



# **Wigan Local Authority Fair Access Protocol (FAP)**

September 2021  
Last updated: August 2023

## 1. Introduction

The Fair Access Protocol (FAP) ensures that – outside the normal admissions round unplaces, vulnerable children, and those who are having difficulty in securing a place in-year, are allocated a school place as quickly as possible. This is so that a child's time out of school is kept to a minimum.

This FAP has been developed in partnership with all schools in the Wigan area. All admitting authorities must participate in the protocol, making available a representative who is authorised to participate in discussions (as set out in Fair Access Panel Terms of reference), making decisions on placing children via the FAP and admitting pupils when asked to do so in accordance with the FAP, even when the school is full.

The FAP operates outside of normal admission arrangements and will place children at schools and academies, **even where a school has no vacancies**. This ensures all schools take their share of children who qualify for a place via the FAP.

The FAP does not apply to Children Looked After (CLA); previously CLA and children with an Education Health and Care Plan (EHCP) which names a particular school or academy. These children **must** be offered places in accordance with provisions set out in the School Admissions Code 2021.

No school, including those with places available, should be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are placed via the FAP. Children who have been permanently excluded will not be referred back to the same school.

## 2. Children who will qualify for a school place using the FAP

In accordance with the School Admission Code 2021, this Fair Access Protocol may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures.

- a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;
- c) children from the criminal justice system;
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e) children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions;

- f) children who are carers;
- g) children who are homeless;
- h) children in formal kinship care arrangements;
- i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;
- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of the School Admission Code;
- k) children for whom a place has not been sought due to exceptional circumstances;
- l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place

### 3. Fair Access Panel and allocating places

The Fair Access Panel will be made up of representative as detailed in the terms of reference. The Fair Access Panel will meet each 20 school days to consider placement of those children who qualify for a school place via the FAP.

- The School Organisation Team will arrange the panel dates for the full academic year. Dates are circulated to all secondary teachers who are asked to confirm their availability.
- The panel will ideally consist of 3 panel members. Every effort will be made for each panel to include only headteachers of schools not being considered but this may not always be possible. If a panel member needs to step down, then the 2 remaining headteachers will still consider the case with a local authority officer who will act as the third panel member.
- Panels are held consecutively on each date starting with reintegration cases (administered by Pupil Inclusion), followed by in year (administered by School Organisation Team), then SAOs (administered by CME/EHE team).

#### **When considering each case, the Panel will consider:**

Does the application meet the FAP, if yes, then go on to consider:

- Parental preference (where application has been made) – this will not be the overriding factor in determining a school place.
- Schools within a reasonable distance of the child's home address. Reasonable distance is defined as 2 walking miles for Primary schools and 3 walking miles for secondary schools.
- Number on roll at each school named as a preference and within a reasonable distance of where the child lives.
- The number of children **admitted, or pending admissions have been agreed** to the school via the FAP process.

- The number of LAC in year admissions.
- The number of in-year admissions that have taken place as recorded by the school.

Taking all factors into account, the FAP Panel will wherever possible ensure an equitable distribution of children being placed by the Headteacher Fair Access Panel.

### **Places allocated via the Fair Access Panel**

Following a Fair Access Panel meeting and decision on school placement, a local authority officer will contact the allocated school with details of the child and the rationale for the decision. It is expected that the receiving school will make arrangements to admit the child as set out in the School Admission Code 2021 without delay.

### **Failure to comply with admission of a child following Fair Access Panel Allocation**

Where a school refused to admit a child, their refusal will be considered by Wigan's Education Senior Management Team who will determine whether a direction to admit will be pursued.

### **4. Permanently excluded or those being re-integrated from a pupil referral unit**

Allocations of school places for secondary age children who have been permanently excluded children or those being re-integrated from a pupil referral unit will be considered by the Headteacher Re-integration Panel.

Children allocated a place who fall into this category will have their integration to school supported via the Big Picture Offer.

### **5. School Attendance Orders**

The Local Authority and schools have a shared responsibility to ensure that children receive a suitable education. Where a child is known not to be educated suitable it is vitally important that we work together to ensure that a suitable school place is identified.

The legal process for ensuring this is by using School Attendance Orders. In order for this process to be fair and aligned with other difficult and complex admissions, we are asking that headteachers agree to a) consider placements where a school has asked not to be named at FAP, and b) agree to abide by the decision made by other headteachers at FAP allowing the LA to name them in an order.

This will allow the Local Authority and educational professionals to effectively and fairly ensure Children Missing Education are returned to suitable education.

It should also be noted that there is no requirement for schools to place pupils on roll whilst they are named in an order unless a start date is agreed with the family following them acting on the instructions conveyed to them by the order.

Where a School Attendance Order is pursued, there is a concern that the young person is not receiving an education. Schools are vitally important in securing that education in two ways. Firstly, by being named in a notice of intent to name the school in an order we are able to process cases. The majority of cases are resolved at this point as the parent realises the seriousness and implication of non-engagement. Secondly where a parent continues to disengage or less likely, contests the notice a school may be needed to provide education to a child genuinely in need of a school place.

## **6. Monitoring**

Each term schools will receive a summary of the number of children who have been allocated a place via the Fair Access Protocol.

## **7. Review of the Fair Access Protocol**

At the end of each academic year, the Local Authority will consult with schools in its area with regard to the protocol.

### **Provision for schools in the area to initiate a review of the Fair Access Protocol**

As set out in 3.22 of the School Admission Code, in the event that the majority of schools in an area are of the view they can no longer support the principles and approach of their local Fair Access Protocol, they should initiate a review with the local authority. A review can be initiated by schools formally emailing the Assistant Director for Education outlining they can no longer support the protocol and why. The majority of schools must represent over half the number of Wigan mainstream schools.

The existing Fair Access Protocol will remain binding on all schools until the point at which a new one is adopted.

### **Terms of Reference for Headteacher Fair Access Panel**

The panel will ideally consist of 3 panel members. Every effort will be made for each panel to include only headteachers of schools not being considered but this may not always be possible. If a panel member needs to step down, then the 2 remaining headteachers will still consider the case with a local authority officer who will act as the third panel member.

The Panels will be rotated so that each school / academy has opportunity to make representation on the Panel.

The Panel will meet every 20 school days. Meetings will be virtual.

There will be separate panels for primary and secondary Fair Access decisions. Primary headteachers for primary fair access allocations and Secondary headteachers for secondary fair access allocations.

Secondary Headteacher Panel dates have been scheduled for:

14.09.23	12.10.23	16.11.23	14.12.23	25.01.24	29.02.24	28.03.24	09.05.24	13.06.24	11.07.24
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Primary Headteacher Panel dates will be set up as required.

All Headteachers are responsible for ensuring they let the School Organisation Team know about their availability for these meetings. This will ensure all schools will have the opportunity to take part in Fair Access decisions.

Where possible, papers for the children being considered by the Fair Access Panel will be shared a week before the meeting. The papers will include the application and responses by schools as well as the information the LA holds at that point in time as set out in the Fair Access Protocol.

The meeting will be chaired by an LA Officer who will offer guidance. However, all decisions are made by majority decision by the three headteachers.

Where a headteacher on the panel has a case that involves their school, they will leave the meeting temporarily. If that means there is an even number of headteachers, the LA officer would have the deciding vote. If the meeting is left one headteacher and the LA officer, the Headteacher's decision would stand.

The school determined by the fair access panel will be asked to agree admission of the child and begin the relevant admission process without delay. A school that agrees admission will be a credit under the relevant fair access category.

Where a school refused to comply with the decision of a fair access panel, the LA will determine whether it chooses to begin the relevant direction process as set out in the School Admission Code.

The panel's decision is shared with the parent. Parents who do not secure a place at their preferred school will be offered the right of appeal. The Fair Access Panel's decision on the allocation for a school place and the decision for this may form part of the evidence given to the independent appeal panel.

Each terms figures for Fair Access credits and other agreed data will be shared with all schools.

### **Principles for deciding on allocation of places by the Fair Access Panel**

It is envisaged that no school would be expected to take a disproportionate number of pupils falling into any category – but particularly those children who are classed as having 'challenging behaviour' as set out in the school admissions code or where they have had a permanent exclusion. Disproportionate relates to schools taking their share of fair access allocations i.e. the same schools will not be repeatedly expected to admit when other schools have not received such allocations, even where the school is full to capacity in the relevant year group. It will be up to the Headteachers on the Panel to ensure this is the case. This will also ensure as far as is practicable allocations are shared and the time between such children being allocated places at any one school is maximised.

### **Information to be considered by the Fair Access Panel**

The panel will consider information provided by the LA in the form of the parent's application form expressing their preference and reasons for these preferences and a table that will show:

1. The preferred schools (apart of any school where a child has previously been permanently excluded)
2. Schools within a reasonable distance of the child's home address.  
Reasonable being within 2 walking miles for primary age children and 3 walking miles for secondary age children.
3. How many children are on roll at each school at the point the table is produced by the LA. We will rely on the information provided by schools for this.
4. How many children who have already been admitted or admission agreed via the fair access protocol broken into a summary of:
  - In-year admissions where a place could not be secured via the normal in-year admission process due to no place being available at a preferred school or a school within a reasonable distance of the child's home address
  - Places allocated to children who have met the challenging child threshold as set out in the school admission code

- The number of children for the last 4 terms who are returning to mainstream provision following permanent exclusion where mainstream school has been deemed appropriate. These children will have the offer of a Big Picture meeting to support their integration into school. (This will be data for the last 4 terms)
  - The number of children who have been permanently excluded from each school since the beginning of the academic year
5. The Ofsted judgement for the school

The Fair Access panel will also consider the case set out by each school why they are unable to offer a place to the child. The LA will provide these schools within a template to set out their case. The template is attached at **appendix 2**. The proforma allows school to add additional information on this form where they feel it is necessary. This includes stating how many in-year admissions (either via normal in-year admission route or appeal) that have taken place as well as any particular grounds for refusing a specific child.

It is the responsibility of the school to complete this form and return it to the School Organisation Team one week before the Fair Access panel is due to meet so that it can be share with the Fair Access Panel prior to the meeting.

### **Provision for schools in the area to initiate a review of the Fair Access Protocol**

As set out in 3.22 of the School Admission Code, in the event that the majority of schools in an area are of the view they can no longer support the principles and approach of their local Fair Access Protocol, they should initiate a review with the local authority. A review can be initiated by schools formally emailing the Assistant Director for Education outlining which schools are of the view they can no longer support the protocol and why. The majority of schools must represent more than 51% of Wigan mainstream schools.

The existing Fair Access Protocol will remain binding on all schools in the local area until the point at which a new one is adopted.



## Fair Access Protocol Proforma

The following proforma has been created so that general information regarding the school's circumstances can be taken into consideration by the Headteacher Fair Access Panel when naming a mainstream school to accept a child under the Fair Access Protocol.

Name of Pupil:	NCY:	Current school/provision:
Reason for being referred to the Fair Access panel:		

### Declaration by the admitting authority

The admitting authority have considered the application for the above named pupil and confirms:

Name of School / Academy:	
Name of person completing this form:	
<b>We are willing to offer a place.</b> Once the place has been offered to the applicant and child the school will receive a Fair Access Credit.	YES / NO
Date form completed:	

A place cannot be offered and the following information should be taken into account by the Fair Access Panel when considering which school is to be allocated to this pupil:

		Year Group of pupil:	Whole School
<b>1</b>	Number of pupils on roll		
<b>2</b>	Number of pupils admitted into this year group since the start of the current academic year		
<b>3</b>	Number of Children Looked After		
<b>4</b>	Number of pupils with an Education Health and Care Plan or under assessment for an EHCP		
<b>5</b>	Number of pupils in receipt of pupil premium (and percentage of cohort)		
<b>6</b>	Number of pupils in receipt of Free School Meals (and percentage of cohort)		
<b>7</b>	Number of pupils currently on an Early Help or Pastoral Support Plan (if these are used)		

<b>8</b>	Number of pupils currently on a Child Protection or Child in Need Plan		
<b>9</b>	Number of pupils attending your school on an 'off site direction'		
<b>10</b>	Number of pupils attending another setting on an 'off site direction'		
<b>11</b>	Number of pupils with identified SEMH issues in year group (at last census)		
<b>12</b>	Number of pupils on a reduced timetable		
<b>13</b>	% Attendance		
<b>14</b>	Any other information or comments that the school would like the headteacher panel to consider:		

## Summary of Case – Fair Access Protocol

All embedded documents in Table 2 need to be in PDF format.

Table 1	
Name of pupil:	NCY:
Reason for placement via headteacher FAP panel	

Table 2		
Description	Copy of paperwork	Comments if applicable
Application form		Preferences: 1. 2. 3. Other schools within a reasonable distance:
Appendix 2 Proforma – completed by preference schools		
Appendix 2 Proforma – completed by other schools within a reasonable distance		

Table 3		
Fair Access Table Summary		

Table 4	
Date of panel	
Panel Members	
LA Officers present	
Notes taken during panel meeting	

Table 5	
School identified by the panel	
Date school notified	
Date parent notified	

