

# **Bristol Primary Schools Fair Access Protocol & Fair Access Panel Terms of Reference for Primary Age Children**

**1<sup>st</sup> September 2021 - 31<sup>st</sup> August 2022**

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## **Changes to the Fair Access Protocol and Process due to Coronavirus**

The statutory responsibilities and duties of local authorities and schools with regard to fair access admissions remain unchanged during the Coronavirus pandemic and recovery period. Public Health and Departmental (DfE) advice primarily affect how Fair Access Panels convene. Videoconferencing and the sharing of relevant documentation in electronic format using secure platforms will replace physical meetings and the sharing of hard copy paperwork. Other aspects, functions and timescales of Fair Access should remain largely unaffected. We will continue to seek the best endeavours of all parties involved in securing school places for vulnerable children.

## **Part 1. Fair Access Protocol**

This Protocol is a continuance of the statutory requirements and locally agreed arrangements introduced during the academic year 2017 – 2018 and outlined in the Fair Access Protocol shared with all schools. In accordance with the School Admissions Code 2021 the term 'school' as used within this protocol (and the Fair Access Panel Terms of Reference) includes:

- Community and voluntary controlled schools
- Foundation Schools (including Trust Schools)
- Voluntary aided schools
- Academies
- Free Schools

**This protocol applies equally to all children of statutory school age seeking admission to a Bristol 'school'. All 'schools', as defined above, are required by law to abide by the protocol.**

### **1. LEGAL CONTEXT:**

**1.1 The School Admission Code 2021 states that:**

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 (**see NB4 at the end of this Protocol**)

The operation of Fair Access Protocols 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 procedures.

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.

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 the Fair Access Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. The use of this provision will depend on local circumstances and is described in this local authority's Fair Access Protocol. This provision will not apply to a looked after child, a previously looked after child or a child with an Education, Health and Care Plan naming the school in question, as these children **must** be admitted.

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.

A Fair Access Protocol **must not** require a school automatically to take another child with challenging behaviour in the place of a child excluded from the school.

The list of children to be included in a Fair Access Protocol is to be agreed with the majority of schools in the area but **must**, as a minimum, include the following children of compulsory school age who have difficulty securing a school place:

## **1.2 Under the School Admission Code 2021 this protocol includes children of compulsory school age in the following 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 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

FAPs are intended to act as a safety net for the most vulnerable. As such, they may only be used to place children in the above categories, where a child is 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 in-year admissions process (see 2.3).

### 1.3 The Statutory Basis for the School Admissions Code

1. The School Admissions Code ('the Code') has been issued under Section 84 of the School Standards and Framework Act 1998 ('SSFA 1998'). The Code has been made following a consultation under Section 85(2) of the SSFA 1998 and after being laid before Parliament for forty days.
2. The Code comes into force on 1 September 2021 and applies with immediate effect. The Code applies to admissions to all maintained schools in England. It should be read alongside the School Admission Appeals Code and other guidance and law that affect admission appeals in England.
3. This Code imposes mandatory requirements and includes guidelines setting out aims, objectives and other matters in relation to the discharge of functions relating to admissions by the bodies listed below:

4. Admission authorities of maintained schools as defined in Section 88(1) (a) and (b) of the SSFA 1998 b) Governing bodies and local authorities (when not admission authorities) c) Schools Adjudicators d) Admission Appeal Panels.

These bodies have a statutory duty to act in accordance with the relevant provisions of the Code.

### **Application of the Code to Academies**

4. Academies, by which we mean Academy Schools, (including those that are Free Schools, University Technical Colleges and Studio Schools), are state-funded, non fee-paying independent schools set up under a Funding Agreement between the Secretary of State and the proprietor of an Academy (most commonly, and hereafter, referred to as an Academy Trust). Academies are required by their funding agreements to comply with the Code and the law relating to admissions, although the Secretary of State has the power to vary this requirement where there is demonstrable need.

## **2. CONTEXT AND REQUIREMENTS:**

2.1 The current Bristol Primary Fair Access Protocol (previously known as the Protocol for placing Hard to Place Pupils) was agreed by the majority of Bristol Primary Schools following extensive consultation and during the 2017/18 academic year. The statutory requirements and locally agreed arrangements of the Fair Access Protocol remain in effect until a majority of schools in the area have agreed to any revised version of the FAP which incorporates the mandatory changes to FAPs outlined by DfE in July 2021. The new Protocol must be reviewed and agreed by the majority of Bristol schools.

2.2 The Fair Access Protocol and Panel works in conjunction with agreed policies and procedures in relation to:

- \* Children in Care
- \* In year admissions guidance and escalation procedures
- \* Managed Moves (Previously know as Negotiated Transfers)
- \* Permanent Exclusions
- \* Special Educational Needs & Disability Code of Practice
- \* Home to School Travel

2.3 The protocol applies to the placement of vulnerable children **outside** the normal admissions round (ie in year admissions) and will only take effect when parents/carers have exhausted the normal methods of admission and been unable to find a school place for their child (i.e. the in-year application process). This does not include a requirement to pursue an appeal. Referrals under this protocol will not be accepted unless an in-year application has been submitted but no reasonable school place has been found.

### **Normal Methods of in Year Admission**

2.4 Parents with a Bristol address **apply to Bristol Local Authority** for an in year school place using either the on line or paper based 'in year' (movers) application form. Parents living in other local authorities who require a place in a Bristol school apply direct to Bristol. For some Academies, VA, & Free Schools – Parents apply directly. Please contact school admissions for an up to date list.

2.5. Bristol Local Authority (school admissions) manages all maintained school's **waiting lists**. Schools who are their own admission authority manage their own waiting list unless they have made arrangements to the contrary.

2.6 All admissions for Bristol children are no longer co-ordinated through **Bristol** Local Authority. All Schools must inform Bristol school admissions when a pupil has been taken on, or is removed off of a school roll.

2.6 Bristol Local Authority is the admission authority for all Bristol maintained sector schools except voluntary aided, trust (foundation), academies and free schools.

2.7 Before offering a place at a Bristol 'school' Bristol Local Authority will:

- Check with a maintained school as to the number of children in the year group to ascertain whether a place is available
- Contact 'own admission authorities' ie academies, voluntary aided, trust and free schools to request their admission decision

2.8 Guidance published by the DfE regarding in year admissions states that:

- *Own admission authority schools will communicate the availability of places to the local authority when requested. Bristol will request this information when an in year application is received. It will be provided by the school within 3 school days*
- *We (the DfE) think it would be reasonable for a local authority to allow admissions authorities (ie academies, trust schools, voluntary aided and free schools) **five** school days to make a decision in the majority of cases and a maximum of **10** school days in more complex cases. The expectation is that Bristol schools will conform to this guidance.*

2.9 Schools must, therefore, respond quickly to requests for in year admissions so that the admission of a pupil is not delayed and should not insist on any outstanding appeals being heard before admitting a child under this Protocol.

2.10 As part of assessing the suitability of a placement for a pupil Bristol Local Authority and/or the Bristol Fair Access Panel (FAP) must take into account any genuine concerns about the admission, for example a previous serious breakdown in the relationship between the school and the family or a strong view about the religious ethos of the school.

## **Children in Care**

2.11 Where Bristol Local Authority directs an admission authority to admit a child in

care 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 the Secretary of State for Academies upholds an appeal from an admission authority.

### **School Place outside Bristol**

2.9 While this protocol covers only schools within Bristol every effort will be made to contact and neighbouring co-ordinating authority to help to secure a school place in that area under its protocol where appropriate.

## **3. PRINCIPLES**

### **The Child**

3.1 The majority of children requiring a school place will continue to be admitted to a School in accordance with the usual admission procedures rather than through the Fair Access Protocol.

3.2 Meeting the needs of children and young people is at the core of this policy and a holistic perspective will be taken in all circumstances. Under every child's right to education, long-term mainstream school places will be sought in favour of time limited placements at specialist or alternative provision to help every child reach their full potential.

3.3 The educational needs of the pupil will be the prime factor in deciding a placement but every effort will be made to ensure that transport costs are reasonable and cost effective and meet current criteria within the Travel to School policy

3.4 Where a child has a statement of Special Educational Needs or an Education Health and Care Plan (EHCP), the Fair Access Protocols do not apply and the National SEN Code of Practice must be followed.

### **The Parent / Carer**

3.5 The parent or carer of any child considered by Bristol's Fair Access Panel (FAP) must be informed of the referral to FAP. The officer presenting the case to the Fair Access Panel will be responsible for ensuring that the parents/carers are informed of the referral.

3.6 Parents'/Carers' views will be considered by FAP in reaching a decision.

3.7 Parents/Carers may refuse the placement agreed by FAP and retain their right to apply directly to another school. If refused by the school, the parent/carer retains the right to appeal. If an appeal is successful, support for the young person's placement will be considered by FAP.

3.8 When pursuing a school place under the fair access protocol, parents cannot be guaranteed a place at a specific school – although parental preference will be considered.

## The School

3.9 **All schools** will play their part in admitting hard to place pupils; this will relieve pressure on schools where the published admission number has not been reached.

3.10 **Every school**, will agree to take a **maximum number of hard to place pupils** in an academic year, except for a school in special measures where the school may make a case to the panel that it would be inappropriate to place a child in the school at that particular time. This Fair Access Protocol sets the maximum number of **hard to place pupils** at one per form entry for each year group. **For example a one form entry school will be expected to take one HTP pupil, a two form entry school two HTP pupils, up to a maximum of four HTP pupils for four form entry schools.** For Primary age children the Local Authority and/or FAP will consider the school's situation in reaching a decision about the placement of a child considered hard to place. The school's situation will be demonstrated in a RAG rated school data set (see Appendix A) and considered alongside other schools' situations when arriving at a FAP placement decision.

3.11 The fact that the **published admission number** may have been **reached** in a particular year group should not be given as a reason for not admitting a pupil under this protocol.

3.12 It is the school's or academy's **responsibility** to ensure that **governors** are aware of this protocol and work within it.

## Decisions

### Taking into account school and specific year group contextual information

3.13 Placement decisions will take into account a variety of school and specific year group contextual information - supplied on a **primary schools data set** (see exemplar data set Appendix A). This will include a number of factors including: the current number of other hard to place pupils, those permanently excluded, and those changing school as the result of a 'managed move' admitted to the school. Managed moves are those transfers arranged between schools, in line with Local Authority guidance. All such managed moves will have been notified to the appropriate officer within the Local Authority.

3.14 In order to minimise the amount of time a child is out of education, either the Admissions Team or ALP Hub Team may contact the parents/carer's preferred school or academy to seek placement outside the formal panel arrangements if the taken into account during future panel decisions.

## 4. SCOPE

4.1 This protocol applies to all maintained sector infant, junior and primary schools including community and voluntary controlled schools, foundation schools (including trust schools), voluntary aided schools, free schools and academies.

## **5. FAIR ACCESS PANEL**

5.1 Bristol's response to the need to meet the fair access legislative requirements for primary age children, as outlined above in section 1, is to establish a Fair Access Protocol (FAP) and placement panel system (Fair Access Panel) where all primary schools and various agencies consider the needs of children and secure their education

5.2 The purpose of the Fair Access Panel is to:

- allocate a school place for those pupils who are not on the roll of a school or where a parent/carer requests an alternative school place and the pupil, in either case, is difficult to place through existing procedures
- ensure that such placements are fairly distributed across the city between all schools

## **6. MONITORING OF THE PROTOCOL**

6.1 Bristol Local Authority has a duty to report on compliance with and the overall impact of admissions arrangements in their area on fair access in its annual report to the Office of the School's Adjudicator.

## **Part 2. Primary Fair Access Panel Terms of Reference**

The definition of a 'school' is as described in the Bristol Primary Fair Access Protocols.

Members of the Bristol Primary FAP shall act in accordance with the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Legally FAP terms of reference must include:

- Timescales for consideration of individual cases
- Who will take part in the process
- How children will be allocated
- How decisions will be taken
- Who will ultimately be responsible for them

### **1. Co-ordination & clerking**

1.1 The fair access panels will be co-ordinated by the Bristol ALP Hub Team who will arrange meetings and collate and issue all paperwork.

### **2. Membership**

2.1 The panel will consist of:

- Head Teacher or Senior Manager representatives from Bristol Primary

'schools' (including Early Intervention Bases) – this person who will have been given the **authority to make decisions** on the school's behalf by the Head Teacher / Principal. (voting members of FAP)

- Other officers from Education Psychology, SEN Team and other relevant education, welfare & safeguarding agencies may also attend panel meetings and may also be voting members of FAP.
- Administrators from the ALP Hub Team will be present in a non-voting capacity.

### **3. Attendance at FAP meetings and Quorum**

3.1 There must be at least the Chair or Vice Chair plus 2 additional school representatives present for the panel to be quorate.

3.2 As Fair Access is a statutory process it is expected that a representative from each school or academy is present at each meeting – when requested by the Panel Administrators.

3.3 Where, exceptionally, a school or academy is unable to send a representative to a panel, they will be able to submit any representation/comments in writing to the Chair (via ALP Hub Panel Administrators) so they can be considered during the panel meeting – however, there can be no guarantee that any information submitted will affect the panel's decision.

### **4. Chair**

4.1 Normally a Fair Access Panel will be chaired by a member of the ALP Hub Team. A Headteacher or school representative can also chair with support from administrators from the ALP Hub Team.

4.2 Where the Chair's (or Acting Chair's) school is being considered for a possible placement, the principles of natural justice require the Chair (or Acting Chair) to stand down as Chair for this and any other relevant items. In the interest of impartiality, normally a Fair Access Panel will be chaired by a member of the ALP Hub Team.

4.3 If the Chair is absent from a meeting, an acting Chair will be elected by the members present for that meeting.

### **5. Meetings**

5.1 The Fair Access Panel will meet as and when required. Meetings will be coordinated by the ALP Hub Team and triggered when a referral to Fair Access has been made. Area based (Bristol North, East/Central and South) Fair Access Panel meetings will be arranged.

5.2 Meetings of the Fair Access Panel will not be open to the public or parents or carers in view of the sensitive nature of the items under discussion.

## 6. Referrals

6.1 Children can be referred by any professional involved with the family where they are aware that the normal methods of in-year admission have been exhausted.

6.2 The professional should complete the Fair Access Protocol School Placement Request Form (FAP 1 Appendix C), highlighting any individual circumstances that the receiving school/academy may need to be aware of, for example any behaviour patterns or social need (please note that this information must not be used by admission authorities to refuse the child's admission). The completed form should be forwarded to the ALP Hub, FAP administration team.

6.3 Referrals to Fair Access Panel can also be made direct by School Admissions.

6.4 The ALP Hub Team FAP administration team is responsible for preparing the case, including establishing appropriateness within the Fair Access Protocol, and circulating paperwork in advance. In exceptional circumstances a case can be tabled at the meeting with the Chair's permission.

## 7. Process

7.1 Cases will be presented to the panel by the relevant officer from the ALP Hub Team or other professional following receipt of the referral form and background information.

7.2 Wherever possible schools will be given at two weeks (10 working term time days) notice of the need to attend, prepare and give relevant information for a Fair Access Panel.

## 8. Decisions (working within the fair access protocol)

8.1 When making a decision Bristol Fair Access Panels will work within and **abide by** the Bristol **Fair Access Protocols** (these must be read in conjunction with these terms of reference in Part 1)

8.2 The FAP meeting will decide whether a child has been correctly categorised as 'Hard to Place' after all the information about that child has been considered. If the child was/is on the roll of a Bristol school, that school will make available to the panel details of all the actions taken to engage the pupil in education and details of involvement of other agencies.

8.3 The Bristol Primary Fair Access Panel meetings will consider the circumstances of the pupils accepted as hard to place and will decide which school should be approached to take the pupil. See protocol for more details.

8.4 When making decisions FAP Panel will consider:

- That no school or academy is asked to admit a disproportionate number of pupils nor two pupils in quick succession unless there are exceptional circumstances.

- Schools that are in 'Notice to Improve or 'Serious Weakness', will not be allocated a child who has significant behavioural issues or other challenging behaviour
- Any genuine concerns about the admission,– including any submission received from local schools or academies
- The needs of the individual child and each school's or academy's ability to cater for these
- Parental preference–fair access decisions should not be delayed pending the outcome of any appeals process
- Distances between the child's home and the allocated school or academy (a reasonable travelling distance is considered to be 45 minutes for primary pupils and the ability of the Local Authority to cover the cost of this transport (please refer to the Home to School Transport Policy)
- Whether the school has significant contextual difficulties in the specific year group be considered for placement. Schools will be able to indicate difficult year groups by RAG and number raking of year group vulnerability on a schools data set.

8.5 All decisions regarding pupil placement at receiving schools or academies will be made by the voting members (as described in section 2.1 of these Terms of Reference) present at the FAP meeting.

8.6 The decision FAP will be determined by a majority of votes of those panel members present and voting. If there are an equal number of votes, the chair (or person acting as chair) has a second, or casting vote.

8.7 All schools will accept the decision of FAP on all individual cases whether present at the meeting or not.

8.8 All decisions of the panel are final – there is no appeal process as by law all schools have to abide by Fair Access protocols and therefore these terms of reference.

## **9. Communication of decision**

9.1 Bristol ALP Hub Team will formally notify the named receiving school or academy of the decision by telephone and in writing (through email)

9.2 Bristol School Admissions will issue all necessary admissions paperwork.

9.3 An Administrator from the ALP Hub will make contact with the school/academy to follow up on the placement and start date.

9.4 It will then be the responsibility of the school/academy to ensure that the child accesses education.

## **10. Action by admitting school**

10.1 Within two school weeks of the Fair Access Panel's decision, the school will arrange an induction meeting with the relevant personnel to plan the integration

10.2 The school will normally admit the pupil on to the school roll within two weeks of the induction meeting but in **exceptional circumstances**, where additional support needs to be arranged, within a maximum period of one term. Exceptional circumstances will be determined on a case by case basis and agreed by **majority vote** by the Fair Access Panel.

10.3 In accordance with the School Admissions Code, a child must be included in a school's Admission Register from the beginning of the first day on which the school has been notified that the child(ren) will attend the school.

## **11. Funding**

11.1 Where additional funding to support a named pupil is agreed by the panel, this will be financed within the funding available to the panel.

## **12. Powers and responsibility**

12.1 Local Authorities and schools/academies in partnership are responsible for providing suitable full-time education for all children.

12.2 Bristol Local Authority will use its power of direction to support a Fair Access Panel decision if it feels that a school is being unreasonable in refusing to admit a child under this policy, or will refer the matter to the Secretary of State in the case of an academy or free school.

## **Part 3. Locally Agreed Procedures**

As a locally agreed arrangement Bristol Primary Schools will provide the Council's ALP Hub Team with pupil cohort data on all year groups, so that robust, equitable and transparent placement decisions can be made by the Fair Access Panel. Some of this data will be available via the LA's X Vault system access to School SIMS. Normally, up to date information will be best supplied by the School who will be asked for it in the first instance. **The Schools Data Set** will be updated in readiness for the Panels. The schools data will be set out as in the exemplar in **Appendix A**.

The Panel shall make decisions about pupil placements based on information summarised in a completed Fair Access Protocol form (FAP1) with additional and relevant supporting documented evidence made available as necessary. The FAP form is intended to give as complete a picture of a pupil as possible, allowing placement decisions to be made in an open and transparent way, involving representatives from all schools.

Panel Administrators will coordinate all aspects of the Panel process. The Local Authority Panel Administrators will oversee the administrative arrangements and maintain records of agreed actions.

Referrals of Bristol pupils to the Panel will be made following the procedures outlined in the **Admissions Flowchart** identifying procedures in **Appendix B**.

The Panel will endeavour to facilitate a transparent peer moderated referral process informed by robust pupil information.

Parents will be notified of the Panel's decision no sooner than 48 hours after the meeting in order to give the receiving school time to study the documentation and raise any serious concerns. The parent/carer will be notified by the Panel Administration team (ALP Hub). However, the parent/carer must be notified within 5 school days of the Panel's decision.

It is an expectation that the receiving school will have admitted an allocated pupil within 10 school days of the FAP panel meeting and decision to place.

New arrivals to the City or pupils being brought to Panel under 'Hard to Place' or Fair Access Protocols **without comprehensive historic or contextual information** will also be considered using the current **FAP 1 Referral Form** see **Appendix C**. In this instance as much information as is available will be presented, although this may be limited. Panel will vote whether any and all pupils are 'Hard to Place' and FAP protocols will apply. The Panel administrators will facilitate well informed admissions / 'Hard to Place' decisions that take into account a full pupil profile where this is available.

Where schools refuse to admit following a majority Panel decision to place a pupil there is an agreed escalation route which will be triggered by the FAP or Panel decision and response. The Council will follow up on refusal to admit pupils by referring the refusing School or Academy to the Education Funding Agency, Regional Schools Commissioner and / or Secretary of State for Education.

Where there is a concern about the resilience or composition of a year group, schools' RAG rating of year groups will be taken into account when placing pupils. Only two year groups can have a red rating, two ambers, and the remaining year groups should be green. In exceptional circumstances schools may, in consultation with the Panel RAG rate year groups differently, for example having more than two red rated year groups. Year groups should also be numbered 1 – 7. 1 being the most difficult year group and 7 being the least difficult year group. This is a subjective decision made by a school.

The Panel aims to facilitate a zero net movement of pupils, with schools taking as many pupils as they are sending.

Where appropriate, parent/carer & child voice will be taken in to account. The views of children and parents must be outlined in the FAP form where these are available. Every effort will be used to secure parent / carer views. **If a pupil is referred under the FAP Hard to Place protocols then parental preference does not apply.**

Non Bristol resident cases will only be considered by Panel in exceptional circumstances. Pupils considered Hard to Place will be referred back to their home authority initially.

Bristol schools and academies retain the right to permanently exclude. Schools will only permanently exclude in exceptional circumstances. Some permanently excluded pupils may need to spend time in an Early Intervention Base following their exclusion and before being considered for reintegration to a mainstream setting. A risk assessment should be completed prior to the pupil returning to the Panel.

Once a pupil has reached term 3 in Y6 it is considered extremely unlikely that a Panel managed move to another mainstream school will prove effective and this would only be considered in exceptional circumstances. However this does not apply to those arriving in the city, or those that are seeking a placement at an alternative school due to a house move that means travelling to the original school is not possible due to distance and or travel time.

Where a pupil who has 'Hard to Place' indicators is registered as educated at home or who has been deregistered from their school submits a mid-term application, their last registered school (where this is a Bristol school) will be required to put them back on roll before any change of placement can be considered (in the case of an oversubscribed school the case would go to Panel for consideration).

## **Part 4. Definition of 'Hard to Place' Pupils**

The Fair Access Panel shall consider all the evidence presented to determine whether a pupil is hard to place. A pupil generally should be considered hard to place if their behaviour or circumstances have caused undue concern and admission to school would require arrangements over and above those already made.

This is not necessarily a fully comprehensive list of all the circumstances where a pupil may be considered 'Hard to Place'. The Panel, on seeing and hearing all the evidence, will in the first instance, agree whether a pupil should be placed in the category of 'Hard to Place'. Equally, a pupil who falls into one of these categories may not necessarily be 'Hard to Place'. All

categories listed in the Admissions' Code as a minimum requirement could be considered 'Hard to Place', dependent upon the individual case:

- Children who have been permanently excluded from school
- Children from the criminal justice system or who have been at a Pupil Referral Unit inside or outside of Bristol (but are Bristol residents) who need to be reintegrated back into mainstream education
- Children who are withdrawn from school by their family, following a fixed-term exclusion and are unable to find another school place may be considered HTP but should return to their previous school (if this is a Bristol school) with a Managed Move between schools being considered first if appropriate.
- Children at serious risk of permanent exclusion and where all parties agree that the relationship between the school and those with responsibility for the child has broken down.
- Children who have been out of education for 2 months or more.
- Children who have come from unsupportive family backgrounds for whom a place has not been sought. (Child Missing Education cases)

The arrangements for considering whether a pupil is categorised as 'Hard to Place'; the decision making to identify a suitable school; and, admission processes and procedures under the protocol, are shown in the **Admissions & FAP Flowchart** at **Appendix B**. As stated in Local Agreements, pupils with an EHCP and LAC/CiC (looked after children/children in care) will not be considered under the statutory 'Hard to Place' categories as these pupils have different statutory admission processes. The Panel can recommend to the Council where they feel specialist provision is needed ie they can trigger a (request for) Statutory Assessment.

All schools will be represented as far as possible but decisions will be made even when not all schools are represented. The decision of the panel is binding on the admitting school, and there is no right of appeal regarding the decision of the panel. All decisions will be made by open and transparent majority vote. Each school will have one vote as will other attending professionals including those from Early Intervention Bases. Votes are non-transferable (ie a school or Academy representative must be present in order to vote).

Schools will have nominated members of staff who will organise, collate and comment on information sent or made available to them.

**SIGNATURE:**

I have read and will abide with Bristol’s Fair Access Protocol and the Terms of Reference of the Fair Access Panel (for Primary age children). I understand that fair access is a statutory obligation and that all decisions of the Fair Access Panel are binding and that each school or academy has a responsibility to implement that decision

School or Academy:

Signed by: (name & job role)

Signature:

Date:

**NB 1 Data Sharing & Confidentiality Agreement**

This document also needs to be read in conjunction with Appendix D (Primary FAP Data Sharing & Confidentiality Agreement). By signing this Fair Access Protocol & Terms of Reference schools are also agreeing to abide by the Data Sharing & Confidentiality practice outlined in **Appendix D**.

**NB 2 – Managed Moves / Managed Transfers (previously known as Negotiated Transfers (or NTs))**

We recommend that schools consider the supplementary information about Managed Moves which form part of the appended information to this document: Appendix E (MM Protocol), Appendix F (MM – information for professionals), Appendix G (MM – information for parents) and Appendix H (Bristol Primary MM Form).

**NB 3** – One clarification has been inserted to reflect practice - below:

- Where pupils who are not hard to place are allocated to schools, admissions should happen within statutory timescales. If the school refuses to admit, the matter may be escalated to Secretary of State (ESFA) or Schools Adjudicator, following mediation and in line with Admissions (Fair Access) Flowchart.
- Where pupils **who are hard to place** are allocated to schools, admissions should also happen within statutory timescales. If the school refuses to admit, the matter may be escalated to Secretary of State (ESFA) or Schools Adjudicator, following mediation and in line with Admissions (Fair Access) Flowchart.
- Where pupils **who are hard to place**, have been previously permanently excluded (PEX) and are *on roll at a resourced provision (Early Intervention Base – EIB)* and allocated to schools for admissions, this should also happen within

statutory timescales. If the school refuses to admit, the matter may be escalated to Secretary of State (ESFA) or Schools Adjudicator, following mediation and in line with Admissions (Fair Access) Flowchart.

- For pathway 3 (above - last point), a 12 week supported managed move (negotiated transfer – NT) **may** be considered as an option by FAP Panel & the LA subject to recommendation from the *resourced provision (Early Intervention Base – EIB)*. The local authority must outline the support it will give for pupils seeking a school placement as part of the Fair Access Protocol – see below:

**NB 4 – How the local authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met**

Most pupils' needs can be met in mainstream schools with quality first teaching and within the provision ordinarily available to children with additional learning needs in the setting. Where there is clear evidence that, even with additional resources provided to the school, it is not possible to ensure that the needs of pupils who are not ready for mainstream schooling are met other options will be considered and pursued. In exceptional circumstances this might include:

- Commissioning alternative learning provision for a time limited period.
- Seeking further assessment of need and making suitable provision.
- Seeking an assessment place in a specialist setting whilst undertaking an educational, health & care needs assessment (EHCNA).