

**The Determined  
Fair Access Protocol  
for  
Oxfordshire**

**Term 3  
2022/23  
and Terms  
1 to 3  
2023/24**

## Introduction

1. The purpose of the Fair Access Protocol is to ensure that outside the normal admissions round vulnerable children, and those who are having difficulty securing a school place, are allocated a school place as quickly as possible.
2. The School Admissions Code 2021 requires every local authority to have in place a Fair Access Protocol. The Fair Access Protocol for Oxfordshire applies to all state funded mainstream schools in Oxfordshire and is consistent with the requirements of the Schools Admissions Code 2021, the non-statutory guidance published by the Department of Education in August 2021, the Equality Act 2010 and the School Standards and Framework Act 1998.
3. The Schools Admissions Code 2021 requires all admission authorities of state funded mainstream schools to participate in the Fair Access Protocol to ensure that unplaced children are allocated a school place quickly.
4. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol, but a parent's wishes should be considered when deciding a placement.
5. The published guidance from the Department of Education sets out a clear expectation from the Secretary of State that all state funded mainstream schools and local authorities should work together to identify a school place for those children who have had difficulty finding one. The guidance is also clear that admission authorities must admit children when asked to do so under the Fair Access arrangements and that if they refuse to do so they may be directed to do so by the Secretary of State.
6. When reviewing a request to direct admission to an academy, the Education and Skills Funding Agency will act on behalf of the Secretary of State to consider whether due process has been followed in applying the provisions of the Fair Access Protocol.
7. The County Primary Fair Access Panel is responsible for the placement of vulnerable/hard to place children of primary school age.
8. The County Secondary Fair Access Panel is responsible for the placement of hard to place children of secondary school age, other than those who have been permanently excluded from school. This panel will, if required, meet on a weekly or fortnightly basis.

9. The four locality-based panels are responsible for inclusion work and the placement of permanently excluded students who are of secondary school age.

## **Principles**

10. Once agreed the Fair Access Protocol is binding on all state funded mainstream schools in Oxfordshire.
11. The arrangements regarding the admission of students above the published admission number only apply to mainstream state funded schools and not to establishments providing alternative provision or to special schools.
12. When making placements, the Fair Access Panels will consider any special circumstances that may apply, including the need to avoid or minimise transport costs.
13. There is no duty to comply with parental preference when allocating places through the Protocol, but the wishes of a child's parents should still be considered when making a placement decision.
14. When seeking to place a child under the Protocol, all schools will be treated in a fair, equitable and consistent manner.
15. The Fair Access Protocol only applies when a child is unplaced and is not on the roll of a mainstream school. Children may be on a short-term placement in alternative provision paid for by the Local Authority.
16. The process cannot be used to circumvent the normal in-year admissions process and a parent can, at any point, make an in-year application for a place and if a place is refused a parent has a right of appeal.
17. An application to the Secretary of State to direct a child's admission to a specific school will only be made as a last resort.
18. Any child without a school place is the responsibility of the Local Authority up until the point at which they are taken on roll at a school.
19. The Fair Access Protocol cannot be applied to admissions made through the normal admissions round for primary, junior or secondary schools and cannot be

used where this would involve contravening the regulations on the size of infant classes.

20. The Fair Access Protocol will not be used to require a school to automatically admit another child with challenging behaviour in the place of a child excluded from that school.
21. Decisions on the placement of children will be made in accordance with this Protocol.

## **Children covered by the Protocol**

22. The Fair Access Protocol may only be used for the placement of children who fall within the following categories if these students are not on a roll of a school and need a school place:
  - a) children either subject to a Child in Need Plan or a Child Protection Plan<sup>1</sup> or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Fair Access arrangement.
  - b) children living in a refuge or in other Relevant Accommodation at the point of being referred to Fair Access arrangements.
  - 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<sup>2</sup>.
  - i) children of, or who are, Gypsies, Roma, Travellers, refugees and asylum seekers.

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<sup>1</sup> Child in Need Plans and Child Protection Plans are plans of help and protection to address safeguarding and welfare needs, where a child has been assessed by the local authority as being a child in need under Section 17 of the Children Act 1989 and/or as suffering or likely to suffer significant hardship under Section 47 of the Children Act 1989. See also statutory guidance Working Together to Safeguard Children (2018) (pages 35 and 48 to 49). Where a local authority is advised that a child who has moved into the local authority had a Child in Need Plan or Child Protection Plan previously and meets the criteria outlined, this information may need to be checked with the previous local authority

<sup>2</sup> As evidenced by either a child arrangements order not relating to either birth parent or a special guardianship order

- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the Fair Access Protocol in accordance with paragraph 3.10 of the Code.
- k) children for whom a place has not been sought due to exceptional circumstances<sup>3</sup>.
- 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<sup>4</sup>.

### **Children not covered by the Protocol**

23. Different arrangements apply for the placement of Children We Care For (Looked After children) and children with an Education Health and Care Plan. These students should not be placed through the Fair Access Protocol.

### **Monitoring of the Protocol**

24. The Local Authority is responsible for the fair administration of this Protocol.
25. Exclusion and Reintegration Officers will monitor the placements of permanently excluded children under the Protocol and ensure these children are placed on roll and start at the named school in a timely manner.
26. The Admissions Team will keep a record of the placement of children under the Protocol.
27. If a school refuses to accept the placement of children through the Fair Access Protocol, the Admissions and Transport Service Manager will seek to resolve such issues through contact and negotiation with the relevant school.

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<sup>3</sup> 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

<sup>4</sup> The Code is clear that, in most cases, use of the Protocol should be unnecessary for a previously looked after child. The Local Authority is expected to secure a school place promptly for such children and for admission authorities to cooperate with this. The Code requires the Local Authority to consider swift use of its general powers of direction for maintained schools or to consider asking the Secretary of State to consider issuing a direction (as set out in paragraphs 3.26 to 3.29 of the Code) where a school place for a previously looked after child cannot be agreed with an admission authority promptly.

28. Any issues regarding the application of the Protocol, for example a school or schools failing to follow the Protocol, will be identified in the annual report to the Schools Adjudicator.

## **Publication and Review**

29. The annual review of the Protocol will take place for a period of at least 6 weeks between 1 October and 31 January of each school year. The consultation will be conducted through the Oxfordshire County Council Consultation Portal.
30. The consultation will be highlighted in Schools News and at the meetings of the Fair Access Panels.
31. The Admissions and Transport Services Manager is responsible for undertaking the review, submitting the Protocol for approval to the Director of Children's Services and reporting the outcome to schools and councillors. The Protocol will be agreed by no later than 28<sup>th</sup> February of each academic year. The next annual review of the Protocol will take place for at least 6 weeks between 1<sup>st</sup> October 2023 and 31<sup>st</sup> January 2024.
32. If most schools in Oxfordshire request an earlier review of the Protocol the request must be made in writing to the Admissions and Transport Services Manager. The Admissions and Transport Services Manager will then undertake a review of the Protocol. An earlier review may also be called by the Director of Children's Services, if there is evidence that vulnerable/hard to place children are not being placed in a timely manner.
33. The Fair Access Protocol will be published on the admissions page of the Oxfordshire public website and once agreed by the Director of Children's Services, it will form part of the admission arrangements for all state funded mainstream schools in Oxfordshire.

## **The County Primary Fair Access Panel**

34. The County Primary Fair Access Panel is made up of the Admissions and Transport Services Manager (or representative) and two primary head teachers when discussing placements of children who have not been permanently excluded. An Exclusions and Reintegration Officer will also be part of the Panel when discussing the placement of a permanently excluded child. All four are voting members. Other officers of the Local Authority may attend, as appropriate, to provide information or assistance but these officers will not be voting members of the Panel.

35. All members of the County Primary Fair Access Panel will have the right to discuss each case and, if necessary, vote on a suitable placement.
36. The Chair of the County Primary Fair Access Panel is the Admissions and Transport Services Manager (or representative) who will have the casting vote in the event of a tied decision.
37. If placing a permanently excluded child, the Panel will be quorate if the Admissions and Transport Services Manager, one Exclusion and Reintegration Officer and one headteacher are present. If placing any other child, the Panel will be quorate if the Admissions and Transport Services Manager and one headteacher are present.
38. A member of the Admissions Team will take notes of the meeting.
39. If no decision is made by the Panel, the Admissions and Transport Services Manager will identify a suitable placement.

### **Membership of the County Secondary Fair Access Panel**

40. The County Secondary Fair Access Panel is composed of the Admissions and Transport Services Manager (or representative) and 2 headteachers/headteacher representatives. They are all voting members.
41. The Panel is chaired by the Admissions and Transport Services Manager and a member of the Admissions Team will take notes of the meeting.
42. The Panel will be quorate if the Admissions and Transport Services Manager and one headteacher are present.
43. If no decision is made by the Panel, the Admissions and Transport Services Manager will identify a suitable placement.

### **Membership of the Locality-Based Panels**

44. For secondary schools, the placement of permanently excluded children is undertaken by locality-based panels. If any area panel ceases to operate, its functions will be taken over by the Admissions and Transport Services Manager and one of the Exclusion and Reintegration Officers.
45. All state funded secondary schools will have a representative on the locality-based panel that serves the relevant secondary school's area. They are all voting

members. All school representatives must be empowered to make decisions at the Panel meetings and be able offer places. There will be no voting by proxy.

46. The Admissions and Transport Services Manager (or representative), the Education Inclusion Manager and one Exclusion and Reintegration Officer will be members of each locality-based panel. Each Panel will normally be chaired by an officer of the Local Authority.
47. A representative from an alternative provider relating to pupils being discussed at the panel, will be a non-voting member of the locality-based panel.
48. The following schools are represented on the North Locality Panel:
  - 1) Wykham Park
  - 2) Futures Institute Banbury
  - 3) The Bicester School
  - 4) Blessed George Napier Catholic School
  - 5) The Cooper School
  - 6) Heyford Park School
  - 7) North Oxfordshire Academy
  - 8) The Warriner School
  - 9) Whitelands Academy
49. The following schools are represented on the West Locality Panel:
  - 1) Bartholomew School
  - 2) Burford School
  - 3) Carterton Community College
  - 4) Chipping Norton School
  - 5) Henry Box School
  - 6) The Marlborough School
  - 7) Wood Green School
50. The following schools are represented on the Central Locality Panel:
  - 1) Cheney School
  - 2) Gosford Hill School
  - 3) Matthew Arnold School
  - 4) Oxford Spires Academy
  - 5) The Cherwell School
  - 6) The Oxford Academy
  - 7) Greyfriars School



- 8) Wheatley Park School
- 9) The Swan School

51. The following schools are represented on the South Locality Panel:

- 1) Didcot Girls' School
- 2) Maiden Erlegh Chiltern Edge
- 3) Faringdon Community College
- 4) Fitzharrys School
- 5) Gillotts School
- 6) Icknield Community College
- 7) John Mason School
- 8) King Alfred's School
- 9) Langtree School
- 10) Larkmead School
- 11) Lord Williams' School
- 12) Wallingford School
- 13) St Birinus School
- 14) University Technical College Oxfordshire
- 15) Aureus School
- 16) Europa School

### **Referrals to Fair Access Panels (primary and secondary sectors)**

52. Referrals for consideration under the Protocol can be made by any state funded mainstream schools in Oxfordshire or by the Local Authority.
53. No referrals can be made by parents.
54. As a guide to good practice only, in any academic year, through the Protocol, normally no more than 1 child per year group will be admitted above the Published Admission Number of any primary, infant, or junior school with a PAN of 25 or more. Again, as a guide to good practice, schools with a PAN of less than 25 will normally only be expected to admit 1 child per year group every other year.
55. In any academic year, as a guide to good practice only, those secondary schools with fewer than 900 pupils on roll in the October 2022 Pupil Census will not normally be expected to admit from a locality-based panel, through the Protocol, more than 2 above the Published Admission Number in each year group in each academic year.

56. The following secondary schools (for Years 7 to 13) had less than 900 pupils on roll in the October 2022 Pupil Census:
- 1) Aureus School
  - 2) Blessed George Napier Catholic School
  - 3) Carterton Community College
  - 4) Europa School UK (secondary phase)
  - 5) Fitzharrys School
  - 6) Futures Institute Banbury
  - 7) Gosford Hill School
  - 8) Greyfriars School
  - 9) Heyford Park School
  - 10) Icknield Community College
  - 11) Langtree School
  - 12) Larkmead School
  - 13) Maiden Erlegh Chiltern Edge School
  - 14) University Technical College Oxfordshire
57. As a guide to good practice only, those secondary schools with 900 or more pupils on roll in the October 2022 Pupil Census may be expected to admit, in any academic year, up to 3 above the Published Admission Number in each year group.

## **Dates of Meetings**

58. Meetings of the Secondary Locality Panels will be agreed by 1<sup>st</sup> April 2022 with the intention of all meetings being on Tuesday mornings (different weeks in the month). Dates will be circulated by the Exclusions and Reintegration Team. Meetings may be conducted remotely or in person.
59. If dates are changed during the year, the published programme will be amended and reissued.
60. There are fewer permanent exclusions in the primary sector than in secondary schools and therefore meetings of the County Primary Fair Access Panel will be called as required by the Admissions and Transport Services Manager. Meetings will normally be conducted remotely.
61. The County Secondary Fair Access Panel can be expected to work on a weekly or fortnightly basis. Meetings will normally be conducted remotely.

## **Information to be provided prior to a meeting of a Locality Fair Access Panel**

62. Fair Access Panel referral forms should be sent to the Exclusions and Reintegration Officer following meetings/conversations within schools. The referral paperwork needs to be with the locality Exclusions and Reintegration Officer at least 6 working days before the meeting. See Appendix 2 “Terms of Reference for the Meeting”.
63. Panel members need to read and sign the Information Sharing Protocol (see Appendix 2, Information Sharing Protocol).
64. If a child has been identified, prior to the meeting, as needing a school place the Fair Access Panel will be provided with key comparative data on the 5 nearest secondary schools regarding such matters as home to school distances, special needs, numbers on roll and published admission numbers. This information will follow a standard format and is referred to as the “Scorecard”.
65. Prior to the meeting, all members of the Panel will be sent the “Scorecard”, case details and a grid of students to be discussed.

## **Information to be provided prior to a meeting of the County Primary Fair Access Panel for primary pupils**

66. Meetings of the County Primary Fair Access Panel are solely concerned with identifying school places for hard to place children.
67. If a child has been identified, prior to the meeting, as needing a school place the Fair Access Panel will be provided comparative data on the 10 nearest primary schools to the student’s home address. This information will follow a standard format and is referred to as the “Scorecard”.

## **Transport Costs**

68. Possible placements that depend upon the provision of free transport will need to be cleared with the Admissions and Transport Services Manager prior to a referral being considered at the relevant Fair Access Panel.
69. No additional expenditure on taxi transport will be accepted without prior agreement by the Admissions and Transport Services Manager or nominated representative.

## **Considering placements at a Fair Access Locality Panel**

70. A Locality Panel will consider previous admissions, group dynamics and transport implications before deciding a placement. Advice from external agencies will be considered when appropriate (e.g., Police, Health, Social Care).
71. If a Panel is unable to decide on the most suitable placement for a child and that child is without a school place there will be a vote. All school representatives are voting members. There needs to be a majority vote by 1. If there is tied vote the Chair will have the casting, and therefore, deciding vote. However, if there is no school identified at the meeting the Admissions and Transport Services Manager will identify a suitable school and notify that school of the need to admit the child.
72. All school representatives need to consider support for all pupils across Oxfordshire. At times this means pupils need to be considered at Panel who are not from one of the schools in this area. Panel members will focus on the best provision for the pupil regardless of their location, working to ensure the pupil is placed quickly. In order to facilitate this the LA may direct a sending school to attend a different panel meeting to present a case. In very rare cases an extraordinary meeting maybe convened to address a particular issue in an area that affect schools across borders. This may be done through virtual means if needed.
73. The Alternative provider will ensure that information about students informs decision making about the most appropriate placement.
74. Non-attendance at one or more meetings of the relevant Locality Panel will not preclude the school/schools concerned from being required to admit a pupil who needs to be placed under the Protocol.
75. If there is no school identified for a child by a panel, and there is still a need to place the child, the Admissions and Transport Services Manager will identify a suitable school. Having done this the Admissions and Transport Services Manager will notify that school of the need to admit the child and if the school refuses to admit the child he will then request a direction to admit from the Secretary of State or, in the case of a maintained school, direct admission.

## **Recording**

76. The Local Authority is responsible for recording the outcomes of the

meetings of the four Locality-based panels.

77. The Admissions Team of the Local Authority is responsible for recording the decisions/outcomes of the County Primary Fair Access Panel and the County Secondary Fair Access Panel.
78. The Local Authority is responsible for quality assurance of the paperwork relating to the Panel.
79. The chair of a panel will work with the clerk/note taker to ensure paperwork relating to a meeting is accurate and is shared in a timely and safe manner.
80. The Learner Engagement Service will keep a register of those considered for a Fair Access placement (whether the move is agreed or not) and of those admitted and leaving schools under the Fair Access Protocol in the area covered by each Fair Access Panel. If required all the Exclusion and Reintegration Officers will provide this data to the Admissions and Transport Services Manager for inclusion in the Local Authority Report to the Schools Adjudicator.

## **Offers**

81. After each meeting, the Admissions Team will notify the relevant school/schools to confirm of panel decisions the agreement to offer a place under the Fair Access Protocol and then offer the place.
82. Whenever possible, a prospective start date will be agreed at the meeting.
83. If a place can be offered the Admissions Team will write to inform the parents. The letter offering a place will specify a start date. This start date will either be the prospective start date agreed at the Fair Access Panel or 5 working days from the date of the letter offering a place.
84. Parents will be asked to confirm or reject acceptance of the place by responding to the Admissions Team rather than directly to the offered school.
85. Parents have 7 calendar days to respond to the offer of a place. If parents fail to respond in writing, or to make direct contact with the school, the Admissions Team will need to be informed by the school. The Admissions Team will ensure every effort has been made to contact the family refer the case, as appropriate, to the Children Missing Education or Attendance and Engagement for further action.

86. Pupils placed through the panel will be taken on roll from the date specified in the letter from the Admission Team offering a place, or, in the case of own admission authority schools, offering a place on behalf of the Governors/Directors. A school may agree an earlier start date with the parents once the parent has responded to the Admissions Team (if the placement has been accepted). If a parent refuses to accept the offer of a place there may be a need to issue a School Attendance Order. If a School Attendance Order needs to be issued the school offered through the Fair Access process will be the school named in the School Attendance Order.
87. When a child is added to the school roll, they will automatically be added to the attendance register.
88. On the day the pupil is expected to arrive at school, the Attendance Register should be marked in the normal way. If a pupil fails to appear and no explanation is provided, then an "N" should be used. This is only a temporary code and therefore should only be used until the reason for absence is confirmed by the parent. If no reason is given by the child's parent, the code should be changed to an unauthorised absence.
84. Children with attendance problems, or those for whom English is an additional language, will not, as a result of these attendance issues or language difficulties, be considered "challenging" under the Fair Access Protocol.
85. No child will be refused admission because that child has special educational needs since to do so would be unlawful.

### **Referrals to Fair Access under paragraph 3.10 of the School Admissions Code 2021**

86. Where an admission authority receives an in-year application for a year group and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child to the County Secondary Fair Access Panel or County Primary Fair Access Panel. However, the Code is clear that admission authorities may only do this if:
- "the school has a particularly high proportion of children with challenging behaviour or previously excluded pupils on roll in comparison to other schools; and
  - it believes admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources."

87. In this context the School Admissions Code 2021 defines challenging behaviour as follows:

“For the purposes of this Code, 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/other pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment.”

88. The DfE does not consider the following reasons as valid grounds for considering that a child may display challenging behaviour:

- poor attendance at a previous school; or
- a defined number of suspensions/fixed term exclusions, without consideration of the grounds on which these suspensions were made; or
- special educational needs; or
- having a disability.

89. The School Admissions Code 2021 is clear that a school may only refuse an in-year applicant admission on grounds of challenging behaviour if it has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

90. If a school refuses admission to an in-year applicant on the grounds set out in paragraphs 86,87 and 89, the County Primary Fair Access Panel will consider referrals of those of primary school age, and the County Secondary Fair Access Panel will consider cases of pupils of secondary school age. Referrals of this kind will normally only be appropriate, and will only be accepted by a Fair Access Panel, if the school can provide evidence that it has a particularly high proportion of children with challenging behaviour or of previously excluded children.

91. If the Fair Access Panel accepts that the child should not be admitted to the requested school the Panel will identify an alternative placement which will normally be another mainstream school. However, no other school will be offered through the Protocol if the child concerned does not live within Oxfordshire.

92. If a place has been refused on grounds of the child’s challenging behaviour the parent will have a right of appeal to an independent admission appeal panel. The

appeal process will take place within the timescales set out in the School Admissions Appeal Code.

93. The School Admissions Code 2021 specifically states that looked after children (Children We Care For), previously looked after children and those with an EHCP naming the school, must not be refused admission on grounds of challenging behaviour:

“The provision in paragraph 3.10 cannot be used to refuse admission to looked after children, previously looked after children; and children who have Education, Health and Care Plans naming the school in question.”

94. In addition, the School Admissions Code 2021 is explicit that it is simply unlawful to refuse a child a school place on the grounds that they should first be assessed for special educational needs.

## **Temporary Arrangements**

95. If any of the Locality Panels (secondary phase) cease to meet, until the issue is resolved, the functions of the Panel will be undertaken by the Admissions and Transport Services Manager assisted by an Exclusion and Reintegration Officer.

## **Directions**

### **The process for requesting that the Secretary of State direct an Academy to admit a child**

96. Requesting the Secretary of State to direct an academy to admit a child will only occur when a local resolution cannot be found.
97. If the Secretary of State is asked to direct an academy to admit a child the request will be made by the Admissions and Transport Services Manager on behalf of the Local Authority.
98. The Education and Skills Funding Agency acts on behalf of the Secretary of State in considering whether due process has been followed in applying the provisions of the Fair Access Protocol.
99. In requesting a direction from the Secretary of State, the Local Authority will need to provide evidence that the provisions of the Fair Access Protocol have been



applied in a fair and appropriate manner. The Local Authority must also set out the relevant academy's reasons for refusal (assuming these have been given) and the Local Authority's response.

100. When seeking a direction from the Secretary of State the Local Authority will use the template provided by the Education and Skills Funding Agency.
101. On receipt of a request to direct, the Education and Skills Funding Agency will inform the relevant Academy that it has received a request for a direction and ask the relevant Academy for any evidence that has been supplied that shows the process has not been properly applied. The Education and Skills Funding Agency can be expected to give an academy 7 calendar days to respond.
102. The Secretary of State can be expected to consider the following when a direction has been requested:
  - whether the local Fair Access Protocol has been applied appropriately; and
  - the arguments advanced by the relevant academy and the Local Authority; and
  - whether the Local Authority has considered the arguments for refusal; and
  - whether the Local Authority's reasons for still considering the placement are appropriate; and
  - whether the establishment has been asked to accept a disproportionate number of children under the Fair Access Protocol compared to other local schools.

### **The process for directing a maintained school for which the Local Authority is not the admission authority when the school concerned refuses to accept a child**

103. Directing a maintained school to admit a child following a decision made under the Protocol will only occur where a local resolution cannot be found.
104. Initially a letter will be sent from the Admissions Team stating that a place needs to be made available following a decision under the Protocol. Any maintained school approached in this way must respond to the Local Authority within 7 calendar days.
105. If the child concerned has been refused entry to, or permanently excluded from, every appropriate school within a suitable distance the Admissions and Transport Services Manager will then write to the school to inform the Governors and Head of the intention to direct admission.
106. The Governing body may appeal by referring the case to the Schools Adjudicator. The Governors have 15 calendar days within which to refer the case.

107. If the Schools Adjudicator does not uphold the direction the Adjudicator may direct admission to an alternative school.
108. If the Schools Adjudicator upholds the direction, the child must be admitted to the school. The school will then need to agree a start date with the child's parents.

## **Community and Voluntary Controlled Schools**

109. Oxfordshire County Council is the admission authority for community and voluntary controlled schools in Oxfordshire. Therefore, there is no direction process and if Oxfordshire County Council, the admission authority of a community or voluntary controlled school, decides to admit a child to one of these schools, that school has no lawful basis for refusing to place that child on roll.

## **Queries**

110. Queries regarding the operation of the Protocol should be directed to the Admissions and Transport Services Manager at:

Admissions and Transport Services Manager  
County Hall  
New Road  
Oxford OX1 1ND  
Email: [neil.darlington@oxfordshire.gov.uk](mailto:neil.darlington@oxfordshire.gov.uk)

Appendix 1 Naming a school for looked after children and children with an Education Health and Care Plan

Appendix 2 Data Sharing Protocol to Support Fair Access Panel Meetings

### **Naming a school for Children We Care For (Looked After children), and children with an Education Health and Care Plan.**

1. Requests for places for Children We Care For (Looked After children), and children with an Education Health and Care Plan **will not** be referred to the Fair Access Panels.
2. In accordance with legal requirements, children who have an Education Health and Care Plan<sup>5</sup> that names a school **must be** admitted to that school.
3. Oxfordshire County Council may direct own admission authority schools, including academies, to admit a child to a school by **naming the school** in the Education Health and Care Plan. This is the case even if the school concerned is in the administrative area of a different Local Authority. This is not part of the Fair Access process.
5. Proposals to place children with an Education Health and Care Plan at a school outside the normal admissions round will be the subject of a formal consultation with the relevant school. Following the consultation, if the responsible Local Authority decides a place is still required it will be made available by the school concerned. This is part of the Education Health and Care Plan process and any consultation is carried out by the relevant SEN officer.
6. In the case of Children We Care For (Looked After children) for whom Oxfordshire County Council is responsible, the Virtual School will approach the Admissions Team to check the availability of school places and to establish the distance from the child's placement to local schools. The social worker will then contact the Virtual School for advice on the provision available at the schools being considered. After considering the advice received the social worker will complete an application form for a school place and submit the form to the Admissions Team. The Admissions Team will then write to the school to request a place. The school will then respond within 7 school days. This is not part of the Fair Access process.

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<sup>5</sup> An Education, Health and Care plan is a plan made by the local authority under Section 37 of the Children and Families Act 2014 specifying the special education provision required for that child.

7. Once a place has been offered to a Child We Care For (Looked After child and the place has been formally accepted (or the child is already on roll) it is open to the school concerned to raise issues such as requests for funding with the Virtual School.
8. If a Child We Care For (Looked After child) is refused a place by an own admission authority school as part of the normal in-year admission process the Local Authority will consider the reasons given by the school. If a place is still needed, the Admissions and Transport Services Manager will carry out a formal consultation on the proposed admission. The formal consultation will last for 7 calendar days from the date of the letter opening the consultation. The Local Authority will then consider the response. If the relevant school is unwilling to offer a place the Local Authority may direct admission to an own admission authority maintained school (voluntary aided or foundation schools), or in the case of academies and free schools, it may request the Secretary of State to direct admission. This lies outside the Fair Access process.
9. The Local Authority is the admission authority for community and voluntary controlled schools. Therefore, for these schools, places would normally be made available for Children We Care For (Looked After) through the in-year admissions process. Where difficulties arise, the Local Authority will formally consult with the school for a period of 7 calendar days. At the end of this period the Local Authority will then decide whether to place the child on the roll of the school. This also lies outside the Fair Access process.

### Data Sharing Protocol to Support Fair Access Panel Meetings

#### Key principles

1. The Schools Admissions Code 2021 requires all admission authorities of state funded mainstream schools to participate in the Fair Access Protocol to ensure that vulnerable/unplaced children are allocated a school place quickly. The purpose of the Fair Access Protocol is to ensure that outside the normal admissions round unplaced children, especially the most vulnerable, are found and offered a place quickly, so that the amount of time any child is out of school is kept to the minimum. The Panel meeting brings together key partners, stakeholders and providers to achieve this.
2. The Locality Panel may include representatives from the following:
  - Any Oxfordshire County Council agency; and
  - Thames Valley Police; and
  - Oxfordshire Secondary Schools; and
  - Alternative Providers; and
  - Any other parties that are invited to engage in the In Year Fair Access Protocol.
3. This data sharing protocol seeks commitment to a framework to ensure secure and appropriate sharing of information and data by agencies operating within the Locality Panels.
4. The analysis and evaluation of educational data is central to the Locality Panel process, and the responsible sharing of data and information provides the basis for involvement to ensure young people do not miss out on education.
5. The data to be provided by Oxfordshire County Council may include and relate to (but not necessarily be limited to):
  - 1) Attainment; and
  - 2) Attendance; and
  - 3) Exclusions; and
  - 4) SEN; and
  - 5) Health; and
  - 6) Behaviour/conduct
6. Data will be provided in various formats as agencies may use different recording databases but will only be shared with those members of the IYFAP panel who need the data to perform their professional duties.

7. All members of the Locality Panel agree to share activities carried out by members of the Locality Panel to ensure all young people have access to a quality education provision; and to monitor the impact of the panel.
8. All recipients of data shared under this protocol are required to use it in a professional manner, to promote:
  - 1) Full-time education for all children; and
  - 2) Mutual support; and
  - 3) The improvement of outcomes for children and young adults.
9. This protocol expressly excludes the use of shared data to:
  - 1) Discriminate against a child or establishment; and
  - 2) Provide the data to any third party.
10. All data recipients are required to ensure the data they use, download, store or print is appropriately protected and in line with policy. This includes, where necessary, the encryption of data, its secure storage and disposal.
11. Breach of these protocols by any signatory will be investigated and future access may be denied.

**Agreement:** We the undersigned do hereby agree to implement the terms and conditions of this Protocol.

Organisation	Name	Signature

## **Determined**

Paragraph 1.49 of the 2021 School Admissions Code requires Admission Authorities (and/or the Local Authority) to determine Admission Arrangements by 28 February each year regardless of whether a consultation has taken place.

Objections to these arrangements and rules can be made to the Office of the Schools Adjudicator by 15 May 2022.

<https://www.gov.uk/guidance/schools-adjudicator-make-an-objection-appeal-orreferral#objections-to-and-referrals-about-determined-school-admission-arrangements>

Date: 21 February 2022

Signed:



Kevin Gordon  
Director of Children's Services