

Wiltshire In Year Fair Access Protocol For Primary Schools

1 Introduction

- 1.1 This document sets out Wiltshire's In Year Fair Access Protocol, which will ensure that access to education is secured quickly for Wiltshire children who have no school place and that all schools in Wiltshire admit children with challenging behaviour, whether or not the school is oversubscribed.
- 1.2 Since September 2007 the Government has required all local authorities to have a Protocol in place that all schools in the area participate in, including Academies.
- 1.3 If the Local Authority is unable to agree a Protocol, the Secretary of State may enable legislation requiring them to agree a Protocol and, as a last resort, may impose one if an agreement cannot be reached.
- 1.4 The Protocol applies to all maintained schools and Academies in each local authority.
- 1.5 This Protocol includes all the categories that must be incorporated in it as set out in the School Admissions Code which came into force on 10 February 2012
- 1.6 The Admission Forum must monitor the effectiveness of the Protocol and must consider how well existing and proposed admission arrangements serve the interests of children and parents within the local authority area.
- 1.7 The Local Authority is also required to report to the Schools Adjudicator on how well the Protocol has worked and how many children have been admitted to each school under the Protocol.
- 1.8 The aim of the Protocol is designed:
 - to provide a fair, equitable and open allocation of school places for those pupils who do not have a school place;
 - to ensure that vulnerable pupils who require a school place quickly are admitted without unnecessary delay;
 - to be fair and transparent and to have the confidence of all schools.
- 1.9 From September 2012 Access Panels will be introduced in all primary clusters.

- 1.10 Primary Access Panels will normally be part of heads' cluster meetings that usually happen once a term.
- 1.11 Whilst all schools must be included within the Protocol, exceptionally, certain schools will not be asked to take pupils **that fall within the categories listed in paragraphs 2.1**. This will normally only be appropriate where a school has a particularly high concentration of children with challenging behaviour or previously excluded children and one or more of the following exceptional circumstances exists,
- namely that the school:
- requires special measures or has recently come out of them (within the last two years);
 - has been identified by Ofsted as having serious weaknesses or requiring significant improvement and therefore given 'notice to improve';
 - is subject to a formal warning notice from the LA.
- 1.12 Schools cannot cite oversubscription as a reason for not admitting a pupil under this Protocol unless an extra child would breach the Infant Class Size Regulations and the child to be admitted could not be treated as an excepted pupil.
- 1.13 Pupils placed under this Protocol should be given priority for admission over others on a waiting list or awaiting an appeal.
- 1.14 Schools should not insist on an appeal being heard before admitting a child under this Protocol.
- 1.15 A child will not be counted as having been placed under the Protocol for a particular school if the placement breaks down within 12 weeks of the child's start date.
- 1.16 All schools will work collaboratively regardless of the type of school.

2 **Categories of Pupils**

- 2.1 Pupils covered under the Protocol will be children who are in Years Reception to Year 11 who are not on a school roll or out of schools because they are in the process of transferring between schools and who fall under one of the following categories:
- a) Children attending PRUs or Alternative Provision who are ready to be reintegrated back into mainstream education but into a different school from the one originally attended;*
 - b) Children who were permanently excluded from their last maintained school placement and who are ready for re-integration to an alternative school.*
 - c) Children known to the police or other similar agencies, where there has been active involvement in the past six months;*

- d) *Children returning from the criminal justice system who are registered with the Youth Offending Team;*
- e) *Children with a history of serious attendance problems, who have been out of education for longer than one term or whose attendance over the last six terms has been 50% or less;*
- f) *Children withdrawn from schools following fixed term exclusion, who have been out of education for longer than one school term;*
- g) *Children seeking to change schools who have one aspect of behaviour judged to be a medium risk on the Access Panel Risk Assessment part of the Access Panel Referral Form;*
- h) *Children who have been home educated for one school term;*
- i) *Children with special educational needs, but who do not have a statement (normally those on School Action), who have been out of education for longer than one school term;*
- j) *Other children who have been out of education for longer than one school term;*
- k) *Children with disabilities or medical conditions which have already impacted on their attendance or participation at school;*
- l) *Children on the at-risk register, whose move either within or from outside the County requires a change of school;*
- m) *Children who are carers;*
- n) *Children of Gypsies, Roma, Travellers*
- o) *Children of asylum seekers and refugees who have been in the UK less than two years and need a supported entry to school. The need for a supported entry does not include language support where this is the only support required and must be substantiated by professional evidence. Examples of the type of circumstances that might demonstrate a need for a supported entry are where such a child requires specific emotional or behavioural support by the school;*
- p) *Homeless children who have been placed in temporary housing;*
- q) *Children of UK service personnel and other Crown Servants, where a change of location ordered by the service leads to a need for a change of school and they are refused a place by their preferred school.*
- r) *Children with unsupportive family backgrounds for whom a place has not been sought*

2.2 This protocol will not apply to children who have been out of education unless the parents can demonstrate that, during the required period, they were actively seeking a school place and that they were living in the UK. The protocol also does not apply if parents are deliberately keeping their child out of school because they have been refused a place at the school of their preference, this refusal has been upheld by an independent appeals panel and another has been offered that meets the child's needs.

2.3 **Children with challenging behaviour and those who have been excluded twice** - Admission authorities **must not** refuse to admit children in the normal admissions round on the basis of their poor behaviour elsewhere. 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 where an independent review panel has recommended or directed governors to review a decision which would be a second permanent exclusion for the child, and children with special educational needs statements

- 2.4 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. A child with challenging behaviour is one that meets the criteria in 2.1 above. Behaviour would be considered challenging if the child has one aspect of behaviour judged to be a medium risk on Risk Assessment part of the Access Panel Referral Form. However a school cannot refuse to admit a child because of their behaviour but because of the number of challenging children in the year group into which they would come. This provision will not apply to a looked after child, a previously looked after child or a child with a statement of special educational needs naming the school in question, as these children **must** be admitted. However Panels may wish to share ideas and good practice about the kind of provision that would best meet the needs of a looked after child or one with a statement.

3 Parents

- 3.1 Parents seeking a school place within an academic year will be informed by the Admissions team or the admissions authority for the school about their right to apply to a school of their preference and the process by which to do this.
- 3.2 Parents will be able to register an appeal at their preferred school whilst being offered a place at another school under this Protocol.
- 3.3 Parents of students who are being re-integrated following exclusion will be informed by the Education Other Than At School (EOTAS) team about their rights to appeal for admission to their preferred school.
- 3.4 Where possible, parents' views should be considered but will not override the Protocol if the preferred school is unable to take the pupil.

4 Pupils with Statements of Special Educational Needs

- 4.1 Students with a Statement of Special Educational needs (SEN) are outside the remit of this Protocol as they are placed in accordance with the SEN Code of Practice.
- 4.2 Provision for a pupil with an SEN Statement who is permanently excluded will be made by the SEN Panel not by an Access Panel
- 4.3 If there is disagreement about the provision for such a student a Panel will be convened consisting of a representative from SEN, a representative from the LA, a special school representative and a headteacher from an Access Panel different to the one in whose area the pupil resides.

5 Process for Primary Aged Pupils

- 5.1 Primary aged pupils who meet the fair access category criteria should be placed as far as possible, as soon as possible, in their local school.
- 5.2 For all out of county admissions the Admissions team with the support of the EOTAS team, when appropriate, will attempt to identify which pupils fall into the category of Hard To Place. They will complete the Referral Request form and the Access Panel referral form and make the referral to the appropriate Access Panel.
- 5.3 If a school is approached by an out of county pupil that it believes could be Hard To Place it should notify the Admissions team and request that an Access Panel Referral form is completed. This can be done by completing a referral Request form indicating why it considers the pupil Hard To Place.
- 5.4 Referrals for pupils attending Wiltshire schools can be made either by the school they are currently attending or the school they wish to transfer to. This should be done by completing the Referral Request form and sending a copy to Admissions and to the coordinator for their Access Panel.
- 5.5 For pupils attending Wiltshire schools it is the responsibility of the school which they are currently attending to complete the Access Panel referral form and to present the information about the student at the Access Panel. This includes pupils who have been permanently excluded and those being proposed for a managed move.
- 5.6 If there is a disagreement between the school that the student currently attends and the school the pupil wishes to transfer to about whether or not the pupil is hard to place and falls within the remit of the Panel then both schools must present their views with supporting evidence to the Panel. It will then be for the Panel to decide whether or not the pupil meets the definition of the Protocol as being hard to place. If a vote is required then

both schools that have presented views should leave the meeting while the vote takes place. The decision of the Panel is binding.

- 5.7 Once the Access Panel Referral Form has been completed it should be sent to the Coordinator for the appropriate Panel so that the pupil can be placed on the agenda for the next meeting. Referral forms need to reach the coordinator so that they can be sent out to the members of the panel a week before the date of the panel meeting.
- 5.8 If a member of the EOTAS team has completed the referral form they will attend the Access Panel to present the pupil and answer questions about the information provided.
- 5.9 In respect of pupils from Wiltshire schools the person who has completed the referral form will attend the Access Panel meeting to present the pupil and answer questions about the information provided.
- 5.10 A representative from the Local Authority will attend the panel at which placement decisions are to be taken. For out of county admissions or transfers between Wiltshire schools, it is likely to be a member of the Admissions team or possibly the EOTAS team. For permanently excluded pupils it will be some from Primary Behaviour Support. A member of the LA will not attend for the discussion of a managed move unless a specific request has been made by the Panel.
- 5.11 To be quorate a panel needs to have representatives from one third of the schools who are members of that partnership in attendance rounding up. So for example if there are 8 schools in the partnership the quorum is three. Schools who do not attend a panel are bound its decision if the panel is quorate and should accept any pupil placed with them by the panel. A school's representative on the panel should be either the headteacher of the school or a member of the senior leadership team with authority from the headteacher to make a decision at the panel.
- 5.12 Panels are expected to consider the case of each child. They must first decide whether or not the child does fall within the remit of the Panel and then agree a placement at a school within the area of the Panel.
- 5.13 In allocating pupils Access Panels will need to have regard for the Infant Class Size legislation if the year of entry is Reception, Year 1 or Year 2 and a school already has class sizes of 30. A child should only be admitted in such cases if they can be considered to be an excepted pupil because of the operation of the protocol. Allocation will be made by Primary Access Panels based on the application of the agreed system.
- 5.14 In considering cases Panels will have regard to whether the child falls within the categories set out in 2.1 above and then consider;-
 - parental preference

- the schools that should be considered as exempt from taking children within categories a) to f) as set out in Paragraph 1.11
 - any genuine concerns about the admission by either the parent or the school
 - a strong view of the parent about the religious ethos of a school
- the availability of transport at a reasonable cost to the local authority.
- 5.15 In considering cases Panels may also wish to have regard to the number of LAC and SEN children within each school and the number and frequency of previous Fair Access placements within the academic year and within each year group
- 5.16 Allocation of pupils under the protocol to schools will be done in line with the agreed system taking account of schools with particular needs as identified in 1.11 above. Cases before the panel will be judged high medium or low in terms of the level of risk the pupil presents based on the risk assessment in the referral form and the level of the cost of provision.
- 5.17 For “hard to place students” admitted in year from outside Wiltshire the Access Panel will decide whether additional funding is required to support an appropriate placement or provision how much that funding is to be and how that is to be provided.
- 5.18 If the Access Panel identifies an appropriate school for a pupil on the basis of the system for allocation and the school refuses to accept the pupil then that school will be asked to justify its refusal. If the Access Panel accepts the justification of the school it can decide to offer a different place. If the Access Panel does not feel that the school’s case for refusal is justified then it can confirm its offer of a place at the school. If the school still refuses to accept the pupil and all attempts to reach agreement have failed then the chair of the Access Panel will ask the Admissions team to direct the school to accept the pupil.
- 5.19 The member of the Admissions team attending the Access Panel will write to give formal notification of the placement to the parents, cc school, EWS, EOTAS, and Passenger Transport. They will also advise parents of what action they make take if they are unhappy with the place that the Access Panel has offered.
- 5.20 Immediately after the panel decision on placement has been made, the receiving school will contact the parents and make arrangements for the pupil to be admitted within 2 weeks of the placement being agreed. Support for the admission process could be available for the school from the EWS or EOTAS teams and, if required, for reintegration for the pupil’s first 2 weeks in school from the pupil starting at the school.
- 5.21 The Access Panel will continue to monitor, to ensure the satisfactory completion of 12 weeks successful reintegration to ensure that all pupils in their partnership area are in receipt of full time education.

A placement will only be considered to have broken down if the child's behaviour would ordinarily warrant permanent exclusion. In such cases the evidence will be reviewed by the Access Panel who will determine whether or not the placement should be considered to have broken down. If the Access Panel agrees that the placement has broken down it will then decide what is appropriate provision for the pupil and how it should be funded.

6 Referrals between Access Panels

- 6.1 Where appropriate a pupil will be referred to the Panel in the geographical area in which they live.
- 6.2 However there may be cases where there is evidence to support that a placement in a neighbouring area would be in the best interests of the child or other children. In these cases, the details will be referred to the Panel for the area in which a placement is sought. It is anticipated that such cases will be few. No Panel would be expected to accept more than two out of area cases throughout the academic year for pupils who do not live in the area of that Panel, although they may take more if they choose to.

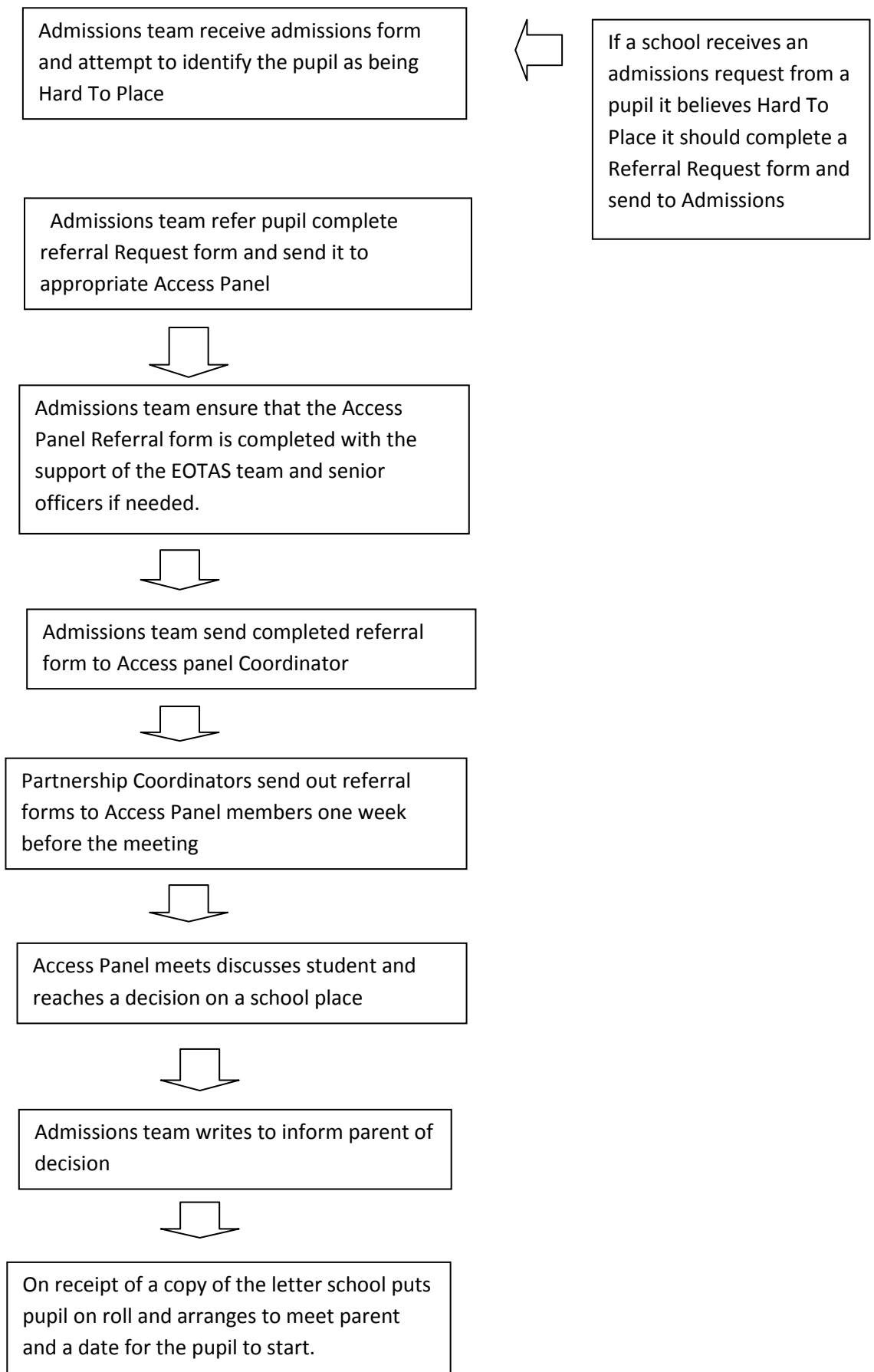
7 Transport

- 7.1 The reasonable cost of transport for a hard to place out of county pupil to the school which the Access Panel has offered a place will be met by Passenger Transport. The availability of transport is one of the considerations the Access Panel should take into account when making its decision. The cost of transport for Wiltshire pupils moving to a different part of the county will be funded by Passenger Transport in the same way.
- 7.2 Where appropriate, funding for travel will be available for those pupils who are placed under this Protocol as out of county admissions or where pupils have moved from one area of the county to another, although Panels are expected to take into account journey times when considering a placement. Travel will normally be arranged for the most appropriate public transport route. Where a taxi is deemed appropriate to support integration, this will only be funded for one term and beyond that the pupil would be expected to travel on an alternative mode of transport to school if available. Where there are exceptional arrangements the parent might request that their case is considered at Transport Case Review by senior officers within the Admissions and Transport teams. At secondary level this will be up to the Panel to agree and fund transport for pupils who come to the Panel as a result of permanent exclusion or a managed move.
- 7.3 Every attempt will be made to place permanently excluded pupils in schools adjacent to where they live. If this is not possible Passenger Transport will pay any reasonable costs of transport. Transport arrangements for managed moves at primary level will be negotiated

between the schools involved.

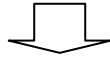
- 7.4 A pupil eligible for free school meals who currently gets free transport because they travel between 2 and 6 miles to school will retain this free transport if they move to a school with a similar travel distance.

In Year Fair Access Protocol Flow Chart 1

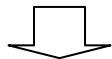


In Year Fair Access Protocol Flow Chart 2

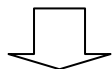
Parent of an out of county hard to place pupil applies directly to a school.



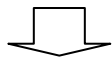
The school refuses to admit the pupil on the basis that they already have a high proportion of Hard To Place pupils in that year or in the school and completes a Referral Request form which it sends to Admissions .



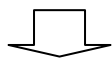
Admissions team ensure that the Access Panel Referral form is completed with the support of the EOTAS team and senior officers if needed



Admissions team send Referral Request form with completed referral form to Access panel Coordinator



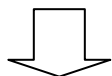
Partnership Coordinators send out referral forms to Access Panel members one week before the meeting



Access Panel meets discusses student and reaches a decision on a school place



Admissions team writes to inform parent of decision



On receipt of a copy of the letter school puts pupil on roll and arranges to meet parent and a date for the pupil to start.