

FAIR ACCESS AND IN YEAR TRANSFER PROTOCOL AGREED AT DASH on the 24 October 2024

INTRODUCTION

In 2004, the DfE issued a document of guidance on "Hard to Place" pupils around the expectation that Admissions Forums would agree protocols for fairer sharing out of "Hard to Place" pupils. Such protocols were required by September 2005 and the County Durham Protocol was agreed and published in February 2005. This Protocol has been amended following the changes to the School Admission Code September 2021 and is subject to review at the summer term meeting of the Durham Association of Secondary Headteachers.

The 2007 School Admissions Code required In-Year Fair Access Protocols (formerly known as Hard-to-Place Pupils Protocols) to be in place by September 2007, to ensure that access to education is secured quickly for those who have no school place and to ensure that all schools in an area admit their fair share of children with challenging behaviour.

The 2021 School Admissions Code requires all Admission Authorities to participate within the Local Authorities Fair Access Protocol arrangements. Participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full.

The Code is clear that the purpose of a FAP is to secure a school place for unplaced and/or vulnerable children and those having difficulty in securing a school place in year – i.e., the purpose is to reduce the length of time that children spend out of education by securing them a school place. The focus, therefore, is on children without a school place or who cannot access their school place (for example because they have moved away from the area).

It is not the purpose of the FAP to allocate places to children who already have a school place in the area. Consequently, pupils currently accessing a school place wanting to move to another local school should be dealt with as an in-year transfer request, and not be referred to FAP.

Local authorities must provide admission authorities with reasonable notice and information as to how and when discussions around the placement of children via the Protocol will take place.

In County Durham, the LA has a strong partnership with its schools/academies and other agencies. The agreements within this protocol have been reached over a period of time and through a strong commitment to the best interests of children and effective partnership working.

This protocol operates to support the admission of vulnerable pupils within schools and academies in County Durham in partnership with the Secondary in Year Transfer Scheme (Annex 1), Local In year Transfer and Exclusion Funding

Agreements (Annex 2), Supported Off site Direction LA/School agreement (Annex 3) Reintegration of Permanently Excluded Pupil Protocol (Annex 4) and support for vulnerable pupil arrangements.

Pupils with Education Health and Care Plans

The admission of pupils with an Education Health and Care Plan is covered by different admission regulations, and decisions on the entry to school of these pupils should be directed to the relevant Local Authority Special Educational Needs and Vulnerable Group Team.

Children in Public Care

Children in Public Care previously looked after children or children adopted from state care outside of England are given equal admissions priority as children who were previously looked after in England are included as first criterion for all Admission Authorities policies.

The Virtual Headteacher will arrange admission within 20 days and any appropriate support to affect this.

In County Durham the Local Authority and Headteachers from the four geographical areas of the county will consider Fair Access referrals to support placement decisions for the following where an admission cannot be reached through the In Year Transfer Protocol:

- children who have been refused a school place on the grounds of their challenging behaviour in accordance with paragraph 3.10 of the school admissions code
 - 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.
 - children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol.
 - children from the criminal justice system.
 - children with special educational needs (but without an education, health and care plan), disabilities or medical conditions;
 - children in alternative provision who need to be reintegrated into mainstream education.
 - children who have been permanently excluded but are deemed suitable for mainstream education; (Durham 1% limit applies as part of the reintegration protocol)
 - children who are carers.
 - children who are homeless
 - children in formal kinship care
 - children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers.

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

Pupils with Challenging Behaviour criteria:

- a school can only refuse to admit on the grounds of challenging behaviour where it 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 considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

FAP representatives

All Headteachers must attend the FAP meetings within their geographical location, meetings will be held on a monthly cycle for each area. (certain cases may cross geographical boundaries meaning Headteachers may be required to attend more than one panel on occasions).

The LA will be represented at each panel meeting. The FAP Panels will endeavour to determine an appropriate school placement to best meet the needs of the young person.

FAP Referrals and Process

The Fair Access Panels remit provides them with the responsibility of working in partnership with the Local Authority to consider Fair Access referrals cases where the admission cannot be agreed through the in-year transfer scheme and meets the agreed FAP criteria.

When seeking to place a child under the Protocol, all schools and academies should be treated in a fair, equitable and consistent manner. No school should be asked to take a disproportionate number of children.

Fair Access referrals should not be used as a means to circumvent the normal in-year admissions process. A parent can apply for a place as an in-year admission at any point and is entitled to an appeal when a place is not offered.

For the protocol to operate in accordance with statutory requirement, schools/academies will continue to admit pupils whose parents apply for an available place, under normal admission arrangements but pupils identified as cases under Fair Access will be given priority for admission over others on the waiting list or awaiting an appeal.

The allocation of a place in accordance with the Fair Access Protocol does not override a parent's right to appeal against refusal of a place at any school for which they have applied. A parent can apply for a place as an in-year admission at any point and is entitled to an appeal when a place is not offered.

Procedures

The School Places and Admissions team will be notified of any cases to be considered that meet the FAP criteria where an admission cannot be agreed through the In Year Transfer protocol. The school or governing body must provide a written case outlining their reason for the case to be considered within 5 school days of an unplaced pupils transfer request being made. If agreed cases will be referred to the relevant FAP panel

The panel will:

- Use their best endeavours to ensure children resident in their area receive appropriate and sufficient educational provision.
- Organise the collection of all appropriate information about the cases in front of them to assist with the decision making of the group.
- Keep an up to date record of Fair Access Admissions into each local school, to ensure fair and transparent decisions are made.
- Agree the allocation of a mainstream school.
- Ensure a record is kept of referrals and their outcomes.
- Ensure parents/carers are informed of their decisions as soon as possible after the meeting.

Considerations

The distance and ease of travel from home to school.

The fairness of the placement and proportion of pupils that have been allocated by previous panels over the last 12 months.

In-Year Transfers Protocol between Secondary Schools and Academies
This protocol is not part of the FAP but works in partnership with the FAP

The LA and secondary schools/academies have had an agreed protocol (Annex 1) regarding in-year transfers of pupils since September 2002. This is to provide best advice to parents, careful consideration of the issues and effective management of the process. It also ensures that no young person goes missing from education and any concerns that admission authorities may have can be easily resolved.

The protocol requires that a LA/Head Teacher/Parent Conference will be convened at the current school for such pupils if requested by any party. This is to be held within 15 working days of the concern arising. The purpose is to provide the parent with Best Advice including consideration of what added value there would be in effecting a transfer and focusing on resolving underlying issues.

A leaflet for parents "Why Change Schools?" is designed to assist the parent in considering the best interests of the pupil and it sets out requirements about school attendance during the process of decision-making.

The In-year Transfer Protocol supports the admission of all pupils outside of the normal admission round except for pupils who have been permanently excluded or at risk of exclusion requiring a supported off-site placement as this would be supported through the reintegration and supported off site placement protocols.

The protocol does not apply to children with Education Health and Care Plans (EHCP) as the statutory SEN process and requirements apply.

Supported Off Site Placement Protocol – This protocol is not part of the FAP but works alongside the FAP.

This protocol was agreed in Sept 23 and reviewed annually as an alternative way forward to permanent exclusion in some cases (Annex 3).

Reintegration of Permanently Excluded Pupils % Limit

It has been agreed as part of the Reintegration Protocol agreed by DASH on 5 May 2021 that in County Durham Secondary Schools, there will be a maximum limit of 1% in any year group of pupils who have been previously permanently excluded (defined as once there is 1% in a year group, the school will not be required to take any more in that year group).

The School Admissions Code set out that LAs must not require undersubscribed schools to admit a greater proportion of children with a recent history of challenging behaviour than other schools. With the agreement of a Supported Off-Site Placement Protocol it was agreed that the percentage limit would include pupils

successfully transferring at the end of a supported off site placement. (2 pupils admitted following a successful supported off site placement equate to 1 permanently excluded pupil). (Annex 4)

Support for Vulnerable Pupils

In County Durham, the LA, schools/academies and other agencies are committed to meeting the needs of vulnerable pupils. The focus is on empowering schools to meet local need with local solutions through delegation of funding and by the provision of support for vulnerable groups. Full details can be found in:

- Policy and Strategic Development Plan for the Education of Children in Public Care and subsequent reports to CMT and Cabinet.
- Education and Skills Service/SEN and Vulnerable Groups Service Information for Schools and other agencies.
- Ensuring that children are Receiving a Suitable Education 2009 (updated 2013) which updates Ensuring Access to Appropriate Education for Children who are Missing or at Risk of Going Missing from Schools (April 2005)
- Keeping Children Safe in Education

Vulnerable Groups including Children Missing Out on Education

The LA has robust systems for ensuring that all children have access to an appropriate educational placement, working with schools (including academies) and partner agencies we have a shared responsibility to safeguard all children and young people from risk of harm. In order to monitor individual children and young people who may be at risk of harm because of their vulnerabilities, the LA and its partners have established a series of panels and procedures.

Child Sexual Exploitation (CSE)

Schools and partner agencies make referrals to the Safeguarding First Contact Team should they suspect that a pupil is at risk of CSE or is being exploited. The referral will trigger a CSE strategy meeting between all parties so that a risk management plan can be put in place to safeguard the pupil.

Children Missing from Education (CME)

The Education and Inspections Act 2006 places a statutory responsibility on all LAs to make arrangements to identify children missing from education in their area. The LA has a nominated CME officer and has developed an agreed procedure for locating missing pupils and the removal of pupils from roll. There is a strong commitment from all parties to ensure that all pupils who go missing or who are lost from schools in County Durham and move to other areas are located as quickly as possible. The commitment extends to supporting other LAs to locate their own missing pupils should such pupils move to County Durham.

Pupils Missing out on Education (PMOOE)

The LA has a statutory duty to maintain a central record of all pupils missing out on full-time education. The record must include the details of all pupils who are not receiving a full-time education in schools and academies, including those on part-time timetables and attending alternative provisions. In order to establish the central record, the LA has developed an on-line return so that schools and academies can provide the details of all pupils in this category. The LA has also established a panel to ensure responsibilities are fulfilled and to ensure appropriate provisions are in place for individual pupils. The remit of the panel has been widened to monitor and consider solutions for those children currently not receiving an education, despite the best endeavours of schools and agencies.

Elective Home Education

The LA holds an Elective Home Education Register and has a well-established multi-agency panel that meets on a monthly basis to ensure any child or young person who is removed from a school roll to be electively home educated is receiving a suitable full-time education. The panel requests that parents/carers provide evidence of a suitable education and commissions enforcement actions when the evidence is not provided.

Transport

Durham LA's Home to School Transport Policy, or if the child is in receipt of Free School Meals, the National Extended Rights Policy, applies in all cases. In the event of a pupil being refused admission to a school by the LA under the terms of this protocol, then free travel will be offered to the nearest suitable school(s) in the view of the LA, if it meets the relevant Home to School Transport distance criterion

Protocol Review

This Fair Access Protocol, will be reviewed annually at the Summer Term meeting of DASH (Durham Association of Secondary Head Teachers) and DAPH (Durham Association of Primary Headteachers.)

Annex 1

Transfer between Local Secondary Schools including Academies LA/School Protocol

- 1 Clarity regarding availability of places.
 - Head Teachers must always inform the LA about any potential student movement i.e. Admissions or transfers both in and out-County. This will ensure the LA has accurate data regarding the availability of places.
 - The LA advises about admissions in accordance with the admission code.
- 2 More detail to be requested by the LA on the Transfer form from the current school and parent e.g.
 - Exclusions
 - Attendance
 - PSPs
 - Other agency involvement (tick list)
 - Court order/Bail?
 - Courses currently being followed and exam boards if applicable.
- 3 To ensure no young person goes missing from education the LA will issue the DCC In Year Admission Application Forms to parents. Those Academies that are their own admission authority may also request that parents complete a school transfer form to support the admission process.
- 4 A “Why Change Schools?” information leaflet for parents has been produced by the LA and held in schools to be given to parents making enquiries. To include for example:
 - Issues re the best interest of child
 - Until transfer completed home school responsible. The pupil remains on roll and should be attending school.
- 5 An LA/Head Teacher/Parent Conference will be convened at the current school for those pupils if requested by any party.
To be held within 15 working days of concern arising.
The purpose is to provide the parent with Best Advice including consideration of what added value there would be in effecting a transfer and focussing on resolving underlying issues.
- 6 Pupils with an attendance record of less than 65% for 6 months or more prior to the transfer request and there are no genuine reasons for the absences (medical reasons etc.) may be required to complete a 3-week offsite directed placement before agreement on a formal transfer is made.
- 7 Where possible, pupils returning from Elective Home Education within a 6-month period, would in the first instance be expected- to return to their previous school, if not oversubscribed Any in year transfer request would be managed through the in-year transfer protocol once on roll of their previous school.

Annex 2

Local Funding Protocols

a) **In-Year Secondary School Transfers, including successful supported off site placements**

For in year transfers of pupils between County Durham schools the LA arranges for the transfer of funding, for the remainder of the year, from the previous school to the receiving school. This includes the AWPU, on a pro rata basis and if they have it, Pupil Premium.

b) **Excluded Pupils**

Durham LA ensures that full-time provision is made available for all permanently excluded pupils from Day 6. DASH (Durham Association of Secondary Head Teachers) have formally agreed a Voluntary Agreement to contribute to the cost of provision when a pupil is permanently excluded. The amount agreed is £5,000 per annum in addition to the transfer of the AWPU (all pro rata), and if they have it Pupil Premium.

The remaining funding (AWPU and £5000) pro rata for pupils reintegrating to a new school following a permanent exclusion within the same financial year of the exclusion will be transferred to the new school.

Since September 2007 schools must arrange and pay for full-time provision for pupils suspended on a fixed term basis from Day 6.



**Supported Offsite
Placement.
LA/School Agreement
September 2023**

1 Purpose of Supported Offsite Placement into another school. (This does not apply to offsite placements into Alternative Provision Settings)

Offsite placement is when a governing body of a maintained school or Academies under their general powers requires a pupil to attend another setting to improve their behaviour. Placements should be time limited and regularly reviewed.

To offer schools an alternative way forward other than excluding a pupil from school. This involves the pupil accessing a new placement in a planned and supported manner.

Head Teachers/Senior Leaders in discussion with parents and the LA can consider a Supported Offsite placement to another school for a pupil to help improve behaviour.

In Durham, supported offsite placement can only take place with the agreement of all parties, pupil, parents, and both schools. The Local Authority rep from Children and Young People Services, must facilitate and co-ordinate the new placement.

The focus is finding a way forward in response to the pupil's difficulties - and so the process is a solution - orientated rather than punitive one. Only in exceptional circumstances should a pupil have more than one period of supported offsite placement.

The Local Authority working in partnership with the school, Governing Body/ Trust must keep the placement under review.

2 The Process

- (a) Prior to referring to panel the home school **must** meet with parents/carers and pupil to review strategies to avoid the need for suspensions or exclusion and discuss the possible option of a supported offsite placement as a way forward. Parents are to be given a copy of the Supported Offsite Placement and Behaviour Inclusion Panel leaflet.
- (b) The representative from the home school completes the Behaviour and Inclusion Panel referral form and includes a copy of a Pastoral Support Plan/ IEP and SEN support Plan if applicable; providing all relevant information on the pupil, including support required, interventions offered, parental and pupil views and targets for success. This will support discussions with panel schools around the possibility of a supported offsite placement and to secure a suitable school's agreement to the placement in principle.

The pupil must continue to attend the home school during this period.

- (c) The Inclusion and Alternative Provision Co-ordinator / Supported Offsite Placement Officer will convene a meeting of all relevant parties to agree a support plan including targets for success, allocation of a key member of staff in the new school, and strategies to support the placement, start and review dates, monitoring procedures, expectations and exit plans.

An agreement providing full details of the placement must be signed by parents, pupil, both schools and Local Authority rep.

- (d) The supported off site placement commences as a 12-week placement reviewed at 3-week intervals at the end of the placement, if all parties agree the placement has been successful a move to the new school may become permanent.

A key member of staff **must** be identified at the beginning of the process from the receiving school. The member of staff will meet with the pupil regularly to review progress. This will provide an opportunity to talk about what has gone well and how to continue to be successful.

The nominated members of staff from both the home and new school setting, parents, pupil and LA rep who attended the original meeting will be invited to each review to talk about the pupil's progress, any concerns about the placement, the support in place and any new strategies to help them be successful.

After the final review, if the supported offsite placement has been successful and all parties agree, the pupil will transfer to the new school permanently. The Governing Body of both schools must be informed.

The new school must provide details of the ongoing support plan to allow the pupil to continue to be successful once a transfer has been agreed.

Should the pupil's behaviour continue to be a concern during the placement, as part of the review process the offsite placement may end. The school **must** provide full details of the reasons for the failure and supporting evidence. The Governing Body/Trust Board of the home school must be informed.

A supported offsite placement **must** not be failed without discussing with the LA rep, referring school and parents through a review to allow further intervention actions to be considered. The return to school plan agreed at the initial meeting should then be actioned.

- (e) Oversubscription will not automatically prevent a school from entering into a supported offsite placement agreement.

3 Registration

The home school will keep the pupil on roll during the placement. During the supported offsite placement to another school the pupil must be dual registered.

4 Funding

For pupils who transfer on to the roll of the new school at the end of a successful offsite placement the LA arranges for the transfer of funding, AWPU and if they have it, pupil premium for the remainder of the year, from the home school to the new school on a pro rata basis. (This only applies to movement between Durham to Durham Schools)

5 Transport

The LA may provide transport to the next nearest suitable school in the view of the LA, if it meets the distance criterion within the Home to School Transport policy.

6 Exceptions

Children with an Educational Health and Care Plan would not be part of this protocol, but a placement could be reviewed in line with the SEN Code of Practice.

Similarly, Children Looked After would be an exception to this protocol but subject to emergency review.

Supported Offsite Placement Protocol

Pre-Panel Preparation

- Meeting to be held with parents/carers to discuss the supported offsite placement process/explain the role of the panel and to seek their agreement.
- A copy of the Leaflet for Parents and Carers must be given to parents at the above meeting.
- Referral form to be completed in full submitted to Education Behaviour Panel EducationBehaviourPanel@durham.gov.uk
- Any paperwork that is incomplete/late will not be discussed at upcoming panel meeting.
- Referral form needs to be fully completed and as detailed as possible. The reasons for supported offsite placement must be clear and explained in full. This should include all relevant academic, behaviour and safeguarding information.
- A Pastoral Support Plan/IEP and if applicable SEN support plan should be included with the paperwork.
- Parents must agree by signing a consent form to allow their child to be referred to panel, provide their views within the panel referral form and have been informed how the supported offsite placement process works.

Deciding Upon A suitable destination school:

- A full discussion should be held at panel to consider if the request is appropriate and whether a placement can be offered.
- If the pupil is in years 10 or 11 an agreement as to the registration arrangements post transition phase should be made between the school should the pupil be successful.

Organising the offsite placement:

- A representative of the Local Authority will contact parent/carer to discuss the supported offsite placement and gather any relevant information and ascertain their availability for a suitable meeting time/date.
- Any information gathered at this stage is shared with both schools.
- The Local Authority representative will then contact both schools to discuss a potential start date and organise the initial meeting.
- Meeting date set - Schools to pass across all relevant information at this stage – academic/behaviour logs/SEN Plans, PSP's, external agency inputs/CP/CPOMS
- If required any admission placement paperwork to be sent to parents and the completed documents received prior to the agreed start date.

The initial meeting areas to be discussed:

- what has led to the placement?
- reasons for the supported offsite placement
- triggers for poor behaviour
- support required (internal and external)
- expectations of how a supported offsite placement looks in your school.
- what the first day will look for the student:
- Baseline testing
- Uniform
- Any relationships with peers – Buddy set up
- Standard and expectations – line up procedure, equipment required, uniform.
- Behaviour system
- School timings – lesson length, break and lunch arrangements.
- Cash/cashless – system in place
- Specific targets
- The Supported Offsite Placement Agreement
- Transport arrangements
- Start date and any special arrangements for that day.
- Review meeting arranged.

Preparation for the arrival of the pupil:

Schools must consider the following areas to ensure the placement is successful.

- Notify all key staff of student arriving:
 - Head of Year
 - Behaviour/support worker
 - Leadership Group
 - Office staff/admin worker
 - Appoint a suitable point of contact for the pupil.
- Following the initial meeting parents and pupils should be offered the opportunity to have a tour of the school and if possible, meet key staff. If this cannot be accommodated on the day of the meeting, then a visit should be organised at the earliest opportunity prior to the start date of the placement.

Supporting the Offsite Placement:

- The review cycle should begin at 3-4 weeks.
- Prepared data on behaviour, achievement, and attendance to be discussed at the review meetings. Any negative concerns that are to be discussed need to have been discussed with LA, referring school and parents prior to the meeting, there should be no surprises.

- Follow up review meeting arranged weeks 6-8. Discussion around same data. Any issues that are to be discussed need to have been discussed with LA rep, referring school and parents prior.
- During the supported offsite placement, the LA will liaise with schools and parents to ensure any areas of concern can be dealt with as they occur.
- Final review meeting arranged - Prior to this meeting the relevant member of staff should have held a discussion with SLT about the placement including any decision to admit or potentially end/extend offsite placement. Any relevant information should be shared with all parties prior to the final review.
- The Local Authority Officer is available to call out to schools for 1:1 meeting with pupils to offer an extra layer of support – all parties are updated afterwards.

Breakdown of a Supported Offsite Placement:

In the event of a breakdown of placement, please notify the following with the evidence in writing as to the reasons:

- Local Authority SOP Inclusion Officer
- Home school
- Parent
- Panel Chair – request additional support if needed from panel.
- Governing body/Trust Board

Annex 4

Permanently Excluded Pupils 1% Rule

- Schools with up to 100 pupils in a year group can admit 1 permanently excluded pupil.
- Schools with 101 to 200 pupils in a year group can admit 2 permanently excluded pupils.
- Schools with over 200 pupils in a year group can admit 3 permanently excluded pupils.

The Local Authority and DASH have agreed a reintegration protocol to support permanently excluded pupils returning to mainstream education.