Bath & North East Somerset Council

Improving People's Lives

Secondary Fair Access Protocol

Date: September 2026
To be reviewed: September 2028

To take into account the new Fair Access protocols from DfE August 2021 and School Admissions Code 2021 'The Code'

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1) INTRODUCTION

The Fair Access Protocol (FAP) for the school admission of children who are vulnerable and have been unsuccessful in gaining an in-year school place updated August 2021 to come into effect 1 September 2021.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012993/FAP_Guidance.pdf

To be read in conjunction with:
The School Admissions Code 1 September 2021
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001050/School_admissions_code_2021.pdf
The Special Educational Needs and Disability Code of Practice: 0-25 years
https://www.gov.uk/government/publications/send-code-of-practice-0-to-25

2) SUMMARY

A parent can apply for a place for their child at any school at any time. All applications must be processed by the relevant admission authority in accordance with the School Admissions Code 2021 ('The Code"). When applications are made outside the normal admissions round [1](and they are not a late application[2]) they are considered in-year applications[3]. Where it can be demonstrated that reasonable

[1]The 'normal admissions round' covers applications for admission in a relevant age group (also known as the normal year of entry such as reception or year 7) which are made in time for the local authority to offer a school place on National Offer Day. The deadlines for submitting applications to be allocated on National Offer Day are 31 October for secondary school and 15 January for primary school

[2] Late applications' are applications for entry in a relevant age group which are submitted before the first day of the first term in the admission year but have not been made in time to enable the local authority to offer a place on National Offer Day.

[3] An application is an in-year application if it is for the admission of a child to a relevant age group but it is submitted on or after the first day of the first term of the admission year, or if it is for the admission of a child to an age group other than a relevant age group.

measures[4] have been taken to secure a school place through the usual in-year admissions process and this has not been successful, or where a school place has not been sought due to exceptional circumstances,[5] a child may be eligible for referral to the FAP. The purpose of a FAP is to ensure that vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible, minimising the time the child is out of school.

Admission authorities and local authorities **must** comply with the relevant law, and act in accordance with the provisions of the Code.

Main points

- FAPs exist to ensure that vulnerable children, and those who are having difficulty securing a school place in-year, are allocated a place as quickly as possible.

- FAPs **must not** be used in place of the usual in-year admissions process. A parent can make an in-year application at any time and is entitled to have their preference met wherever possible, as well as the opportunity to appeal a decision when a place is not offered.

- Every local authority **must** have a FAP in place. Once it is agreed with the majority of schools[6] in its area, all admission authorities **must** participate in it.

- FAPs **must** only be used for unplaced children that meet the prescribed categories set out in paragraph 3.17 of the Code and pages 5-6 of the *Fair Access Protocols, Guidance for school leaders, admission authorities and local authorities, August 2021*

- Admission authorities, school leaders and local authorities should work collaboratively in making decisions under the FAP. They should take into account the needs of the child and the views of the school where the child might be placed.

- There is no duty to comply with parental preference when allocating places through the FAP but parents' wishes should be taken into account.

- When seeking to place a child through the FAP[7], 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[8], or who are otherwise being placed via the FAP.

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[4] In most cases, we would consider reasonable measures to mean a parent had submitted an appropriate in year application. The appropriateness of an application will be considered on an individual basis taking into account factors like location and transport.

[5] Exceptional circumstances will be considered on a case by cases basis.

[6] Unless otherwise stated, in this guidance the term 'schools' should be taken to mean all schools to which the Code applies, including academies.

[7] It is the admission authority of a school that has responsibility to make admission decisions for their school/s. Therefore, any references to 'school' or 'schools' in this guidance, also refers to the school's admission authority, where this is different to the school's governing body. Information on the admission authority for each type of school in England can be found in paragraph 11 of the Code.

[8] Further information on challenging behaviour can be found on pages 9 to 10 of the Fair Access Protocol 2021

- Admission authorities **must** admit children when asked to do so in accordance with the FAP. Where an admission authority fails to comply with the FAP, they may be directed to do so [9]. Further information can be found on page 11 of the *Fair Access Protocols, Guidance for school leaders, admission authorities and local authorities, August 2021*

- The FAP is a mechanism developed by the local authority in partnership with all schools in their area. Its aim is to ensure that vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible. Every local authority **must** have a FAP in place. Once it has been agreed by the majority of schools in its area[10], all admission authorities **must** participate in it.

- FAPs play a key role in helping to keep children safe by ensuring the most vulnerable children are able to access education as quickly as possible. Referral to the FAP should be seen as the last resort to secure a school place for a child. Where possible, children should be placed in school through the usual in-year admissions process in the first instance.

- FAPs should provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable, by admitting their fair share of children being placed via the FAP. This includes supporting those children who have been permanently excluded from other schools and those who display challenging behaviour.

3) CHILDREN ELIGIBLE FOR FAIR ACCESS AND NEW NATIONAL PRIORITIES

FAPs are intended to act as a safety net for the most vulnerable. As such, they may only be used to place the following categories of children, where a child is 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 in-year admissions process:

a) children either subject to a Child in Need Plan or a Child Protection Plan[11] or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the FAP;

[9] Sections 96 and 97 of the School Standards and Framework Act 1998 sets out the powers of local authorities to direct the governing body of any maintained school, for which they are not the admission authority, to admit a child in their area, even if that school is full. Paragraph 3.29 of the Code sets out the Secretary of State's powers to direct the admission of any child to an academy under the academy's funding agreement.
[10] In agreeing a local FAP, the view of more than half of the total number of schools in the area should be regarded as the majority.
[11] Child in Need Plans and Child Protection Plans are plans of help and protection to address safeguarding and welfare needs, where a child has been assessed by the local authority as being a child in need under Section 17 of the Children Act 1989 and/or as suffering or likely to suffer significant hardship under Section 47 of the Children Act 9 1989. See also statutory guidance Working Together to Safeguard Children (2018) (pages 35 and 48 to 49). Where a local authority is advised that a child who has moved into the local authority had a Child in Need Plan or Child Protection Plan previously and meets the criteria outlined, this information may need to be checked with the previous local authority.

b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP;

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[12];

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 FAP in accordance with paragraph 3.10 of The Code;

k) children for whom a place has not been sought due to exceptional circumstances[13];

l) children who have been out of education for 4 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[14].

4) CROSS BORDER (NON-B&NES RESIDENT) CASES

Only children residing in B&NES will be allocated a place through B&NES' FAP.[15]

5) RESPONSIBILITIES

5.1 The responsibilities of the local authority

Every local authority **must** have a FAP in place. The local authority must consult on and develop their FAP in partnership with all schools in its area.

[12] As evidenced by either a child arrangement order not relating to either birth parent or a special guardianship order.

[13] It is for the local authority to decide whether a child qualifies to be placed via the FAP on this basis, based on the circumstances of the case.

[14] In most cases, use of the FAP should be unnecessary for a previously looked after child. Local authorities are expected to secure a school place promptly for such children and for admission authorities to cooperate with this. Local authorities should consider swift use of their general powers of direction or should consider asking the Secretary of State to consider issuing a direction (as set out in paragraphs 3.26 to 3.29 of the Code) where a school place for a previously looked after child cannot be agreed with an admission authority promptly.

[15] Schools to notify the home local authorities of any refusals of a place to non-B&NES residents.

Where an admission authority refuses an in-year application, the local authority should consider whether the child would be eligible to be placed via the FAP. Where it has been decided that a child is to be placed via the FAP, parents should be notified of this and a school place must be allocated to that child within 20 school days.

Where an admission authority has failed to admit a child in accordance with the FAP, they may be directed to do so. The local authority must monitor the effectiveness of the operation of the protocol and is required to report to the schools' adjudicator on how well the protocol has worked and how many children have been admitted under the protocol.

5.2 The responsibilities of the Fair Access Panel, making Fair Access decisions

In B&NES, Fair Access decisions are made within a Fair Access Panel.

The Fair Access Panel should work collaboratively with the local authority in order to ensure that children who are eligible for a school place via a Fair Access decision are placed quickly in suitable education.

The frequency of Fair Access Panel meetings required will be every 14 days and must be compliant with the School Admissions Code 2021.

The Fair Access panel meeting dates will be in accordance with the School Admissions Code 2021 and set before the start of the academic year.

Fair Access panel will have a Memorandum of Understanding.

5.3 The responsibilities of individual schools

If a school refuses to offer a place upon receipt of an in-year application then they must inform the home local authority.

All schools **must** attend Fair Access Panels to participate in Fair Access decisions when required. This means they must authorise a representative to participate in Fair Access discussions and decision making and admit their fair share of children when asked to do so in accordance with the FAP including where the school is operating a waiting list. If a school has been notified of a Fair Access case and they do not attend the panel then they could be named in their absence.

Where an admission authority fails to comply with the FAP, they may be directed to do so[16]

[16] Sections 96 and 97 of the School Standards and Framework Act 1998 sets out the powers of local authorities to direct the governing body of any maintained school, for which they are not the admission authority, to admit a child.

6) FAIR ACCESS IDENTIFICATION PROCESS FOR B&NES RESIDENTS

In-year applications are made directly to the relevant admission authority and must be responded to in line with School Admissions Code 2021. If the child is refused a place the school must notify Attendance & Welfare Support Service (AWSS) who will review the case and investigate further.

Managers within the Education Inclusion Service will determine if the child is eligible for a Fair Access decision using the criteria set out in the Fair Access Protocol 2021 and School Admissions Code 2021 and then make the referral to the Area Panel Coordinator.

Where it has been decided that a child is to be placed via the FAP, a school place must be allocated to that child within 20 school days.

The Area Panel Coordinator will notify the parents that their child will be placed via the FAP and inform them of the date that the Fair Access decision will be made.

7) FAIR ACCESS DECISION PROCESS

The Area Panel Coordinator will prepare a summary of the information collated about the child and put together an agenda a week before panel.

The Fair Access Panel will consider each Fair Access case presented and determine the appropriate school placement.

The Fair Access Panel must come to a decision and act in accordance with the FAP, the principles set out in the School Admissions Code 2021 and their Memorandum of Understanding. Decisions must not be delayed or deferred.

The Fair Access panel should take into account the following when making a decision:

The needs and views of the child in question; *Consideration should be given as to whether a child has any particular needs and which school might best be able to meet and support those needs.*

The views of the schools concerned; *All schools should be treated in a fair, equitable and consistent manner. This means that no school – including those with places available – is asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are otherwise being placed via the FAP. The Partnership's Memorandum of Understanding must outline a process to ensure no school ends up with a disproportionate number of Fair Access cases, e.g. a points system.*

Parental preference; *There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the FAP but parents' views should be taken into account.*

Fair Access Panels must take into consideration infant class size regulations (must not contain more than 30 pupils).

If a decision cannot be made, this will go down to the schools ranking list.

The Area Panel Coordinator, on behalf of the Fair Access Panel chair, will confirm the decision in writing to the parents/carers and the admission authority within 5 school days. The letter will be copied to the Attendance & Welfare Support Service (AWSS) Admissions and Transport (A & T) Team and the named school.

The child should be admitted to the named school within 5 school days of receiving the notification. If the child is not admitted within 5 school days B&NES will notify (i) a maintained own admission authority school of the intention to direct admission or (ii) in the case of an academy or free school B&NES will apply to the Education and Skills Funding Agency for a direction.

8) SCHOOL RANKING LIST POINT ALLOCATION & DEDUCTION

Schools are rewarded 5 points for Fair Access/School Attendance Order allocations and deducted 5 points for permanently excluding students.

From the 2026/27 academic year, schools will receive 5 Fair Access points for admitting a child who has been permanently excluded within the preceding 12 months. This applies where the admission occurs either through an Education, Health and Care Plan (EHCP) consultation process or via the in-year admissions process.

The allocation of points recognises the school's contribution to supporting vulnerable pupils and promotes the equitable sharing of responsibility across schools for the admission of children requiring placement through the Fair Access Protocol.

9) CHILDREN IN CARE AND CHILDREN WITH AN EHCP

The School Admissions Code 2021 states that Fair Access criteria do not apply to looked after children, and children with an EHCP. These applications should be discussed with the relevant teams at B&NES; Virtual School Head and SEND respectively.

10) PROCESS FOR IN-YEAR APPLICATIONS

1. School receives an in-year application.
2. The application must be processed in accordance with the usual in-year admissions process.
3. A written response must be sent to parents notifying them of a) an offer of a place or b) a refusal including the reason why admission was refused; information about the right to appeal; the deadline for lodging an appeal and the contact details for making an appeal. The school should aim to notify the parents of the outcome of their application in writing within 10 school days, but they must be notified in writing within 15 school days.

4. Schools to notify an offer of a place to B&NES A & T Admissions_Transport@bathnes.gov.uk or refusal of a place to B&NES AWSS AWSS@Bathnes.gov.uk. Please note the local authority will require a copy of the IYA form and offer/refusal letter which must be shared securely.
5. Schools to notify home local authorities of any refusals of a place to non-B&NES residents.[17]
6. The local authority will investigate and review all refusals and decide whether the child meets the Fair Access criteria.
7. If the child meets the Fair Access criteria, the Area Panel Coordinator will write to inform the parent that their child will be placed in a school via the FAP and add the child's information to the Fair Access Panel agenda.
8. A Fair Access decision will be made at the Fair Access Panel.
9. The Area Panel Coordinator, on behalf of the chair, will notify the parent in writing of the decision within 5 days of the Fair Access
10. Panel. A copy of this notification will be sent to the allocated school, A & T, AWSS and any intervention and support provider who has been allocated.
11. The allocated school will liaise with the parent on a start date for their child.

[17] Only children residing in B&NES will be allocated a place through B&NES' Fair Access Protocol.

Appendix 1

Schools and the panel to which they are allocated when considering Fair Access cases

Beechen Cliff School
Hayesfield Girls' School
Oldfield School
Ralph Allen School
St Gregory's Catholic College
St Mark's C of E School
Three Ways School (SEND)
Somerset Studio School
Norton Hill School
Somervale School
Writhington School
Broadlands Academy
Chew Valley School
IKB Academy
Wellsway School