order for them to determine if they may be identified as the receiving school in order that they can attend or send written representations.

Decisions will be by consensus. If there is no consensus the decision will be made by the majority vote of the panel members. Any decision made by the panel will be binding to the school to which the decision refers. In the unlikely event of a dispute the Local Authority will negotiate with all relevant parties.

The receiving schools will determine the appropriate support strategies, if any, relating to the placement in the receiving school. The Local Authority will support the identification of any appropriate support.

All pupils placed by the panel will be placed on the roll of the receiving school and if possible the admission should be arranged within 5 school days of the panel's decision.