



Fair Access Protocol

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SUMMARY

The School Admissions Code 2021 requires Brighter Futures for Children and all Reading own Admissions Authority schools to agree a Fair Access Protocol to share responsibility for the admissions of vulnerable children

OWNER

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VERSION

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1. Purpose

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

The purpose of the Fair Access Protocol is to ensure that unplaced and vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.

In agreeing a protocol Brighter Futures for Children must ensure that no school – including those with available places – is asked to take a disproportionate number of children who have been excluded from other schools or have challenging behaviour.

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.

2. Principles

In order for this protocol to be successful:

- 2.1 All in-year admissions will continue to be processed through the current co-ordinated in-year policy of Brighter Futures for Children. Where schools have places, children and young people should be admitted under the normal admission procedures unless the requested school demonstrates that criteria (see below) have been met. However, if the child already has a school place it is the responsibility of the existing school to exchange information transparently so that a receiving school is aware of potential challenges and resource implications once a pupil has been admitted. The School Admissions Team will only tell a school a child is leaving if the child is moving to a Reading school if the application has been processed by the team. If they move out of the area or apply for a school that coordinate their own In-year admission or apply for school outside Reading, the team will not have this information and therefore cannot inform schools.
- 2.2 Eligibility for the Fair Access Protocol does not limit a parent's right to make an in-year application to any school for their child. Admission authorities must process these applications in accordance with their usual in-year admission procedures (as set out in paragraphs 2.23-2.31). They must not refuse to admit such children on the basis that they may be eligible to be placed via the Fair Access Protocol. The parent will continue to have the right of appeal for any place they have been refused, even if the child has been offered a school place via the Fair Access Protocol.
- 2.3 All schools must be confident that there is a rational and consistent structure for decision-making which is seen as fair and transparent, including the sharing of data on the number of placements to each school.

- 2.4 All admission authorities **must** participate in the Protocol. All schools will take part, even if they are responsible for their own admissions, admitting a balanced share of pupils with challenging behaviour (includes those permanently excluded or managed moved from other schools).
- 2.5 Schools cannot cite over-subscription if they are asked to admit a pupil under the Protocol; this includes admitting pupils above the published admission number where the year group is already full.
- 2.6 A place can be allocated at a school that is full and also in the case of an Infant class which already has 30 children with one teacher. Admissions via a Fair Access Protocol, or children who cannot be offered a school place within reasonable travelling distance of their home, are 'excepted pupils' identified in the Infant Class Size Legislation 2012 and the school can continue with one teacher for the class for the remainder of the infant phase.
- 2.7 Fair Access pupils will be given priority for admission over others awaiting an appeal for admission.
- 2.8 Schools must treat all requests for the admission of a pupil through the Fair Access Protocol as a matter of urgency. Schools are expected to respond to BFFC within 7 calendar days (local agreement). Where it has been agreed that a child will be considered under the Fair Access Protocol, a school place **must** be allocated for that child within 20 school days. Once they have been allocated a school place via the Fair Access Protocol, arrangements should be made for the child to start at the school as soon as possible. (School Admissions Code 2021)
- 2.9 Schools should not insist on an appeal hearing before admitting a pupil under this Protocol.
- 2.10 The Pupil Placement Panel (PPP - which implements the Protocol) should take account of any genuine concerns about the admission, for example, a previous serious breakdown in the relationship between the school and the family, a strong aversion to or desire for the religious ethos of a school or an admission that would create a significant child protection risk for an existing pupil.
- 2.11 Parents' and carers' views and geographical factors will be taken into consideration, but these will not necessarily override the Protocol; there is no duty for BFFC or admission authorities to comply with parental preference when allocating places through the Protocol.
- 2.12 If the child is attending another school, within reasonable distance of the child's home then that child will not need to be placed elsewhere. If parents do not accept the decision of the Pupil Placement Panel (PPP - which administers the Fair Access Protocol) and proceed to appeal, then the Appeal Panel will be provided with evidence that the decision was agreed according to the Fair Access Protocol.
- 2.13 This protocol will not apply to a Child Looked After (CLA), or a child with an Education and Health Care Plan (EHCP) naming the school in question, as these children **must be given the highest priority**. Page 29 of the Admissions Code 2021 states: *Where a looked after child has been refused a school place, it is likely to be more appropriate for the local authority looking after the child to use the powers of direction set out in paragraphs 3.27 to 3.29 of the Code, than*

to submit an appeal. The School Admissions Code 2021 para 3.13 states that Governing Bodies must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs. However, the SEND Team will inform the Admissions Team when schools are asked to take a pupil who has an EHCP for Social, Emotional and Mental Health as their primary need.

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

The role of Cranbury College

Pupil Referral Unit (PRU): Any school established and maintained by a local authority under section 19 (2) of the Education Act 1996 which is specially organised to provide education for pupils who would otherwise not receive suitable education because of illness, exclusion or any other reason.

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

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

- where a pupil has been in Alternative Provision / PRU in another area prior to moving to Reading
- a Child Looked After has moved back into the area and requires a school places whilst a school can be found.

Cranbury College can offer intervention in exceptional circumstances but cannot, normally, offer a permanent solution for children subject to Fair Access.

What is challenging behaviour?

'Behaviour can be described as challenging where it would be unlikely to be responsive to the usual range of interventions to help prevent and address pupil misbehaviour or it is of such severity, frequency or duration that it is beyond the normal range that schools can tolerate. We would expect this behaviour to significantly interfere with the pupil's or other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.' School Admissions Code September 2021

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

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

3. Children and young people considered eligible under the protocol

3.1 Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures:

Mandatory categories

- a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;
- c) children from the criminal justice system;
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e) children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions;
- f) children who are carers;
- g) children who are homeless;
- h) children in formal kinship care arrangements
- i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;
- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of the Code;
For the purposes of this, 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.
- k) children for whom a place has not been sought due to exceptional circumstances (It is for the local authority to decide whether a child qualifies to be placed via the Protocol on this basis, based on the circumstances of the case.)
- l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

Locally agreed exceptional circumstances categories

- n) Current permanently excluded children or young people and those re-integrating from Cranbury College (PRU)
- o) Children returning from Elective Home Education particularly when it is judged to be unsatisfactory

p) Children coming into the LA who are currently in a PRU

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

- 3.2 Where a young person who has a school place wishes to move schools in-year but there is evidence of challenging behaviour, then Brighter Futures for Children's Managed Move process could be requested on completion of the **Managed Move and Fair Access Referral Form** to give a genuine opportunity for a successful managed move. The requesting school will demonstrate that it has made suitable attempts to support the child to stay in the school and have been unsuccessful.

4. The Process: Pupil Placement Panel

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

4.1 Proportionate placements

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

4.2 In the event that agreement cannot be reached the Local Authority (BFFC) will identify the school using the tracker system.

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

- The best interests of the young person to include safeguarding and health concerns
- Parental and young person's views and preferences although these are not binding
- Evidence that the young person has a good likelihood of accessing a mainstream school successfully. Alternative provision and/or outreach support could be requested either on a permanent or temporary basis
- Numbers on roll and cohort information
- Numbers of previous admissions for the year group via the Protocol in the academic year
- Numbers of Managed Moves into the year group in the academic year
- Consideration of information from schools and PRU on suitability of proposed placement including the matching of examination boards where applicable

- Transport and distance from home to school. Usually PPP would wish to name the nearest suitable school. In most cases parents would be expected to arrange transport themselves or comply with BFFC's existing School Transport policy.

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

4.6 **Admissions:** the young person should be admitted as soon as possible, preferably within one week but with a maximum of 20 school days in exceptional circumstances, in line with the School Admissions Code 2021.

It would be expected that remaining pupil level funding would be transferred from the home school to the receiving school. Exceptions to this should be discussed at PPP.

5. The Process: Pupil Placement Panel and appeals

5.1 Where a Governing Body does not wish to admit a child with challenging behaviour outside the normal admission round, even though places are available, it must refer the child to the Local Authority for action under the Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour in that year group. (School Admissions Code 2021 para 3.12) The Governing Body must inform the School Admissions Team if they wish to refuse a place on these grounds and must provide appropriate data and minutes of the Governor's meeting when this was discussed. The case will be considered by PPP. Only if the majority view of the school's representatives at PPP accepts the case submitted by the school and confirms the decision of the Governing Body, can the school refuse to admit the child. **If PPP supports the Governors' decision, the Panel will need to decide which school will admit the child if the child is unplaced.**

5.2 The Pupil Placement Panel is BFFC Brighter Futures for Children's arrangement for adhering to the Fair Access Protocol. Schools and BFFC will work in partnership to co-design, participate, monitor and evaluate the process.

[Fair access protocols: advice for local authorities and school admission authorities \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94422/fair-access-protocols-advice-for-local-authorities-and-school-admission-authorities.pdf)

[School admissions code 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94422/school-admissions-code-2021.pdf)

6. Allocation of pupil – Tracker system

6.1 The school with the lowest admissions through PPP is normally the school to take the next pupil. The principle of this are:

- The school with lowest PPP admissions is normally allocated the pupil
- No school has more than two hard to place pupils in same year group in any 12-week period
- Pupils with no roll **must** be placed on roll of the receiving school
- It may be necessary to skip certain schools if PPP considers the school does not meet the needs of the pupil or it would not be an appropriate placement for the child and school

- If a school wishes to accept a particular pupil but it is not 'their turn' then this will be agreed at PPP and the school awarded the admission
- PPP will agree requests from schools that a particular in-year admission pupil meets hard to place criteria and will appear on the Hard to Place Tracker

6.2 PPP will hold details of pupils admitted.

Where a pupil has been permanently excluded from a mainstream maintained school, the LA must deduct from the school's budget in-year the amount within the formula relating to the age and personal circumstances of that pupil, pro rata to the number of complete weeks remaining in the financial year from the 'relevant date'. This means the deduction should cover not just the basic entitlement but also the relevant amounts for pupil-led factors, such as free school meals or English as an additional language, where the pupil would attract funding through those criteria.

The same principle will apply to managed moves with remaining pupil level funding being returned to BfFC to be passed to the receiving school; academies will need to make arrangements between their Trusts. If the pupil is excluded between January and March, the funding for the following financial year will be returned to BfFC or the receiving academy in addition.

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

7.1 A representative from the following areas should attend each meeting:

- All secondary schools – normally a Deputy Head. The representative must have authority to act on behalf of their school with delegated decision making
- Cranbury College (Alternative Provision Academy)
- Education Welfare Service as appropriate
- Pupil and School Service Manager
- Pupil & School Support (Admissions Team & Safeguarding & CME Officer)
- SEND Team as appropriate

7.2 Dates of meetings will be set before the beginning of the academic year.

- PPP meetings will usually be held every three weeks during term time.
- For urgent admissions a virtual meeting or phone conversation may suffice.

7.3 A meeting will be deemed quorate if the majority of schools in the local group are represented. Schools must send an alternative representative if the Deputy Headteacher (or usual school representative) cannot attend.

7.4 Whilst it is not preferable or best practice, in exceptional circumstances where a school cannot attend the PPP they may represent their views to BfFC's Admission / Safeguarding & CME Officers. Non-attendance of a school will not however preclude a placement decision being made at that school.

7.5 For pupils coming from outside Reading a best-fit approach will be taken, with consideration given to transport costs.

- 7.6 All paperwork and preparatory work will be completed in advance by BFFC School Admissions Officer who will facilitate the process. No decision should be made about a placement until all relevant paperwork has been received. A draft agenda and paperwork (if provided by the school) should be sent out by the Officer 5 working days before the PPP wherever possible. The final agenda and paperwork will be sent out 24 hours before the meeting.
- 7.7 The Pupil and School Service Manager, Admissions Officer and Safeguarding & CME Officer will attend to provide accurate relevant data; the Admissions Officer will minute and record the outcomes in an agreed format.
- 7.8 The Chair of the Panel will be a **BFFC Officer**
- 7.9 Representatives from The Bulmershe and Oakbank Schools (Wokingham), Little Heath School (West Berkshire) and Maiden Erlegh Chiltern Edge (Oxfordshire) also attend as these schools have areas of Reading as part of their designated area and serve Reading children. Other neighbouring schools, with a high proportion of Reading children may wish to join the group. Each request will be considered by the PPP membership.
- 7.10 The following may be invited for individual pupils:-
- Neighbouring Local Authority
 - The Headteacher for Children Looked After
 - A representative of Children’s Social Care
 - A representative from the Youth Offending Service

8. Membership of Fair Access Pupil Placement Panel and Conduct of Meetings – Primary Schools

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

9. Monitoring

- 9.1 The LA (BFFC) will maintain an accurate summary of the total numbers of in-year admissions on an individual school basis, to be used at PPP to prevent some schools taking a disproportionate number of previously excluded pupils or others considered to be vulnerable.
- 9.2 This data is sent out prior to meetings and will be readily available to schools at every meeting.
- 9.3 To ensure that a complete picture of how schools are working with the BFFC to share vulnerable pupils is recorded, in-year admissions will include those pupils that could be considered to have been referred to the Panel, but were not, due to admission under the normal admission arrangements. This will assist the Panel when considering cases and ensure admission to schools is equitable.
- 9.4 There will be an annual review of the Protocol and PPP, open to all, to review the effectiveness of the Protocol.

- 9.5 Ongoing analysis of why some placements succeed and others fail will be included in the meeting in order to inform any amendments to the Protocol when it is revised at the end of the academic year.
- 9.6 BfFC will report the effectiveness of the protocol to the School Adjudicator each year as required in the annual Local Authority Report as.
- 9.7 The protocol will be reviewed annually considering any changes in the School Admissions Code, views of PPP and the Schools Admission Forum.

10. Statutory roles and responsibilities

10.1 Role of Schools

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

10.2 Role of BfFC

- BfFC is required by the School Admission Code to have a Fair Access Protocol as part of the determined Admission Arrangements each year. It is the Council's role to ensure that no school in the area is asked to take a greater proportion of children with challenging behaviour including those with places available and to ensure that every child has been allocated a school place.
- Under section 96 of the School Standards and Framework Act 1998 a local authority may direct the governing body of a foundation or voluntary aided school in its area to admit a child where the child is unplaced and cannot be placed elsewhere or has been permanently excluded from, every suitable school within a reasonable distance from the child's home.
- Local authorities may direct other Admission Authorities for any maintained school to admit a child in their care to the school best suited to his or her needs.
- Where a local authority considers that a particular Academy will best meet the needs of the child, they can ask them to admit that child even when the Academy is full. If the Academy disagrees with the local authority's reasoning and refuses to admit the child, the case can be referred to the Regional Schools Commissioner or Secretary of State.

10.3 Role of the Schools Adjudicator

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