



Fair Access Protocol Coventry City Council 2023/2024

Secondary Schools

1. Principles of the protocol

The successful operation of Coventry City Council's Fair Access Protocol (FAP) is due to the willingness of all schools to work alongside the Local Authority (LA) with a genuine ethos of collaboration and co-operation to:

- accept collective responsibility for the vulnerable children living in the city and their right to education.
- act with a sense of urgency to minimise a pupil's time out of education – allocating appropriate school places to vulnerable children within 20 school days of them being identified as FAP.
- ensure all schools engage in the FAP and there is a fair allocation of vulnerable children across schools in the city.
- work together restoratively in an open and honest way, offering constructive support and challenge to each other.

Our schools work together collaboratively, taking into account the needs of the child, the needs of the school alongside the Local Authority and its commitment to inclusion for all. When securing a place for a child through the agreed Protocol, all schools and pupils are treated in a fair, equitable and consistent manner.

2. Purpose of the protocol

- i. The purpose of Coventry City Council's Fair Access Protocol (FAP) for Secondary Schools is 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.
- ii. The word "unplaced" in this paragraph is intended to mean where a child does not have a secured school place – this would usually refer to a child who has no school place, and no offer of a school place.
- iii. This Protocol does not apply to Children Looked after (CLA) or pupils with a statement of special educational needs or Education, Health and Care Plan (EHCP).
- iv. Fair Access Protocols should not be used as a means to circumvent the normal in year admissions process. A parent can apply for a place as an in-year admission for their child at any time, to any school, outside the normal admissions round and is entitled to an appeal when a place is not offered. The Protocol will include vulnerable children who are already placed within a school setting.

3. Summary

- i. The School Admissions Code September 2021 requires each local authority to have in place a FAP agreed with the majority of schools in its area. The requirement is supplemented by further advice from the Department for Education (DfE) 'Fair Access Protocols Guidance for school leaders, admission authorities and local authorities' published in August 2021. This sets out some principles to clarify the expectations on all state funded schools (including academies and free schools etc.) as well as all other admission authorities to ensure that FAP's operate effectively at a local level.

1. Placed includes those students where a place has been allocated but the parent/carer is refusing the place, where a place has been offered but it has not been taken up and where the child is on roll but they are not attending.

- ii. The FAP panel will meet once a month and is composed of Head teachers (on a rotational basis), Special Educational Needs and Disability (SEND), Youth Offending Service (YOS), Police representatives and will be chaired by the Attendance & Children Missing Education (A&CME) Manager.
- iii. The Protocol also seeks to ensure that no school - including those with available places - is asked to take a disproportionate number of children excluded from other schools, or who have challenging behaviour, or who are placed via the Protocol. To ensure transparency Coventry Secondary Head Teachers have agreed to an allocation expressed as a percentage share of the overall city FAP numbers giving schools an acceptable number of pupils they will be able to be admit via the Protocol.
- iv. All schools are bound by the provisions of the Protocol without exception. The decision of the panel is final. Where an admission authority has failed to admit a child in accordance with FAP, they may be directed to do so. The LA has the power to direct the governing body of a maintained school for which they are not the admission authority. For academies the LA can ask the Secretary of State for Education to intervene.
- v. In the event the majority of schools no longer support the principles and approach of the local FAP (for example, if they believe it is not operating fairly or effectively), they may request that it is reviewed. The mechanism for invoking a review will be managed via the Secondary Executive group. The existing FAP will remain binding on all schools in the area until a new one is adopted.
- vi. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the FAP, but parents' wishes should be taken into account in line with the FAP guidance and School Admissions Code 2021.

4. The context and statutory guidance

- i. The FAP for Coventry City Council has been written in accordance with the School Admissions Code (2021), and the DfE's departmental advice of August 2021. It has also been written in partnership with representatives from local schools.
- ii. The FAP is triggered when an eligible pupil has not secured a school place through normal in-year admission procedures.
- iii. Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to children who were below compulsory school age at the time of the exclusion, children who have been re-instated following a permanent exclusion (or would have been had it been practicable to do so), children whose permanent exclusion has been considered by a review panel, and the review panel has decided to quash a decision not to reinstate them following the exclusion and children with Education, Health and Care Plans naming the school.
- iv. Children allocated a place under the FAP will have a higher priority than those children already on the school's waiting list.

5. Who will the protocol cover?

What is the difference between In Year Admissions and FAP?

In Year Admissions relate to all admissions to school from reception to Year 11 which are not covered by the reception or secondary transfer schemes. In most cases the admissions process is straightforward. The parent applies for a place in a school where there is a vacancy, and the child is admitted to school.

Admission authorities must not refuse to admit a child on behavioural grounds in the normal admissions round or at any point in the normal year of entry (except for where paragraph 3.8 of the School Admissions Code applies) – Year 7 and Year 10 in the case of a UTC.

In other cases, there may be extenuating circumstances as to why the child's admission should be treated as an exception and the child placed in a school via the FAP. FAP **may only be used** to place 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.

- i) All applicants for a school place are required to complete and submit an in year Common Application Form via the LA's admission website. The Admissions Team will send application forms to the A&CME Team where the current school has confirmed the pupil needs to be considered under the Fair Access Protocol.
- ii) All applications will be considered for their preferred schools in order of preference. Where an application is referred to a school the school may agree to admit the child, or the Local Governing Body may refuse to admit a child with challenging behaviour even if they have places available. In those circumstances the Local Governing Body MUST refer the matter for consideration under the FAP. The Admissions Team will then process the application in accordance with the FAP.
- iii) When a child is refused a place at a school the parents retain the right to appeal for a place at the school.
- iv) The groups of children and young people placed via the Protocol are in many cases likely to be vulnerable. If after admission, a school identifies that a child presents issues of concern, they should initiate an Early Help Assessment.

The group of vulnerable and/or hard to place children include:

- 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 Admissions Code.
- k) Children for whom a place has not been sought due to exceptional circumstances.
- 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.
- m) Previously looked after children for whom the local authority has been unable to promptly secure a school place.

6. Definition of challenging behaviour

The DFE set out the definition for the term challenging behaviour as that which can be evidenced via school intervention records a child 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.

It is important to recognise that support for children with specific presenting behaviours, who have been identified as at risk of disengagement (experiencing SEMH) difficulties will be influenced by the following factors:

- The persistency over time of the behaviour/concern
- The frequency/duration/intensity of the behaviour/concern
- The impact on the child's educational progress and achievement
- Impact of the child's educational opportunities and academic success
- The impact on the child's mental emotional and physical well being

Evidence of in-school targeted support will include whole school evidence-based programmes and interventions. For the purposes of consistency for FAP thresholds, the following interventions should be recorded and evidenced for consideration of children displaying challenging behaviour:

- Academic intervention
- Learning mentors/Pastoral Support
- Parental meetings
- External Alternative Provision
- In-school counselling
- Timetable variation
- 6-week placement
- Supported Transfer placement or evidence of a number of suspensions in the last 12 months linked to persistent disruptive behaviour, physical assault and verbal abuse/threatening behaviour.
- External specialist support (CAMHS, EP, SEMHL & CCT assessment, advice and direct input, Inclusion Service, External Counselling, Early Help, Social Care)

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

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

7. Year 11 pupils

- In year admissions into Year 11 will not fall for consideration under the FAP unless the application falls within the criteria above.
- Schools will be expected to accept Year 11 as standard admissions. Schools cannot cite oversubscription as a reason for not admitting a pupil under the FAP. We do not advise that Year 11 pupils transfer school as a pupil can be greatly disadvantaged by a change of school during their GCSEs and other qualifications.
- When deciding on whether to apply for a transfer out of the current school parents will be asked to consider that work is not transferable between schools and exam boards can rarely be matched and coursework is monitored and cannot be re-done. Parents must also be made aware that schools have different curriculums and there is no guarantee that the same subjects would be able to be studied.
- All parents/carers should discuss any requests to transfer with the current school to see if any issues can be resolved and if the child can continue their education without interruptions to their GCSEs or other qualifications.

8. Overview of process

- i. An in-year common application form is submitted to the local authority Admissions Team and is identified as falling into one of the categories of children listed above, based on the information on the application form.
- ii. Where an application is received, and the current school has stated the pupil meets the criteria for FAP but the schools requested on the application are all full the pupil is added to the waiting list. Should a space then become available at one of the requested schools, the receiving school will have the option to refer to FAP at that point.
- iii. Where an application is received, and one or more of the schools requested has a space, and the current school has stated the pupil meets the criteria for FAP the application will be referred to A&CME.
- iv. If the current school does not believe that the application is a challenging admission but the receiving/allocated school believes they do, the receiving/allocated school can ask for them to be added to the agenda for the panel to decide.
- v. Where possible schools should refer an application to FAP within two weeks of receiving the form School Admissions.

- vi. This process applies to all schools, including those which are full in the appropriate year group.
- vii. The application for a school place will be referred to the Secondary FAP.
- viii. A&CME will confirm whether a student is open/closed referral to the YOS team. This provides panel members with up to date, accurate intelligence prior to the FAP meeting.
- ix. The panel will first determine whether the application does indeed fall under the Protocol. If the application does not clearly fall into one of the above, then the application will return to the in-year admissions process as a standard admission. If the panel agree the application does fall under the protocol the panel will then place the child.
- x. Coventry City Council will administer the Protocol by providing the panel with the number of pupils on roll at each secondary school and giving schools an allocation expressed as a percentage share of the overall city FAP numbers. This will be reviewed on an annual basis and run using the previous spring term census.
- xi. When placing a pupil, the panel will consider:
 - Parental preference (LA to consider parental views).
 - Distance from home address¹.
 - Places in the year group (schools can admit above PAN if required).
 - The number of children already allocated a place at the school using the Protocol.
 - Pupil's previous history.
 - Previous association with a particular school if information is provided.
 - Existing over-crowding in schools in the relevant age group or the whole school.
 - Confirmed safeguarding risks.
 - Siblings already on the school roll.
- xii. A&CME will send a letter to the identified school with details of the pupil's previous educational history, contact details and other relevant information, for example, other agencies supporting family, for the school's consideration.

¹ A reasonable distance from home is three miles for a secondary aged child and two miles for a primary aged child. The distance is measured as the shortest walking route using Coventry City Council's Capita system.

- xiii. All schools must respond to requests to admit a pupil under the FAP indicating their ability to meet the needs of the pupil within 2 school days of the first approach being made/receipt of letter. If the LA do not receive a response they will consider this as acceptance to admit. It is expected that a school will agree a start date for the pupil within 5 school days or set out its reasons for refusal in writing to the LA within that 5 school days after receipt of the first approach.
- xiv. All schools must accept and enrol pupils placed via the Protocol, within the agreed time frames set out.

9. Retrospective FAP

- i. Should schools admit a pupil on their roll and subsequent information comes to light which means the pupil could be a challenging admission then schools can refer for a retrospective FAP consideration.
- ii. Retrospective referrals must be made within 20 weeks of the child being put on the school roll.
- iii. Schools can refer students in Year 7 and Y10 for WMG to be considered as retrospective FAP. The child would remain on the roll of the allocated school but would allow access to the support offered by the SEMHL Specialist Practitioners.
- iv. Schools will not be able to refer a pupil for retrospective FAP consideration after a permanent exclusion has taken place.
- v. Retrospective consideration is an acknowledgement that although the school have admitted a pupil they are a challenging admission and the school would benefit from the support provided by SEMHL.

10. Transition from Coventry Extended Learning Centre (CELC) via FAP

All CELC pupils referred to FAP will have intervention support which will continue during the first weeks of transition with the allocated school to ensure a successful reintegration. Staff from the CELC will support the allocated school with continued interventions to ensure a successful integration. All pupils will be expected to be placed on school roll after 6 weeks from admission date.

N.B Schools have the option to refer an allocated pupil back to the CELC in instances where a serious breach of school's policies and procedure has occurred. As with Supported Transfers, the burden of proof needs to be behaviour that would warrant permanent exclusion.

11. Refusal to Admit Children and Direction to Admit

- i. Where a governing body does not wish to admit a pupil with challenging behaviour outside the normal admissions round, even though places are available, it must refer the case to the LA for action under the FAP. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children.
- ii. If the situation above applies, the case must be referred to the manager of

A&CME for consideration. The manager will only consider requests not to admit, even though places are available, when the school also provides clear evidence of the:

- a. Particularly high proportion of children with challenging behaviour, and/or,
 - b. Particularly high proportion of previously excluded children, and/or
 - c. Implications of the admission of an additional pupil with challenging behaviour
- iii. Once a school has referred a pupil for refusal to accept on roll, the following process will apply. A&CME will liaise with the LA's legal team to discuss the case and approach made to date. Where the LA are the admissions authority, for example a Community School, schools will be told to admit, if the governors refuse then they will refer to the Schools Adjudicator. If a school is an Academy, the LA can ask the Secretary of State to intervene. The Secretary of State has the power under an Academy's Funding Agreement to direct the Academy to admit a child and can seek advice from the School's Adjudicator in reaching a decision.
- iv. Eligibility for the FAP does not limit a parent's right to make an in-year application to any school for their child. Parents 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 FAP

Appendix 1: Acronyms

A&CME	Attendance & Children Missing Education
DFE	Department for Education
CELC	Coventry Extended Learning Centre
EHCP	Education Health and Care Plan
FAP	Fair Access Protocol
LA	Local Authority
CLA	Child Looked After
PRU	Pupil Referral Unit
SEMHL	Social, Emotional, Mental Health and Learning Team
SEND	Special Educational Needs and Disability
SLT	Senior Leadership Team
YOS	Youth Offending Service

Appendix 2

In order that no one person is making the decision, the Secondary Executive have agreed that decisions made at panel or when allocating students, under extenuating circumstances, can be referred for ratification and benchmarking to this group.

Appendix 3: Relevant legislation related to Fair Access

DfE 'Fair Access Protocols: Principles and Process', published August 2021:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012993/FAP_Guidance.pdf

DfE 'School Admissions Code', published September 2021:
<https://www.gov.uk/government/publications/school-admissions-code--2>