



Oldham Local Authority

Primary Fair Access Protocol

Revised Version: January 2026

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1. Purpose of the Protocol

- 1.1 This Protocol is designed to facilitate the school placement of children **not on the roll of a school or academy** who are seeking admission to an Oldham Primary School or Academy, 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, live in the borough of Oldham and who fall into one of the categories mentioned in section 5.
- 1.2 For most children, in-year admissions will be a standard procedure; therefore, the application of this protocol will not be necessary. Pupils returning from extended leave will be placed at the preferred school (even if it is the previous school) if there are spaces.
- 1.3 Children with an Education Health and Care Plan who meet the criteria will be admitted under the usual SEN Code of Practice procedures and therefore not allocated school places under the protocol. The school named in the Plan must arrange admission.
- 1.4 Children Looked After (CLA) - Admission authorities are required to give highest priority in their admission arrangements to children in care, and Local Authorities may direct other admission authorities for any maintained school to admit a child in their care. Therefore Looked After Children are not allocated school places under the protocol.

2. Aims of the Scheme

- 2.1 This scheme is designed to acknowledge the real need of vulnerable children who have no primary school place and who are having difficulty in securing a school place in-year, where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures and to enable requests for admission to be dealt with quickly and effectively.
- 2.2 The individual needs of each child can be taken into account alongside the needs of each school and academy.
- 2.3 Children who fall within the definitions of this protocol are at risk of spending a significant length of time out of school, which should be reduced by the scheme.
- 2.4 It is intended that the scheme will be equitable, transparent, managed and have the confidence of all schools and academies.

3. Main Principles

- 3.1 In order for the scheme to be successful it is essential that all maintained primary schools and academies will take part, including Community, Trust, Foundation, Voluntary Controlled and Voluntary Aided.

- 3.2 Schools and academies will continue to admit all children falling outside this protocol who apply for an available place, under current admission arrangements.
- 3.3 Oversubscription in any year group/school should not be cited as a reason for exemption from this protocol. Where there is a broad consensus that any given school represents the best placement for a Fair Access pupil, the school must admit regardless of oversubscription.
- 3.4 Children under this protocol will be given priority for admission over any others awaiting an appeal for admission or those on a waiting list.
- 3.5 Schools and academies must respond promptly to requests for admission so that the admission of all children is effected within a period of 20 school days (maximum) from the date of the request.
- 3.6 The LA may take account of any particularly exceptional circumstances regarding the admission, provided this is supported by written evidence.
- 3.7 In identifying the most appropriate school or academy, the Inclusion Service will take into account vacancies, geographical proximity, parental preference and the number of children already placed at other primary schools and academies under the 'Fair Access' protocol. Infant class size regulations will be adhered to where possible, however in some areas due to place pressure this will not be possible.

4. Compliance with statutory regulations

- 4.1 There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.
- 4.2 The School Admission Appeals Code states that the allocation of a place in accordance with a Fair Access Protocol does not override a parent's right to appeal against the refusal of a place at any school for which they have applied. If an application has been refused despite there being places available, the admission authority must present their case for refusal, demonstrating how admission of the child in question would prejudice the provision of efficient education or efficient use of resources. When considering such an appeal, in addition to considering the appellant's argument for their child to be admitted, the panel must take account of the requirements set out in the local authority's Fair Access Protocol. The panel must then carefully consider whether the presenting officer has clearly proven that admission of the child would be prejudicial to the school or other children in attendance at the school.

5. In what circumstances will the Protocol be used?

The 'Fair Access' Protocol is intended to apply to children who are **not on the roll of a school** who are having difficulty in securing a school place in-year, where it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures **and who also fall into one of the following categories**. Any

child that is returning to mainstream education from elective home education will be processed as a standard transfer and not under the definitions of the Fair Access Protocol, unless there are exceptional circumstances. It is important to note that in such circumstances, pupils may be expected to return to the school they attended before opting to home educate.

Children from the criminal justice system	SEC
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.	REIN
Children who have been out of education for four or more weeks – this does not include circumstances where a suitable place has been offered to a child and that this has not been accepted	OUT
Children that are previously Looked After for whom the local authority has been unable to promptly secure a place.	PCLA
Children of Gypsies, Roma, Travellers,	GRT
Children who are refugees and asylum seekers	REF/ASY
Children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol	RA
Children who are homeless	HOM
Children who are subject to a Child in Need Plan	CIN
Children who are on a Child Protection Plan	CP
Children who have been subject to a Child in Need Plan within 12 months at the point of being referred to the Protocol	PCIN
Children who have been subject to a Child Protection Plan within 12 months at the point of being referred to the Protocol	PCP
Children who are carers	CAR
Children with special educational needs, disabilities or medical conditions (but without an Education, Health and Care Plan)	SEN
Children in formal kinship care arrangements	KIN
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 Admissions Code	REC
Children for whom a place has not been sought due to exceptional circumstances (it is for the LA to decide whether a child qualifies to be placed via the FA Protocol based on the circumstances of the case)	EXC
Children in need of a Year 6 school place after January who are not on roll of a school	HTP

6. Process

- 6.1 Identification of a child under this protocol will be based upon evidence received from the parent/carer/transferring school/receiving school/School Attendance/Children's Services/LA including evidence that reasonable measures have been taken to secure a place through the usual in-year admission procedures.
- 6.2 Once a child has been confirmed as eligible under the criteria, the Local Authority will initiate the protocol.
- 6.3 The initial contact between the LA and a school/academy regarding the placement of a child under the protocol will be through an officer from the Inclusion Service. In

some exceptional circumstances, cases may be taken to the Primary Fair Access Panel for placement. Most cases will be allocated directly by the LA.

- 6.4 Schools can refer cases back to the Primary Fair Access panel within 10 days of receiving the request to allocate a place should they wish to ask for reconsideration of cases referred to them. The decision of the panel is final.

School Admissions Code 2021

3.10 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 to the Fair Access Protocol.

3.11 An admission authority should only rely on the provision in paragraph 3.10 if 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 resource

3.13 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.

Challenging behaviour in the Fair Access Protocols Guidance August 2021 states

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;
- having a disability.

- 6.5 Children will be allocated to schools and academies in an equitable and transparent manner.
- 6.6 Any pupil that has been off-rolled for failing to return to school after extended leave, will not be allocated/return to the previous school (over PAN) as a FA allocation. Parents would still have the right to an independent appeal should they wish to apply for one.
- 6.7 For children who are not initially identified, but who are subsequently found to fall within the definition following receipt of information, the protocol will be applied. The receiving school or academy should continue to progress the admission within the expected timeline, which will subsequently be added to the monitoring sheet. Again, schools and academies need to inform the Inclusion Service immediately if this is the case.
- 6.8 Any child that has been offered a school place as a standard transfer or under the definitions of the Fair Access Protocol but subsequently refuses that place, a School Attendance Order may be issued naming the school or academy.

- 6.9 Children allocated under the Fair Access Protocol **must** remain in their allocated school for a minimum of two terms unless in exceptional circumstances (deemed by the FA Panel). Where possible, Fair Access pupils should not be placed on the waiting lists of other schools until they have started at their fair access placement.

7. Monitoring and Evaluation

- 7.1 The Fair Access panel will meet on a monthly basis consisting of lead officer(s) within Oldham Council and Primary Headteachers from each district. A chair and vice chair must be elected.
- 7.2 The monitoring panel will address any unresolved placements at the monthly meeting to effect progress and also review any reconsiderations sent in from schools.
- 7.3 The panel will be aware of and have consideration for the exclusion data from across schools and Fresh Start Transfers (see Fresh Start Protocol for details on these).
- 7.4 Statistics regarding the number of children placed, and the receiving schools and academies, will be reported at each panel meeting.

8. Funding and Additional Support

- 8.1 For children that have been permanently excluded, the remaining Element 1 and Pupil Premium will be transferred from the excluding schools budget to the receiving schools budget.
- 8.2 Schools will receive Pupil Premium to provide additional support for each pupil on FSM on the roll of the school in September each year.
- 8.3 If receiving a pupil with a permanent exclusion, schools can request support from Quality Effectiveness Support Team (QEST), Education Psychology Service (EPS) and the Primary Outreach Service (POS - previously Jigsaw) through the appropriate channels.

9. Compliance with the Protocol

- 9.1 Any system for placing this group of children will only succeed if all schools and academies agree to accept the protocol and adhere to it. If a problem arises with a particular school or academy it is in the interests of all parties for the issue to be referred to the Primary Fair Access Panel to be resolved.
- 9.2 In the unlikely event of a school unreasonably delaying or refusing to accept the decision of the Fair Access Panel then the local authority has to act timeously in the interest of the child/young person. In such circumstances the Head of Education Support Services will direct the admission authority of any school refusing or delaying the admission of fair access pupils. In the case of academies and free schools, in the first instance, the matter will be referred to the Director of Education, Skill & Early Years who will consider a referral to the Secretary of State if deemed necessary. It is anticipated that schools will work collaboratively to support and participate in the work and decisions set out by

the Fair Access Committee based on the principles that the needs of the child are always foremost in any decision or action taken.

10. Time frames

It is expected that all parties will act with a sense of urgency to identify a school place for any child who has had difficulty securing one or who falls under the IYFA Protocol. The FAP will act to ensure that schools are held to account for the timeliness of their admissions in line with the IYFA Protocol and must ensure that children are enrolled within the timescales below. Every effort must be made to keep the time out of education to a minimum. Schools agree not to advise parents to:

Remove their child from school and find another school

Remove their child from the roll of the school and Electively Home Educate (EHE)

All schools, including Academies, are expected to respond to requests by the FAP to admit a child under Fair Access Protocols with the aim of securing a place at a suitable school or academy as quickly as possible and although 20 school days is the maximum stated in this protocol our intention is to act as quickly as possible.

In compliance with the Pupil Registration Regulations the Local Authority must notify the school/academy of the date by which the child is to be admitted and on the school roll.

Fair Access is intended to apply to applications where reasonable measures have been taken to secure a place through the usual in-year admission procedures have not been successful, who are not on the roll of a school and fall into one of the categories in section 5.

Parent/carers makes school transfer request. A transfer form must be completed for transfer to progress.	Day 1
LA analyse information from transfer form. If deemed a 'standard' transfer the application goes through the standard admissions procedures. If deemed a Fair Access transfer case the application is dealt with by the Inclusion Service.	Day 5
Officer dealing with transfer may need to get more detailed background on the child/family from the services/agencies involved with them and the child's previous school	Day 6-10
Once all information has been collated, Inclusion Service will check the current fair access caseload for each school and allocate the child a school place. All this information is then sent in full to the school/academy the child has been allocated.	Day 10

School/academy meets with parents and arranges admission. If the school/academy want to ask the Primary Fair Access Panel to reconsider the placement this needs to be done within 10 school days of receiving the request. If there are any issues around the admission the Inclusion Service must be informed ASAP for example lack of engagement from the child's family with information on what forms of communication have been unsuccessful. If the pupil is not on roll by day 20 and no communication has been received from the school the case will be escalated to the Head of Education Support Services.	Day 10 - 20
Child starts attending at the school/academy (child admitted). Child name entered on Attendance Register. Complete and upload the admissions notification webform online.	

11. Appendix 1 – Request to reconsider form

Fair Access Contextual Information - Request for Reconsideration or Fair Access Credit

Please advise the panel of any new information that provides evidence as to why a placement for this pupil would not be appropriate/ reasons why child should be credited as Fair Access (Please see Paragraph 6.4 of the Fair Access Protocol))

PUPIL DETAILS

Name:	
Address:	
Date of Birth:	
Year Group:	

Request for reconsideration of placement

1. Unfair allocation due to number of FA allocations to date compared to other local schools. (give details)

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2. Challenging behaviour* – Please provide evidence that the pupil allocated presents with challenging behaviour ALSO provide evidence of the challenging behaviour in the receiving cohort.

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3. Exceptional circumstances (i.e. the admission of this pupil would prejudice the provision of efficient education or efficient use of resources) – please provide appropriate evidence

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Headteachers signature:

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*Challenging behaviour is defined in the School Admissions Code 2021 as where the behaviour “*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. It would be expected that this behaviour would significantly interfere with the pupil’s/other pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment.*” (Para 3.10 School Admissions Code 2021). (Para 3.11) *An admission authority should only rely on the provision in paragraph 3.10 if 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 resource*