

## In-year fair access protocol for primary schools and academies

September 2018

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## Summary

The school admissions code requires all local authorities to have an in-year fair access protocol to facilitate the admission of hard to place pupils, whilst ensuring an equitable distribution of the most challenging pupils between schools.

This protocol has been developed in collaboration with Luton's five neighbourhood partnerships, the admissions code requires all schools and academies to participate in the fair access protocol to ensure that unplaced children are allocated a school place quickly.

This protocol doesn't operate for the normal admissions rounds (ie entry to the reception year and year 3 (junior schools only) at the start of the academic year) - the operation of the protocol is overseen by Luton Council.

## Scope

This protocol sets out the arrangements for the appropriate and timely placement of the following pupils.

- New arrivals to Luton, known to have significant challenging behaviour eg those who have been attending a pupil referral unit or behaviour provision
- Luton pupils who have a history of significantly challenging behaviour who opted for elective home education and now want to return to mainstream education
- Pupils who have been permanently excluded
- Pupils who attend a neighbourhood provision and move house to a different neighbourhood
- Pupils who need reintegration into a new school after receiving intervention at a neighbourhood provision where the relationship with the 'home' school has broken down to such an extent that a 'fresh start' in an alternative school would be appropriate
- Other pupils who would benefit from a managed move
- Pupils for whom a placement at an alternative provision or another neighbourhood provision would be appropriate due to the specific circumstances of their case
- Pupils who are extremely vulnerable
- In addition, the admissions code requires that this protocol caters for pupils in any of the following categories who have difficulty in securing a place via the normal in-year admissions process (it's anticipated that the vast majority of pupils in the following categories will be placed via the normal in-year admissions process):
  - children who have been out of education for two months or more
  - children of Gypsies, Roma, Travellers, refugees and asylum seekers
  - children who are homeless
  - children with unsupportive family backgrounds for whom a place has not been sought
  - children who are carers
  - children with special educational needs, disabilities or medical conditions (but without a statement or EHCP)

In many cases the local authority will identify those pupils who need to be placed by the protocol, however, governing bodies may also refer cases to the local authority, for placement under the in-year fair access protocol, if they believe that the pupil has challenging behaviour and they can evidence that the school has a particularly high proportion of children with challenging behaviour or previously excluded children.

Headteachers can request retrospective acknowledgement if a pupil has been admitted as a normal admission, but it subsequently transpires that the pupil should have been admitted using this protocol - in the first instance, the request should be discussed with the local authority representative, the case will then need to be made to the neighbourhood decision making forum, alongside supporting evidence.

This protocol doesn't apply to looked after children, a previously looked after child or a child with a statement of SEN or EHCP as these children must be admitted.

The admissions code allows for pupils to be admitted, under this protocol - this protocol overrides usual admission arrangements, even if:

- the school has reached or exceeded its admissions number in the relevant key stage 2 year group
- there is a waiting list for the year group in question

## Aims of the scheme

The scheme is designed to:

- work in conjunction with Luton's neighbourhood partnership model whereby funding from the high needs block of the dedicated schools grant is devolved to partnerships to fund the neighbourhood provision and other behaviour interventions/support programmes/outreach work
- to 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 who have challenging behaviour
- ensure that where a 'fresh start' or managed move is considered to be in the pupil's best interest, the transfer is managed by the current school within the remit of this protocol
- reduce the time that 'difficult to place' pupils spend out of education
- acknowledge the real need of vulnerable young people who are not on the roll of any school/academy to be dealt with quickly, sympathetically and in a personalised way
- be fair and transparent, and to have the confidence of all schools and academies

## Main principles of the protocol

In order for the scheme to be successful:

- **all** schools and academies must take part - this is required by the school admissions code
- schools and academies must not advise parents to seek a 'fresh start' at an alternative school through the normal admissions process where the pupil has a history of persistently disruptive behaviour or is at risk of permanent exclusion - where a managed move is considered to be an appropriate option, the headteacher/principal should complete the paperwork, set out at Appendix A, and propose a managed move under the remit of this protocol
- the threat of exclusion must never be used to influence parents to remove their child from school by opting for elective home education or to coerce them into agreeing to a managed move
- the LA will keep a log of the pupils admitted under this protocol which can be viewed by headteachers at any time

- schools and academies must continue to admit pupils who apply for an available place, under normal admission arrangements
- pupils placed under the protocol will be given priority for admission over any others on a waiting list or awaiting an appeal, as required by the school admissions code

The process will need to be flexible and pragmatic as it deals with the placement of some of the most vulnerable and challenging pupils, however, all placements need to be identified in a timely way.

**Note:** schools can contact the 'Educational Psychology Learning Support Service' or 'Alternative Learning and Progression Service' (ALPS) at anytime for advice.

The council also encourages school staff to make use of the [research in practice](#) website which is available to Luton schools and provides information and advice on behaviour management.

### Neighbourhood decision making

- In the first instance, cases identified for placement under this protocol will be discussed with the parents' preferred school - if the preferred school is unable to accommodate the request the case will be referred to the neighbourhood for a placement decision.
- Each neighbourhood will need to identify a decision making forum, which meets at least monthly, where referrals under this protocol can be processed without delay.
- When making decisions about the placement of children under this protocol, neighbourhood decision making forums should consider:
  - the parents' view or preference, although there is no duty for local authorities or admission authorities to comply with parental preference, when allocating places through the fair access protocol, the parents will have the right of appeal against a decision to refuse a place at their preferred school(s) - therefore, it's important that the reasons for refusing admission are documented together with the reason for offering a place at the alternative school
  - that it's reasonable to expect the parent to transport the pupil to and from the identified school, taking into account logistics involving primary aged siblings and older children with special needs
  - the need to ensure that no one school is asked to admit a disproportionate number of children with challenging behaviour
  - The following factors for the relevant year group(s):
    - the number of pupils with an EHCP and those on the SEN register without an EHCP
    - staffing arrangements, in particular vacancies covered by supply staff and NQTs
    - the number of in-year admissions
    - the number of pupils on roll
    - Ofsted judgement at the last inspection
    - the number of LAC/previous LAC
    - the number of pupils previously admitted to the school using this protocol
    - any other challenges facing the year group as advised by the school

- The LA will send a representative to the neighbourhood decision making forum for referrals under this protocol, the LA will collate statistical data on placements made via the protocol and is required to report statistics and information to the schools adjudicator on an annual basis.
- For some cases the LA, referring school or neighbourhood partnership may wish to invite a representative from the following teams to attend discussions regarding the placement of particular pupils:
  - Manager of Alternative Learning & Progression Service
  - Educational Welfare Service
  - Educational Psychology Service
  - Youth offending team
  - Social Care
  - Elective home education officer
  - Access to education team
- If, in exceptional cases, the neighbourhood partnerships are unable to agree which school roll a child should be placed on, it can refer this decision to the LA - in this instance the LA will review this request in the context of the information set out above and will make the final decision, the identified school will be required to admit the pupil within 10 school days.
- All schools, in the relevant key stage, need to send a representative to their neighbourhood decision making forum for in-year fair access protocol cases, a school's representative on this panel should be either the headteacher or a member of the senior leadership team with authority from the headteacher to make a decision at the panel - schools who don't send a representative to the panel are still bound by its decision and must accept any pupil placed with them by the panel.
- Cases requiring placement under this protocol will be notified to the chair of the neighbourhood partnership at least 10 school days in advance of the scheduled monthly meeting - paperwork relating to the case will be circulated at least five school days before the meeting.
- Fair access referrals must be submitted using the fair access referral proforma, this proforma is designed to provide sufficient relevant information, relating to the child, to support placement decisions.

### **Permanently excluded pupils**

The manager of the 'Alternative Learning and Progression Service' (ALPS) will consult the relevant neighbourhood forum on appropriate provision for permanently excluded pupils living within their area.

When the pupil is ready to be reintegrated into school the relevant neighbourhood forum will be asked to identify a school placement.

### **School to school managed moves**

All school to school managed moves, to oversubscribed year groups within a school, must be routed through this protocol, school to school managed moves, outside of the protocol, to oversubscribed schools are not lawful, unless the pupil was top of the waiting list, which must be ranked using the published oversubscription criteria.

Any school to school managed moves to an undersubscribed year group must be notified to the access to education team, no school requesting a managed move will take the pupil off roll until a new school admits the pupil.

When considering a managed move the school will usually be expected to have exhausted the following strategies:

- any attendance issues have been addressed with the parents and student
- behaviour log has been analysed and support has been targeted to problem areas
- the student has been raised at school liaison meetings or internal behaviour meetings
- PSP is in place with appropriate targets and pastoral support
- referrals have been made to appropriate professionals including 'Educational Psychology Service' and 'Special Educational Needs Learning Support'.
- advice given by professionals has been followed and evaluated
- reward and recognition schemes have been used and negotiation strategies developed
- sufficient support has been put in place, for example, TA support, mentoring either internal or external, counselling, anger management workshops
- school SENCO has reviewed any learning needs and that work is sufficiently differentiated
- referral to the 'Early Help Assessment' team

Vulnerable children can be considered for placement under this protocol in very exceptional circumstances where the school can demonstrate that this route is appropriate - in these instances the above steps may not necessarily be relevant but the school must be able to show evidence that appropriate support has been offered.

Managed moves must not be proposed unless the parents are in agreement with this course of action - the LA will broker managed moves between neighbourhoods on a case by case basis.

### **Pupils new to Luton with significantly challenging behaviour**

The neighbourhood decision making forum may also consider the appropriate placement for pupils new to Luton who have a history of significant challenging behaviour or have been permanently excluded or are a risk of permanent exclusion.

Factors that will be considered when determining eligibility for placement under this protocol include the following:

- Current/previous education provision and whether this was full time, mainstream provision
- Severity, nature, frequency and timing of behaviour incidents
- Whether the pupil has been permanently excluded from school or has a history of fixed term exclusions in the last two years
- Level of the child's vulnerability
- Known behaviours/risks outside of school
- Other evidence that suggests the pupil is likely to require significant support over that which would ordinarily be put in place for an in-year admission

## **Vulnerable pupils**

Only cases of extreme vulnerability would be considered for placement using this protocol, as the vast majority of cases should be placed by the normal in-year admissions process.

## **Recording and reporting processes**

- Neighbourhood partnerships will need to arrange for minutes to be taken at meetings where in-year fair access cases are discussed.
- The receiving school must notify the LA of the date of admission for pupils placed under this protocol.
- The LA representative will record the placements made via the in-year fair access protocol.

## **Basic entitlement funding (AWPU)**

For pupils transferring between Luton schools under this protocol, it's expected that the pro rata basic entitlement and any pupil premium funding will be transferred to the receiving school after the pupil has successfully completed their trial period.

Where a pupil is permanently excluded, the pro rata basic entitlement and pupil premium funding will be transferred to the local authority, to contribute to the costs of the pupil's education package.

## **In-year admissions**

Normal in-year admissions are not covered by the protocol, in these cases parental preference determines which schools/academies are asked to admit the child.

It's expected that the current school will make every effort to retain pupils, except where pupils move house.

Where a pupil is seeking a transfer between Luton schools it's good practice to provide the following information to the receiving school without delay:

- An accurate account of the pupil's behaviour, interventions put in place (including alternative provision) and the success of such strategies
- A copy of the pupil's behaviour log
- A copy of the pupil's attendance record
- A copy of any documents in place to support the student eg IEP, PSP, BSP, CAF, EP report
- A copy of the pupil's most recent assessment data

Where the parent is seeking to move school due to 'issues in the current school' it may still be necessary to route the admission via this protocol if the pupil has a history of persistent disruptive behaviour or is at risk of permanent exclusion.

The school admissions code states that admission authorities 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.

The admission of children in care is not covered by the in-year fair access protocol, instead local authorities are required to ensure children in care are admitted to the most appropriate school/academy quickly, using powers of direction if necessary where they are not the admission authority.

## **Schools in Ofsted categories**

All in year admission applications to join schools/academies in a grade 4 Ofsted category will be reviewed, in exceptional cases the local authority may decide to review in-year admission applications for other schools with a high proportion of pupils with challenging behaviour and a high number of in-year admissions if it considers the school to be vulnerable to moving into an Ofsted category.

In these circumstances any request where the pupil has exhibited challenging behaviour will be discussed with the headteacher and admission may be refused if the school has a particularly high proportion of children with challenging behaviour, even if there are spaces available.

This provision will not apply to a looked after child, a previously looked after child or a child with an education, health and care plan, as these children must be admitted.

## **Pupils living outside of the borough**

Pupils living outside of the borough, who have been permanently excluded from school or have a history of challenging behaviour, will be referred back to their 'home' authority for placement via their in-year fair access protocol.

## **Shortfall of school places**

In a scenario where there are no Luton schools with available places in a year group, the in-year fair access protocol will be used to place children, new to Luton, in schools to ensure they have a school place.

The council would evenly distribute such children between schools to ensure no one school admitted a disproportionate number of pupils over its PAN.

## **Statutory guidance pertinent to this protocol**

- [School admissions code](#)
- [School exclusion](#) (from maintained schools, academies and pupil referral units in England)