

Fair Access Protocol – January 2016

1. Background

- 1.1. Fair Access Protocols have been successfully operating in Nottingham City since 2005 and include all primary and secondary mainstream schools and academies.
- 1.2. The School Admission Code (December 2014) requires each local authority (LA) to have a Fair Access Protocol in operation in which has been agreed with the majority of schools in the area to ensure that - outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a protocol, no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour (School Admissions Code, 3.9).
- 1.3. The Fair Access Protocol exists to ensure that access to education is secured quickly for children who have no school place, but for whom a place at a mainstream school/Academy or alternative provision is appropriate, and to ensure that all schools/Academies in an area admit their fair share of children with challenging behaviour. Paragraph 3.10 of the school admissions code states that, “The operation of Fair Access Protocols is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures”. However, our protocol seeks to intervene as quickly as possible and identify children applying through the in-year process to determine a placement quickly and ensure equitable distribution, therefore, pupils meeting the Fair Access triggers will not go through the normal admissions process first.
- 1.4. The Protocol ensures local authorities, schools and Academies to work together as mutual stakeholders to improve behaviour and tackle persistent absence. All admission authorities **must** participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. This includes admitting children above the published admission number where the year group is already full or priority over waiting list or admission appeals for the school/academy. Although, the School Admissions Code stipulates that, “There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol” (School Admissions Code, 3.11).
- 1.5. The School Admissions Code can be viewed in full at:
<https://www.gov.uk/government/publications/school-admissions-code--2>
- 1.6. Children with an Education, Health and Care Plan will not be considered through the Fair Access Protocol but through the Special Education Needs Team processes.

2. Key Principles

Balancing between a quick placement and the right placement

- 2.1. There must be a balance between finding a place quickly, when the place might be in an undersubscribed school/academy or one facing challenging

circumstances, and finding a school/academy place that is appropriate for the child. The principle of considering the individual circumstances of the pupil, in terms of what is best for them, whether they are ready for mainstream schooling and, if so, which mainstream school/academy will be best able to meet their needs should guide the operation of Fair Access Protocol.

Equitable distribution

- 2.2. The School Admissions Code states local authorities must ensure that no school/Academy, including undersubscribed schools/Academies, is asked to admit a disproportionate number of children who have been excluded from other schools/Academies or who have challenging behaviour (School Admissions Code 2014, paragraph 3.9).
- 2.3. Equitable distribution does not imply equal number of cases to each school. There may be circumstances where schools will have to admit more pupils according to need. However, the panel will take into account relevant contextual information¹ when considering placement, such as:
- Numbers in context to other local schools
 - Context of numbers on roll
 - Number of exclusions and transfers into and out of the school
 - Location of pupils home address
 - Most appropriate school to meet a student's needs

Open, honest and relevant information sharing

- 2.4. It is expected that pupils on roll at a school or Academy within the City of Nottingham, considered at the Fair Access Panel (FAP), will have evidence of additional agency involvement, such as, support services, be open to the Team Around the Child (TAC) or have an active Common Assessment Framework Form (CAF). Information will be shared between schools, academies and other support services as required. It will be expected that information will be shared openly and honestly, whilst ensuring confidentiality.
- 2.5. If a pupil is not considered through the Fair Access Protocol, as a result of withheld or missing information, this will be challenged by the LA and the panel chair and raised at a subsequent panel meeting. If there are concerns, the LA and the chair will monitor any further applications made and may require more detailed evidence.

Working with other Admission Authorities and other local authorities

- 2.6. Whilst each protocol covers only the schools/Academies in its local authority area, the home Local Authority should contact neighbouring authorities to help secure a place in that area under their protocol. The protocol is in effect a safety net for where normal admission procedures for in year admission have failed. If there are illegal practices, the LA and chair will take appropriate action to challenge and resolve these situations.
- 2.7. For the protocol to operate in accordance with the statutory requirement:

¹ This is not an exhaustive list of all factors that may be taken into consideration

- 2.8. Schools/Academies will continue to admit pupils whose parents apply for an available place, under normal admission arrangements.
- 2.9. Pupils identified as Panel cases under the Fair Access Protocol will be given priority for admission over others on a waiting list or awaiting an appeal. Managed Moves will be given priority for admission, if they meet the criteria outlined in this protocol.

3. Exceptions

- 3.1. The School Admissions Code states in paragraph 3.8:

“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.”

- 3.2. However, the School Admissions Code continues in paragraph 3.12:

“Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it must refer the case to the local authority for action under the Fair Access Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. The use of this provision will depend on local circumstances and must be described in the local authority’s Fair Access Protocol. This provision will not apply to a looked after child, a previously looked after child or a child with a statement of special educational needs naming the school in question, as these children must be admitted.”

- 3.3. All schools and academies (required by their funding agreements) are to comply with the Admissions Code and the law relating to admissions, including full participation with the locally agreed Fair Access Protocol and to admit pupils who are hard to place.
- 3.4. The Fair Access Panel will consider any valid concerns about admission (e.g. a previous serious breakdown in the relationship between the school/Academy and the family or serious historical issues with other children at the preferred school/Academy). Consideration will also be given to the individual situation, and contextual data for each school or Academy, including, the number of pupils admitted through the panel and being supported by the school or academy.
- 3.5. If a school or academy refuses to comply with the Fair Access Panel decision, they must state their reasons in writing to the chair of the panel within 5 school days from the date of the panel decision. The chair will then determine a written view, based on evidence and contextual panel data and after consulting with the school/academy and the Local Authority for their views. The chair's final written view will confirm the panel decision and it is expected that all schools and academies will support the view and accept the decision of the panel. If a school/academies admission authority refuses to accept the decision of the Fair Access Panel and chair, the Local Authority will seek to enforce a direction or

apply to the Education Funding Agency to direct admission on behalf of the Secretary of State, if required.

4. Criteria Fair Access Panel

- 4.1. A pupil placed under this Protocol is not necessarily a “challenging” pupil. Any child in this category is however potentially a vulnerable child as long as an appropriate educational placement has not been secured.
- 4.2. The School Admissions Code 2014 states 7 minimum categories² to include in a Fair Access Protocol. These categories identify a child as potentially “Hard to Place or vulnerable”. These are not meant to be exhaustive but provide an example of pupils who must be considered under the protocol. It is proposed that the City protocol monitors these pupils, but will have specific focus on the following criteria:
- 4.3. Fair Access Panel – Triggers
 - a) Children in Care.
 - b) Children attending Learning Centres who have been permanently excluded and who need to be reintegrated back into mainstream education. (See Reintegration Protocol below)
 - c) Children seeking an alternative to permanent exclusion with a history of intensive multi-agency support (Team around the child or CAF) and where alternative placements have been unsuccessful.
 - d) Children who have been out of mainstream education for longer than one school term (at point of initial application) or Children with a history of serious attendance problems (serious attendance problems would be below 50% attendance within a 12 month period)
 - e) Children fleeing domestic violence, where a school move is unavoidable
 - f) Children returning from the criminal justice system
 - g) Vulnerable groups which have been identified under exceptional circumstances by a government mandate, to ensure education provision is established as a matter of urgency. These cases would fall outside of any current admission processes i.e. WASP, in-year admissions etc.
- 4.4. Children who meet the Managed Move Protocol criteria (attached), as determined by the Inclusion Strategy Co-ordinator, will be considered under the wider Fair Access Protocol, and therefore will have similar priority over other in-year applications, waiting lists and appeals as outlined in The Schools Admissions Code 2014. Children who only meet the Managed Move criteria will not be considered as a Fair Access Panel case, and therefore will be recorded separately to cases taken through the Fair Access Panel.

²School Admissions Code 2014 – 7 Minimum Fair Access Criteria

- a) children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- b) children who have been out of education for two months or more;
- c) children of Gypsies, Roma, Travellers, refugees and asylum seekers;
- d) children who are homeless;
- e) children with unsupportive family backgrounds for whom a place has not been sought;
- f) children who are carers; and
- g) children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care Plan).

- 4.5. All other Fair Access categories will be considered through the in-year admissions process including Without a School Place (WASP) processes as required unless they meet the criteria for Fair Access Panel above.
- 4.6. Children in Care³, will be given the highest priority for admission and will be brokered prior to a panel meeting. The chair and the LA will establish in consultation with Social Care, the Virtual School and other agencies the preferred preferences for their education. The views of the schools preferred and any potential prejudice as a result of the placement will always be considered. However, in most circumstances children in care will be offered and admitted, in agreement with school or Academy, regardless of the time of year or if the year group is oversubscribed if the offer is considered in their best interests. Once an offer has been made, the Social Worker will normally, but not always arrange a multi-agency meeting to bring together all the professionals that have been working with the child to support their transition into their new educational provision.
- 4.7. The LA will determine if a pupil meets the panel criteria. The in-year application form includes a request for additional information and reasons for seeking a transfer to enable consideration through Fair Access. All pupils who meet the criteria will be considered at a Fair Access Panel meeting. Background information will be collated by the LA to support any application to the panel and the pupil's subsequent admission. All schools and academies will ensure background information is shared without delay. If the pupil does not meet the above criteria, the application will be processed through the in-year admissions procedures, including year 10 and 11 pupils.

5. FAP Panel Membership

- 5.1. Membership of the panel is split between Core Membership, School Membership and Support Membership. Core members of the Fair Access Panel will attend each meeting. It is expected that at each meeting senior representatives from every school will also be in attendance, including appropriate support service representatives.
- 5.2. The collective panel membership will use their expertise and knowledge to secure a decision for each individual pupil that is best for them. Final decisions will rest with Core Panel Members. The Panel will need to balance between the pupil's needs and what school/Academy or provision can best meet their needs, whilst ensuring that the pupil is supported and that no school/Academy is asked to admit a disproportionate amount of pupils through the protocol.
- 5.3. All schools and Academies will provide educational expertise and knowledge as well as represent an overall educational perspective for the City. All schools and academies will be provided with case information 48 hours before a panel meeting, through secure File Transfer.

³ A 'looked after child' is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989) at the time of making an application to a school.

- 5.4. There will also be 3 representatives from Support Services across Children and Families that constitute the Support Membership of the panel. These representatives will attend on a rotational basis (See Appendix 1 attached). They will be expected to represent their Service Area and provide relevant information about any involvement and support that can be offered. Case information will be provided to support services 5 working days before a panel meeting in order to provide a report at the panel meeting.
- 5.5. All Panel members are responsible for arranging for an informed colleague to attend in their place should they be unable to attend. All professionals must come fully prepared with information pertaining to the individual cases to be discussed. School/Academy representatives must have the power to make decisions regarding admissions on behalf of their school/Academy.
- 5.6. The core membership of the Fair Access Panel will be:

Core Panel Membership	
Fair Access Panel Chair	
Inclusion Officer	
Complex Case Co-ordinator	
Fair Access Co-ordinator	
Inclusion and Disability Service Representative	
School Panel Membership	
Bluecoat Academy	Designated Senior staff from every school/Academy that has the authority to make decision on behalf of the school/academy admission authority.
Bulwell Academy	
Denewood and Unity Learning Centre	
Djanogly City Academy	
Ellis Guilford School	
Emmanuel School	
Farnborough Academy	
Fernwood School	
Bluecoat Beechdale Academy	
Nottingham Academy	
Nottingham Girls Academy	
Nottingham University Samworth Academy	
Oakwood Academy	
Trinity Catholic School	
Top Valley Academy	
Nottingham Free School	
Nottingham University Academy Science and Technology	
Support Panel Membership	
Inclusive Education Service	Local Authority Education and Social Care Representation (Up to 4 representatives)
Special Educational Needs	
Behaviour Support Team	
Educational Psychology Service	
Child & Adolescent Mental Health Service	
Youth Offending Team	
Education Welfare	
Priority Families	

6. Fair Access Panel Meetings

- 6.1. The Panel will meet at least each month with the exception of August each academic year. However, if there are limited cases to be considered a meeting may be cancelled and cases brokered outside of panel. The meetings will be scheduled for the entire academic year.
- 6.2. Key contextual information will be provided by all schools and Academies 1 week prior to the panel meeting. This will be collated by the LA and further analysis provided at the meeting regarding equitable distribution. Detailed statistics about Fair Access will be provided on a termly basis and shared with schools and Academies. In addition an annual report will be sent to the schools adjudicator.
- 6.3. All applications for Fair Access will be considered at the next available panel, however, Children in care and children who have recently experienced a traumatic family or domestic event or for whom there are clear medical grounds to support placement in a particular secondary school or Academy, will be considered prior to panel. Such cases will be discussed in detail between the LA, Fair Access Panel Chair and the Headteacher/Principal in order to agree placements as soon as possible and the decision will be ratified at the next available panel.
- 6.4. The LA has secured £190,000 through the Schools Forum to support the Secondary Fair Access protocol and provide needs led support funding to reduce barriers to admission. This funding is secured to support Fair Access pupils' integration back into education through, translation costs, assessments, purchasing support services and providing alternative provision for pupils who are not ready for mainstream schooling. Education for pupils who have been permanently excluded will be provided by the appropriate Learning Centre (see section below), and any costs recovered through agreed processes.

7. Post-Panel Expectations

- 7.1. Pupils considered at the Fair Access Panel and allocated a school/academy will receive a letter confirming the decision within 48hrs from the LA.
- 7.2. In order to meet the 10 days admission standard, it is expected that school representatives will inform their admissions teams about the allocation of pupils for their school from the panel in order to avoid any delays to the process. The Fair Access Panel Chair will inform, in writing, the Headteacher/principal of all schools/Academies and other stakeholders of the panel's decision within 48 hours of the panel meeting. The school or academy must admit the pupil within 10 working days of being informed. If the Panel agree that a multi-agency meeting take place before admission, schools/Academies will have 15 working days in which to admit the pupil.

8. Funding Method

- 8.1. There are currently three tiers for funding available through Secondary Fair Access:

TIER 1	<p>No funding allocated Students placed whose needs are met by mainstream school/Academy</p>
TIER 2	<p>Assessment and access funding Funding allocated to provide an assessment of needs to inform panel placement decisions (in particular where there are significant gaps in educational provision, students who speak English as an additional language (EAL) or those who have an incomplete SEND profile. Access funding provides for one off payments in extraordinary circumstances to remove barriers to admission and access to schools.</p>
TIER 3	<p>Support funding for alternative provision Subsidised funding agreed for an alternative provision to be managed by the allocated school. Students in year 11 placed on roll prior to the funding census (Oct) will receive 50% of the cost of alternative provision. Students in year 11 placed on roll following the funding census (Oct) will receive full cost recovery of alternative provision costs (up to £13000 cap) Students in all other year groups who require AP upon initial assessment will be able to access part funding up to a maximum of 5 terms (subject to a £13000 cap) The funding amount and length of support will be agreed by panel members at the meeting.</p>

- 8.2. Any funding agreed through panel for the support of pupils will be reported back to panel. If the placement is withdrawn, any remaining funding will return to the Fair Access budget.

9. Monitoring and Strategic Overview

- 9.1. Reports, data and monitoring information will be provided at meetings, after each term and annually to all schools, academies and stakeholders. This information will also be used to report to the Schools Adjudicator and local Schools Forum in order to comply with performance and accountability responsibilities.
- 9.2. The Fair Access protocol and strategy is the responsibility of the LA, however, this will supported by a termly consultation group of head teachers/principles from City schools/academies and local authority officers, which will review the performance of the panel, discuss strategic issues and make recommendations to improve services and drive change.

10. Learning Centre Reintegration

- 10.1. Pupils attending the City's Learning Centres, who have demonstrated readiness for reintegration will be managed through this protocol. Our Learning Centres work hard to identify pupils needs, address behaviour, attitudes and academic underperformance to try and raise achievement and reintegrate permanently excluded pupils back into mainstream education. Reintegration into another

mainstream school/Academy is the right option for the majority of pupils in year 7, 8, 9.

- 10.2. Pupils will not usually be considered for reintegration into a mainstream school/Academy until their behavioural, social or emotional needs have been addressed and they are ready to return to a mainstream setting. The Executive Headteacher will identify and support pupils who are ready to reintegrate back into mainstream education from Denewood Learning Centre (DLC) or Unity Learning Centre (ULC). This will be supported by background information and evidence about the pupil and their progress whilst at the learning centre. This information will be monitored and reviewed by the head teacher of the learning centre, the LA and the panel chair before consideration at panel.
- 10.3. Pupils who live in the City boundary who have been permanently excluded will normally be placed on the roll of either Denewood or Unity Learning Centre. Permanently excluded pupils who move into the City, who are not ready for mainstream education will attend a Learning Centre until they are ready to be reintegrated back to mainstream education.
- 10.4. Fair Access Protocols must not require a school/Academy to automatically take another child with challenging behaviour in the place of a child excluded from the school. Although, all secondary schools and Academies will support to allocate at least 1 reintegration pupil, however, further reintegration pupils will be allocated through the panel based on equability, context and the needs of the pupil. Consideration will also be given to the number of permanent exclusions issued by the school/Academy.
- 10.5. Reintegration placements will be supported by staff from the Admissions and Reintegration Team (ART) at Denewood. A reintegration package will last between 6 to 10 weeks, from the date of the package starting and the circumstances of the pupil. The length of the package will be agreed between the learning centre and the allocated school. The reintegration package must start within the 10 days of the panel decision, unless an exception is agreed at the panel meeting. A meeting should be set up without delay to facilitate the start date, set appropriate targets and plan their reintegration package. There must be regular reviews and communication between all parties involved, which should be communicated in writing, ideally by email to named contacts.
- 10.6. A standard 6 week reintegration package would include:
 - Week 1** – Full time support with a member of staff from Denewood (DLC)
 - Week 2** – Full time support with a member of staff from Denewood (DLC)
 - Week 3** – Support in 'hot spot' lessons
 - Week 4** – Support in 'hot spot' lessons – if still required
 - Week 5** – Drop in sessions at various points through the week
 - Week 6** – No support in school (only for the final review)

This package will be subject to individually agreed changes according to pupil and school need.

- 10.7. It is anticipated that pupils will be successfully reintegrated through the support of school staff and the learning centre. Review meetings will take place regularly through the reintegration process to acknowledge success, review support and raise concerns. If the review meetings are positive, their success will be confirmed at the final review meeting and the pupil will officially go on roll the school day after the package ends. However, as an additional measure to ensure success, Denewood will continue to monitor the pupil for 4 weeks after the pupil is on roll in order to facilitate support, or consider a return to Denewood, if appropriate and agreed by all parties.
- 10.8. If there are concerns about a pupil on a reintegration package, the school should initially communicate with the pupils named keyworker at Denewood Learning Centre to try and resolve the concerns. If a reintegration may be failing, then this cannot be terminated until an urgent review meeting is held with all relevant parties to determine if the allocation should be withdrawn, at which point arrangements would be made for their return to the learning centre.
- 10.9. Reintegration placements will be recorded and funded through the panel and will be able to access additional support, like other pupils considered at FAP, as agreed at panel meetings.

11. Other Key Documents:

- 11.1. NCSEP Managed Move Protocol v2.1
- 11.2. Going to School in Nottingham – Information about admissions
- 11.3. Schools Admissions Code – December 2014