ANNEX 1

Fair Access Protocol

2022/2023

SURREY COUNTY COUNCIL

Surrey's Fair Access Protocol 2022/23

1. Introduction

1.1 This document sets out the Fair Access Protocol which will be operated by Surrey in partnership with all state funded mainstream schools during the academic year 2022/23.

1.2 This Protocol applies to children living in Surrey and complies with the requirements of the 2021 School Admissions Code (the Code) and the DfE guidance on Fair Access Protocols issued in July 2021.

1.3 Roles and responsibilities of stakeholders involved in the fair access process are set out in Appendix 1.

2. Background

2.1 Paragraph 3.14 of the Code confirms that each local authority **must** have a Fair Access Protocol 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**.**

2.2 Paragraph 3.15 of the Code confirms that the Protocol **must** be consulted upon and developed in partnership with all schools in its area. Once the Protocol has been agreed by the majority of schools in its area, all admission authorities **must** participate in it.

2.3 Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full. Failure by a school to engage in the Protocol will not prevent a child being placed at that school.

3. Legal principles of the Code in relation to Fair Access

3.1 Fair Access Protocols only apply to children who are applying for a place in year and not those who are applying for a place as part of the normal admissions round.

3.2 The majority of children applying in year will be admitted to a school through each school's in year admission procedures. However, this Protocol will be triggered when a child is refused admission through the in-year process and is identified as falling within one of the criteria set out within paragraph 5.2 of this Protocol.

3.3 For children applying for a place at a school in the normal year of entry (i.e. where a PAN exists for entry into that year group - normally Reception, Year 3 or Year 7), admission can only be refused in year if:

- the PAN has been reached; or
- the child has been permanently excluded from two or more schools and the last exclusion was within the last two years - paragraph 3.8 of the Code sets out the limited exceptions to this rule.

3.4 For children applying for a place at a school for a year group that is **not** the normal year of entry, admission can only be refused in year if:

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- the child has been permanently excluded from two or more schools and the last exclusion was within the last two years - paragraph 3.8 of the Code sets out the limited exceptions to this rule; or
- the school is full and can argue prejudice; or
- the school is undersubscribed but can argue prejudice on the basis of the child having challenging behaviour (in accordance with the definition set out in paragraph 3.5 of this Protocol) and otherwise meets the conditions set out in paragraph 3.8 of this Protocol.

3.5 The Code defines challenging behaviour as '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.

3.6 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.

3.7 A child with challenging behaviour may also be disabled as defined in the Equality Act 2010. All schools have a duty to make reasonable adjustments for students with disabilities. Schools should be aware that a child who displays challenging behaviour may do so as a result of their disability or any unmet needs. Schools must therefore consider whether any reasonable adjustments can be put in place to support the needs of a particular child when considering whether admission should be refused on these grounds.

3.8 Where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child for placement through this Protocol, **only if**:

- the school has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools; and
- it believes that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

3.9 An admission authority must not refuse to admit a child to a school solely on the basis that they would be, or they believe they would be, eligible to be placed via this Protocol.

3.10 An admission authority must not refuse to admit a child solely because information has not been received from their previous school.

3.11 The provision to refuse a child on the basis of challenging behaviour cannot be used to refuse admission to looked after children, previously looked after children or children who have an Education, Health and Care Plan naming the school in question.

3.12 Admission authorities must also 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.

3.13 This Protocol can only be used to place children who fall within one of the groups set out in paragraph 5.2 of this Protocol where it can be demonstrated that reasonable measures have been taken to secure a place through the in-year procedures. In accordance with the Code, this might be where an application has been made to at least one school and this has been refused or where the local authority has confirmed that there are no places available at any school within a reasonable distance.

3.14 Eligibility for this 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 and they must not refuse to admit such children on the basis that they may be eligible to be placed via this Protocol.

3.15 Parents 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 this Protocol.

3.16 There is no duty to comply with parental preference when allocating a place through this Protocol, but parents' views should be taken into account.

3.17 This Protocol will seek to place a child in a school that is appropriate to any particular needs they may have and will not require a school to automatically admit a child in place of a child permanently excluded from the school.

3.18 Where it has been agreed that a child will be considered under this Protocol, a school place must be allocated for that child within 20 school days. Once they have been allocated a school place via this Protocol, arrangements will be made for the child to start at the school as soon as possible.

3.19 Admission authorities must admit children when asked to do so in accordance with this Protocol.

3.20 When seeking to place a child under this Protocol, no school - including those with available places - will be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who meet one of the other categories set out in paragraph 5.2 of this Protocol.

4. Additional principles of Surrey's Fair Access Protocol

4.1 Whilst this Protocol provides for the most vulnerable children to be admitted to school quickly, unnecessary transfers between schools are strongly discouraged. Schools are expected to work with children and their families/carers to prevent unnecessary transfers between schools.

4.2 Surrey works together with schools to reduce and prevent permanent exclusion. Managed moves which may be arranged between schools before a child reaches the point of permanent exclusion will not qualify as a placement under this Protocol.

4.3 Admission authorities will not cite oversubscription as a reason for not admitting a child when seeking to place a child 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 child (see Appendix 2 for cases that might be considered as an exception to Infant Class Size legislation for applications for KS1).

4.4 Children placed under this Protocol will be given priority for admission over others on a waiting list.

4.5 Where a child leaves a school for home education, the outgoing school will notify their allocated Inclusion Officer who will offer a home visit to the family (within 10 days of the deregistration) before the child is registered as receiving home education. The intention is to prevent unnecessary or inappropriate departures from a school and to avoid the family seeking admission to another school shortly afterwards that may result in a referral under this Protocol.

5. Categories of children

5.1 In order to be placed under this Protocol a child must meet the following criteria:

- live in Surrey; and
- have a legal right to access state funded education; and
- be seeking a place outside the normal admissions round; and
- be of statutory school age.

5.2 This Protocol will **only** be used to place children who fall within one of the following groups where they have been refused a school place in accordance with paragraphs 3.3 and 3.4 of this Protocol and where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedure. As per section 10, Looked After Children are outside the remit of this Protocol, so these categories do not apply to them.

a) children either subject to a Child in Need Plan or a Child Protection Plan or having had one of these within 12 months at the point of being referred to this Protocol;

b) children living in a refuge or in other Relevant Accommodation at the point of being referred to this 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 & Care Plan), disabilities or medical conditions;

f) children who are carers;

g) children who are homeless;

h) children in formal kinship care arrangements (as evidenced by either a child arrangements order not relating to either birth parent or a special guardianship order);

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 on the basis of paragraph 3.8 of this Protocol;

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 under this category, 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;

m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

6. Identification of children who meet the criteria for placement under this Protocol

6.1 Most children will come to the attention of the School Admissions team or the school as part of the in-year admission application process.

6.2 Where an application form is received by either the School Admissions team or an own admission authority school, the application will be processed in accordance with in-year procedures. A place can only be refused in year for the reasons set out in paragraphs 3.3 and 3.4 of this Protocol.

6.3 If a place is refused, the School Admissions team or the school will advise the parent that they are unable to offer a place, setting out the reasons and informing them of their right of appeal, within no more than 15 school days of the application being received.

6.4 Where the school is making the refusal, they must let the School Admissions team know that they are unable to offer a place, the reason for the refusal and indicating if they believe the child meets the criteria for placement under this Protocol.

6.5 Where refusal is on the basis of challenging behaviour, the School Admissions team will liaise with the Area Inclusion Manager to ensure the conditions for refusal and referral under this Protocol have been met, in accordance with paragraphs 3.3 to 3.8 of this Protocol.

6.6 Most children who are permanently excluded from a Surrey school and those who are ready for reintegration to a mainstream school from a Surrey Pupil Referral Unit (PRU) or other alternative provision will be identified by the Area Inclusion Manager / Head of PRU. The Area Inclusion Manager / Head of PRU will consider whether a managed placement might be arranged directly with a school or whether the child should be referred for placement under this Protocol. Where it is decided that a placement should be secured under this Protocol, the Area Inclusion Manager will refer the details to the School Admissions team.

7. Process for agreeing a placement

7.1 Once it has been agreed that a child will be considered under this Protocol, a school place must be allocated within 20 school days.

7.2 A senior manager within the School Admissions team will consider each case, liaising with the Area Inclusion Manager as appropriate, and will decide whether it is appropriate to refer the case directly to a school for placement or whether the circumstances of the case warrant discussion at a placement panel. Generally, children who meet categories d) and j) within paragraph 5.2 of this Protocol will be referred to a panel for placement. However, children falling within one of the other categories will generally be referred directly to a school for placement.

Direct placements

7.3 Where it is agreed that the case will be referred directly to a school, the School Admissions team will agree the school(s) to be approached, liaising with the Area Inclusion Manager as appropriate, and will make the referral with the reasons and details of the case.

7.4 The following will be taken into account when deciding which school(s) to approach:

- parental preference (the parent/carer can still submit an appeal and so it is helpful to demonstrate that this has been considered);
- whether a school is in special measures, has recently come out of them or is otherwise assessed by the local authority as needing support;
- whether a school has a particularly high proportion of children with challenging behaviour or previously excluded children;
- the number and percentage of LAC and EHCP children within each school and number of children already admitted to a school under this Protocol to each year group;
- any genuine concerns about the admission by either the parent/carer;
- a strong view of the parent/carer about the religious ethos of a school;
- which schools are nearest by road and straight line, availability of transport and travelling times;
- which schools have vacancies;
- the needs of the child;
- any previous schools attended, especially if the child was removed from school for elective home education and the child is returning to the same phase of education.

7.5 Schools will be given five school days to put forward any concerns and, if no school has indicated their willingness to admit within that time, the School Admissions team will decide on the placement.

7.6 The placement will be confirmed within 20 school days of the original fair access referral and the School Admissions team will send notification to the parent/carer. A copy will also be sent to the school and the Area Inclusion Manager, who in turn will share it with the attached Inclusion Officer.

Placement panels

7.7 Where a child meets categories d) and j) within paragraph 5.2 of this Protocol or where it is considered that the circumstances of the case otherwise warrant placement at panel, the School Admissions team will provide schools with reasonable notice and information as to how and when discussions around the placement of the child will take place, making sure the timetable will allow a decision to be made within 20 school days of the referral.

7.8 In considering which schools to invite to a panel meeting under this Protocol, the School Admissions team will take account of the child's school history, where the child lives and the circumstances of the case.

7.9 The most suitable school for many children is likely to be a school that is close to the child's home. Advantages of inviting schools close to the child's home address are as follows:

- there are likely to be less transport issues or costs;
- if the school is nearer there are likely to be fewer barriers which prevent the child from attending;
- there may be better parental support and participation;
- the child will be better placed to participate in extracurricular activities;

- the child is more likely to develop friendship groups from his/her local community;
- it is less likely that appeals for other schools will be upheld;
- it establishes a clear and transparent way for referrals to be made.

7.10 However there are also advantages of inviting schools in the area where the child was previously at school, and such placements can lead to a more informed and considered process which in turn can lead to a successful and supported placement:

- the previous school can comment on the child's behavioural and educational history at the panel;
- support services may already be familiar and be supporting the child;
- it ensures collegiate working between schools in the same area which in turn improves shared approaches to managing behaviour and attendance;
- it establishes a culture of shared problem solving of individual cases within the same area;
- schools can challenge the poor practice of other schools within the same area and this may in turn reduce the number of hard to place cases;
- it can encourage collaborative working between schools.

7.11 Paperwork in relation to the cases to be considered at panel will be distributed no later than five days before the panel meeting.

7.12 A representative from the School Admissions team, the Area Inclusion Manager and a representative from the PRU, as appropriate, will attend the panel at which placement decisions are to be taken. Other representatives will be invited as appropriate.

7.13 Panels are expected to consider the case of each child and to agree a placement at the most suitable school within the area of the panel.

7.14 For own admission authority schools, the delegated representative at the panel will not need to seek prior or subsequent authorisation from their governing body to admit a fair access child. This is because when a child is placed in accordance with this Protocol, the admission authority for that school should admit the child.

7.15 In considering cases, panels will have regard to:

- parental preference (the parent/carer can still submit an appeal and so it is helpful to demonstrate that this has been considered);
- whether a school is in special measures, has recently come out of them or is otherwise assessed by the local authority as needing support;
- whether a school has a particularly high proportion of children with challenging behaviour or previously excluded children;
- the number and percentage of LAC and EHCP children within each school and the number of children already admitted to a school under this Protocol to each year group;
- any genuine concerns about the admission by either the parent/carer or the school;
- a strong view of the parent/carer about the religious ethos of a school;
- distance, availability of transport and travelling times;
- which schools have vacancies;
- the needs of the child;
- any previous schools attended, especially if the child was removed from school for elective home education and the child is returning to the same phase of education.

7.16 Once a placement decision is made at panel, the School Admissions team will send notification to the parent/carer within 20 school days of the original fair access referral. A copy will also be sent to the school and the Area Inclusion Manager, who in turn will share it with the attached Inclusion Officer.

7.17 More information on the expectation of panels is set out in Appendix 3.

Arrangements for placing on roll

7.18 The receiving school will contact the parent/carer and make arrangements for the child to go on roll as soon as possible, but no later than five school days of the placement being agreed and for a start date no later than five school days of going on roll.

7.19 Where a placement is from a Surrey PRU or alternative provision, the child should be removed from that school roll and should not be dual registered.

7.20 Support for the admission process may be available from the attached Inclusion Officer. If required, where the child was previously open to Access to Education (A2E), reintegration support may also be available from the A2E team for the child's first two weeks in school.

7.21 Placing on roll should not be subject to a meeting with the parent/carer, although a meeting might be arranged to discuss a start date and to discuss the child's integration to the school.

Mitigation where placements cannot be agreed

7.22 In the unlikely event of a child not being placed through this Protocol, the School Admissions team will identify a school in liaison with the Education and Inclusion Service Manager or their delegated representative. In such circumstances, the school identified must admit the child without delay. In the event of the identified school refusing to admit the child, the School Admissions team will follow due process in order to instruct a community or voluntary controlled school or to direct an own admission authority school to admit the child, including making a referral to the Secretary of State in relation to academies.

8. Monitoring of placements

8.1 The School Admissions team will monitor each placement to ensure that the child is placed on roll and the satisfactory completion of 12 weeks.

8.2 A child will not be counted as having been placed under this Protocol for a particular school if the placement breaks down within 12 school weeks of the child's start date and the child is taken off roll at that school. The reintegration of children returning to mainstream school from a PRU may be managed over a period longer than 12 weeks, at the decision of the Area Inclusion Manager.

8.3 A placement will be considered to have broken down within 12 weeks if the child's behaviour would ordinarily warrant permanent exclusion. In such cases the Area Inclusion Manager will determine whether or not the placement should be considered to have broken down. Where a placement is considered to have broken down, the Area Inclusion Manager will work with the school to identify a solution which might include the school referring the child for alternative provision or placement at an alternative school.

8.4 Once on roll any attendance issues should be dealt with as appropriate through the school's attached Inclusion Officer.

8.5 Under no circumstances will a school ask a parent/carer to withdraw a child from the school's roll. If a school continues to face difficulty with a child who is on their roll, such as through poor attendance or challenging behaviour, they will seek support from the Area Inclusion Manager or the Area Lead for Specialist Teachers for Inclusive Practice (STIPS) in the first instance.

8.6 If information comes to light which indicates that a school has taken a child off roll inappropriately or has not sought appropriate support for a child whilst they were on roll, the School Admissions team will refer that information to the Area Inclusion Manager who will liaise with the school as appropriate.

9. Children with an Education, Health & Care Plan

9.1 Children with an Education, Health & Care Plan (EHCP) are outside the remit of this Protocol as these children are placed in accordance with the SEND Code of Practice.

9.2 However children who are awaiting an EHCP will continue to be considered under normal admissions processes, including this Protocol as appropriate, until their EHCP is agreed.

9.3 This Protocol does not replace the process for assessing the specialist needs of a child and putting in place appropriate provision.

10. Looked After Children

10.1 Looked After Children are children who are in the care of the local authority as defined by Section 22 of the Children Act 1989.

10.2 Looked After Children are placed in accordance with Surrey's Protocol for the Processing of in year admissions for Children in Care and are outside the remit of this Protocol. This includes unaccompanied asylum seeking children.

11. Out of area applications

11.1 Occasionally applications will be received from children who live outside Surrey but who otherwise meet the criteria for placement under this Protocol.

11.2 As these children do not meet the criteria for placement under this Protocol, schools should consider these applications in accordance with normal in year processes

11.3 However, if the child falls within a category of fair access as set out in paragraph 5.2 of this Protocol and the preferred school is unable to offer a place, the application will be referred back to the child's home local authority to effect an alternative placement.

12. Funding

12.1 Surrey fair access children admitted into Year 11 at a state funded mainstream school under categories d) and j) of this Protocol (but not previously permanently excluded) after 6 October 2022 but before the end of the spring term 2023, and who do not already qualify for part year Age Weighted Pupil Unit (AWPU) funding, will receive pro rata AWPU funding from the date of their admission to the end of August 2023, provided that the placement has lasted for four

weeks or more. The School Admissions team will validate this and will inform the Schools Funding team accordingly so that funding can be provided.

Payment will only be made once the placement has lasted four weeks or more, in line with the following timescales:

- placements made in the autumn term which have lasted four weeks or more by the end of that term - payment will be issued in January 2023;
- placements made up to the end of March 2023 which have lasted four weeks or more by that date - payment will be issued at the end of March 2023;
- remaining payments will be made in the summer term 2023.

In all cases a proportion of the funding will be reclaimed if the child subsequently leaves the school.

12.2 Permanently excluded children admitted to mainstream schools under this Protocol will be funded as follows:

a) When a child is permanently excluded from a school at any time in the local authority's financial year, the school's budget is reduced by the annual value of pupil led funding attracted by a pupil of the same age and characteristics multiplied by 1/52 x the number of weeks from the date of permanent exclusion to the end of the local authority's financial year (except for Year 2s excluded from an infant school during the summer term; Year 6s excluded from a junior or primary school during the summer term; or Year 11s excluded during the summer term for which a separate calculation applies).

b) Where a previously permanently excluded child is admitted to another school, the receiving school's budget is increased by the annual value of pupil led funding for a pupil of the same age and characteristics multiplied by 1/52 x the number of weeks from the date of re-admission to the end of the local authority's financial year (except for Year 2s excluded from an infant school during the summer term; Year 6s excluded from a junior or primary school during the summer term; or Year 11s excluded during the summer term for which a separate calculation applies).

c) Pupil led funding includes the basic entitlement rate; plus deprivation, low prior attainment and EAL funding where the pupil is eligible for such funding. A further adjustment is made where the pupil generated pupil premium for the school.

12.3 Panels are expected to take into account the distance and journey times when considering the most suitable placement. Subject to the maximum walking distance appropriate to the child's age being breached, transport will normally be arranged for the most appropriate public transport route. Where there are other suitable modes of transport but a taxi is deemed appropriate to support integration, this will normally only be funded for one term, and beyond that the child would be expected to travel on an alternative mode of transport to school. Where there are exceptional circumstances the parent/carer could request that the taxi provision is extended, and this would be considered as a transport case review by a senior officer in Surrey's Travel Assistance team.

12.4 Funding arrangements within this Protocol will be reviewed subject to the outcomes of any changes to the funding of schools by the Department for Education or decisions made by Schools Forum to vary funding to schools.

13. Data and reporting

13.1 A log of all placements made through this Protocol will be maintained by the School Admissions team and reported to schools.

13.2 As part of its annual report to the Office of the Schools Adjudicator, Surrey is required to report on the effectiveness of this Protocol, including how many children have been admitted to each type of school. Under the 2021 Code, Surrey's annual report must be produced by 31 October each year and must be published locally.

14. Review of the Fair Access Protocol

14.1 This Protocol will be reviewed on an ongoing basis by the Fair Access Review Group, which consists of representatives from primary and secondary schools, Pupil Referral Units, Education & Inclusion Service Managers, Area Inclusion Managers and Surrey's School Admissions Team.

14.2 In the event that the majority of schools (more than 50%) can no longer support the principles and approach of this Protocol, they should initiate a review by writing to the Service Manager for School Admissions, setting out the aspects of the Protocol that they wish to be reviewed. Any review will be subject to the matter under dispute not being a statutory requirement.

14.4 In such circumstances, the existing Protocol will remain binding on all schools until a new one is adopted.

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Appendix 1

Roles and responsibilities

1. **School Admissions team:**

- consider applications for an in-year place for community and voluntary controlled schools and admission authority schools that opt in to the service;
- where a place is refused under the in-year process, issue outcome letters to parents within a maximum of 15 school days advising them of their right of appeal;
- where a place is refused, identify if the child meets one of the fair access categories;
- receive and validate fair access referrals from own admission authority schools;
- liaise with the Area Inclusion Manager to validate refusals under challenging behaviour;
- notify parents that placement is being considered through the Fair Access Protocol;
- decide the most appropriate process for placement, liaising with the Area Inclusion Manager as appropriate;
- where a direct placement is deemed appropriate, allocate a school to the child in liaison with schools and the Area Inclusion Manager as appropriate, within 20 school days of the referral;
- where a panel placement is deemed appropriate, establish which schools should be invited, organise the date and refer the details to those schools within five days of the panel meeting, making sure the timetable will allow a decision to be made within 20 school days of the referral;
- send a representative to the panel meeting;
- send the outcome letter following confirmation of the placement, copying to the school and the Area Inclusion Manager;
- if a child is unplaced at panel, allocate a school to the child via a direction/Secretary of State referral if necessary;
- monitor each placement to ensure the child is placed on roll and completes 12 weeks on roll;
- maintain statistics on number of fair access placements agreed for each school per year group, in which category and whether the 12 week threshold is met;
- respond to FOI and subject access requests in relation to fair access and panel meetings.

2. **Area Inclusion Manager:**

- refer recently excluded children to a Pupil Referral Unit;
- consider whether a managed placement can be arranged with a school for a child in a Pupil Referral Unit or in alternative provision ready for mainstream reintegration, or whether the child needs to be placed via the Protocol;
- notify the School Admissions team when a child in a Pupil Referral Unit is ready to be placed in school via the Protocol, along with written information from the PRU on the child's progress;
- attend panel meetings as appropriate;
- provide data on the number and percentage of LAC and EHCP children within each school to the Admissions team and to panel meetings;
- where a placement breaks down, work with the school to identify an alternative solution;
- support the School Admissions team in validating refusals on the basis of challenging behaviour;
- benchmark data to establish which schools have a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and share that with the School Admissions team and at panel meetings.

3. **Access to Education (A2E):**

- provide reintegration support as appropriate to the incoming school.

4. **Pupil Referral Units (PRUs):**

- inform the Area Inclusion Manager of pupils in the PRU who are ready for reintegration into a mainstream school;
- receive referrals from the Area Inclusion Manager for recently excluded pupils;
- provide written information on the child's progress at the PRU to the Area Inclusion Manager;
- attend the area panels as appropriate;
- where possible, provide reintegration support to the incoming school.

5. **Schools:**

Own admission authority schools who manage their own in year admissions:

- consider applications for an in-year place;
- where a place is refused under the in-year process, issue outcome letters to parents within a maximum of 15 school days explaining the reason for refusal and advising them of their right of appeal;
- where a place is refused under the in-year process and the child meets one of the fair access categories, complete a Fair Access Referral Form within two school days and send to the School Admissions team setting out the reason for refusal and why the case meets fair access.

All schools:

- where a direct placement is being sought, respond within 5 school days to a request from the School Admissions team to admit a child, giving a full written explanation if unable to admit;
- where a school is invited to a panel, ensure the Headteacher or delegated colleague attends and has read all paperwork in advance;
- contribute to decision making at panels to maintain an equitable distribution of fair access pupils among schools;
- once a fair access placement is agreed, make contact with the family and arrange for the child to go on roll as soon as possible, but no later than 5 school days of the offer and to start no later than a further 5 school days;
- where appropriate, make a referral to the area SEND team as soon as a placement is agreed.

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Appendix 2

Exceptions to the Infant Class Size Limit

Section 1 of the School Standards & Framework Act (SSFA) 1998 limits the size of an infant class (i.e. a class in which the majority of children will reach the age of five, six or seven during the school year) to 30 pupils per school teacher.

However, the School Admissions (Infant Class Sizes) (England) Regulations 2012 permit children to be admitted as exceptions to the infant class size limit. These children will remain an 'excepted pupil' for the time they are in an infant class or until the class numbers fall back to the current infant class size limit. The excepted children are:

a) children admitted outside the normal admissions round with an education, health and care plan specifying a school;
b) looked after children and previously looked after children admitted outside the normal admissions round;
c) children admitted, after initial allocation of places, because of a procedural error made by the admission authority or local authority in the original application process;
d) children admitted after an independent appeals panel upholds an appeal;
e) children who move into the area outside the normal admissions round for whom there is no other available school within reasonable distance;
f) children of UK service personnel admitted outside the normal admissions round;
g) children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil;
h) children with special educational needs who are normally taught in a special educational needs unit attached to the school, or registered at a special school, who attend some infant classes within the mainstream school.

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Appendix 3

Expectations of Fair Access Panels

There are clear benefits of utilising a panel to place children under the Fair Access Protocol, especially for children who exhibit challenging behaviour and those returning from alternative provision, as long as a placement can be agreed within the maximum 20 school days. Fair Access panels provide for a fair and transparent distribution of children and enables headteachers to make collaborative decisions.

Where a panel operates, the following expectations apply:

1. All schools will participate in the panel process.
2. The representative from the school must be authorised to participate in discussions, make decisions on placing children via the Protocol, and admit pupils when asked to do so under the Protocol.
3. If a school has no representation at a panel, that school could still be allocated a fair access child.
4. Schools that have already admitted a fair access child in the current academic year could still be allocated further fair access children.
5. For own admission authority schools, the delegated representative will not need to seek prior or subsequent authorisation from their governing body to admit a fair access child. This is because when a child is placed in accordance with the Fair Access Protocol, the admission authority for that school must admit the child.
6. All children will be placed at the panel.
7. Paperwork will be circulated at least five school days before a panel.
8. Paperwork will be as comprehensive as possible and will include information made known to the School Admissions team or the Area Inclusion Manager / Pupil Referral Unit as appropriate.
9. Attendees will have read the paperwork in advance of the panel.
10. Panel paperwork will include a named person and contact details for the previous school if available.
11. Panels may be heard virtually where appropriate.
12. Service representatives will be invited to attend panel meetings where it is felt that they might contribute to the discussion or be needed to support integration to a school.
13. Placement decisions will be made in the best interests of the child.
14. A child may be placed within the area where they were previously at school, even if their preference is for schools in another area. This is to increase a school's accountability for a child leaving that school.
15. Where a placement in another area is thought to be in the child's best interests, representatives from both areas might be invited to the panel meeting.
16. Notes of meetings will be made, which will set out the factors that informed the decision. These will be circulated to all those invited and will be made available under a Subject Access Request, as appropriate.

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