

**Annual Consultation
Oxfordshire's Fair Access Protocol
(to be effective from Term 3 2020/21 and Terms 1 to 3 2022/23)**

1. Introduction

- 1.1 The School Admissions Code 2014 was issued by the Secretary of State for Education and it sets out the legal framework within which local authorities and schools must operate regarding school admissions matters. The Code recognises that there needs to be a means of identifying school places for hard to place children and for this reason Paragraph 3.9 of The School Admissions Code 2014 requires all local authorities with educational responsibilities to have a Fair Access Protocol that will enable hard to place children to be found a school place:

“3.9 Each local authority must have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that – outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a protocol, the local authority must ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour.”

- 1.2 The DfE consulted on proposed changes to the School Admissions Code between June and October 2020 and these proposals were primarily concerned with in-year admissions and Fair Access arrangements. The revised Code has not yet been issued, but once a revised Code is issued, all English local authorities and state funded mainstream schools will be legally required to apply its provisions.
- 1.3 Currently, the Oxfordshire Fair Access Protocol is subject to consultation every academic year and the consultation lasts for at least 6 weeks and it is already possible for schools to ask for a review of the Protocol outside of this annual consultation. At present, there is no specified formal mechanism for initiating a review outside the period of the annual consultation.

2. Current Fair Access Protocol

- 2.1 The current approach involves 4 secondary panels for 4 specified geographical areas:
- The North Panel covering the Banbury, Heyford and Bicester areas
 - The West Panel covering Witney, Carterton, Burford, Eynsham, Woodstock and Chipping Norton
 - The Central Panel covering Oxford, Wheatley and Kidlington
 - The South Panel covering Abingdon, Berinsfield, Thame, Wallingford, Watlington, Henley, Sonning Common and Woodcote

- 2.2 The secondary locality-based panels are the means of placing hard to place children. However, they also cover inclusion matters, for example Managed Moves and the allocation of days of support by Alternative Providers, including Meadowbrook College, using additional funding to support challenging students. The funds for inclusion work are provided by the council. Each secondary panel meets 8 times per academic year and each session is for 2 hours. Each of these panels is chaired, clerked and administered by Learner Engagement officers. The Admissions and Transport Services Manager is also a member of each panel. The administrative input to these panels is considerable.
- 2.3 For the primary sector there is one County Primary Fair Access Panel which meets as required to arrange placements for “hard to place” children. The County Primary Fair Access Panel is chaired by the Admissions and Transport Services Manager, clerked by a member of the Admissions Team and includes two primary headteachers and one Exclusion and Reintegration Officer. This panel has no role in inclusion matters and no budget. The cases considered are primarily those of children who have been permanently excluded who need a new school place. If a case is referred to the County Primary Fair Access Panel the clerk asks each of the 10 nearest primary schools to the child’s address to provide key information so that an informed decision can be taken.
- 2.4 If a panel is unable to decide on a placement the Protocol gives the Admissions and Transport Services Manager, the responsibility of identifying a school.
- 2.5 In cases where a school refuses to accept a placement decision the Admissions and Transport Services Manager either requests the ESFA to direct admission or, in the case of maintained schools, directs admission.
- 2.6 The School Admissions Code 2014 requires LAs to have a Fair Access Protocol to ensure hard to place children are given a school place. The School Admissions Code 2014 does not mention placing permanently excluded children through Fair Access arrangements although the revised Code is likely to add this as a category.

3. Current issues

- 3.1 The number of cases referred for placement under the Fair Access Protocol has increased and many of these additional cases are of children of secondary school age who simply cannot be found an in-year school place within a reasonable distance of their home. The areas where this is a notable problem for those of secondary age are Oxford, Bicester, Wheatley, Thame, Wallingford and Watlington. In addition, there are significant difficulties in finding in-year school places for those of primary school age in Didcot, Bicester and Faringdon.

- 3.2 The practice of using locality-based secondary Fair Access Panels can complicate identifying school places for students when the nearest placement options are in the area of a different Fair Access Panel. However, the locality-based model works well for inclusion work related to early intervention and the prevention of permanent exclusions.
- 3.3 Some schools seek extensive information on ordinary in-year applicants referred to the Fair Access Panels, for example on behaviour, attendance and academic performance. This is a recurrent issue, but it is not lawful to seek information that is not required for the application of admission arrangements. In addition, providing such information would breach GDPR, laying the LA and school open to a possible fine from the Information Commissioner.
- 3.4 The process of identifying a school place involves a significant administrative burden on the LA.
- 3.5 The process is slow since there are only 8 meetings of each locality-based panel each academic year, information needs to be distributed before each meeting and schools have to be given 7 days in which to respond to being notified, in writing, that they have been identified as a suitable placement. Not all schools accept the notification is reasonable and this leads to delay and, potentially, a referral to the ESFA.
- 3.6 The timescale put forward by the DfE of 20 school days from referral to Fair Access to the offer of a place is currently not being met consistently, and there is no prospect that this will be possible using the current locality-based arrangements.
- 3.6 The LA and other Own Admission Authorities operating in the county have been publicly criticised for not placing children in a timely manner in the past. It is anticipated that there will be a new legal duty on all LAs and admissions authorities to place children within 20 school days of referral to Fair Access. This is expected to apply from September 2021 and currently represents best practice.
- 3.7 The current Fair Access Protocol is no longer fit for purpose. Oxfordshire's approach needs to be modified to help ensure places can be offered in no more than 20 school days from referral to Fair Access.

4. Review Process

- 4.1 A review of the Fair Access Protocol needs to be completed each academic year.
- 4.2 A public consultation will seek the views of all schools within the county.
- 4.3 As part of the review, a Task and Finish Group has been established comprising secondary headteachers, primary headteachers, the Deputy

Director for Children's Services, the Admissions and Transport Services Manager, the Head of Access to Learning, the Head of Learning Engagement and the Education Inclusion Manager.

- 4.4 The consultation will run from 17th December 2020 to 31st January 2021 and any revised Protocol will be determined by the Corporate Director of Children's Services by the end of February 2021.
- 4.5 A review of the existing information exchange mechanisms is required for all four options to minimise bureaucratic burden to schools and the LA.

5. **Options for Change**

5.1 Option 1

- From April 2021 split the inclusion and placement work by setting up a countywide panel to agree placements of hard to place children of secondary and primary school age. A Countywide Primary and Secondary Schools Fair Access Panel would need representation from secondary and primary schools.
- Retain the current locality-based panels for inclusion work for children of secondary school age only.
- A countywide panel would need to meet virtually on a weekly or fortnightly basis. Meetings would need to be representative and, given the admissions responsibilities of the LA, this panel would need to be organised, clerked and, chaired by the LA. A panel of this type would need to be of a similar size to the current County Primary Fair Access Panel which is made up of the Admissions and Transport Services Manager, two primary headteachers (drawn from a "pool" of volunteers), an Exclusion and Reintegration Officer and a clerk/note taker.
- The administrative process would be reduced with minuting outcomes only, notifying the identified schools of the results of the panel meeting and then offering places immediately.
- This approach would be likely to reduce the time taken to identify school places and offer a school place to a child.
- There would be no need to physically meet, even when the COVID-19 emergency is over
- The representatives of secondary schools would still have a direct voice in the placement of "hard to place" children when sitting on the new county panel

5.2 Option 2

- Retain the current County Primary Fair Access Panels, for the placement of hard to place children of primary school age
- From April 2021 split the inclusion and placement work for children of secondary school age by setting up a countywide panel to agree placements for all hard to place students of secondary school age and keep the current locality-based panels for inclusion work only.
- Option 2 would meet the expected DfE requirement to place children referred to Fair Access in 20 school days.

5.3 Option 3

- Retain the current County Primary Fair Access Panels for the placement of hard to place children of primary school age.
- From April 2021, split the inclusion work and the placement of permanently excluded students from the placement of all other hard to place children of secondary school age applicants by setting up a countywide panel to agree placements for secondary in-year applicants and keeping the current locality-based panels for inclusion and the placement of children who have been permanently excluded from school.
- Option 3 would, in most cases, meet the expected DfE requirement to place children referred to Fair Access in 20 school days. However, the placement of permanently excluded children could take longer than 20 school days from referral to placement. However, this risk is ameliorated by the fact that permanently excluded children from schools in Oxfordshire should be in receipt of full-time education through Alternative Provision.
- The panel responsible for placing hard to place in-year applicants could, as in Options 1 and 2, meet on a weekly or fortnightly basis. The difference is that the placement of permanently excluded secondary students would remain with the locality-based panels.
- Option 3 leaves the placement of permanently excluded children of secondary age with the locality-based panels.
- The administrative process would be reduced with minuting outcomes only, notifying the identified schools of the results of the panel meeting and then offering places immediately.
- There would be a reduction in the time taken to identify and offer a school place.

- There would be no need to physically meet, even when the COVID-19 emergency is over.
- The placement of permanently excluded children would still take as long as at present and it is difficult to see how it would in practice be possible to meet a 20-school day deadline from referral to the offer of a school place. As stated earlier this is ameliorated by the fact that permanently excluded children from schools in Oxfordshire should be in receipt of full-time education through Alternative Provision

5.4 Option 4

- Retain the existing arrangements
- The current process is understood and largely accepted by secondary schools.
- However, the current delays experienced in identifying school places for hard to place children would continue. If the 20-school day deadline from referral to the identification of a place is confirmed, the arrangements will not be “fit for purpose” since they will not meet the requirements of the revised School Admissions Code.
- The current administrative burden is unsustainable for the LA

6. Response

- 6.1 When responding, please use the Response Form which should be returned to: consultationforadmissions@Oxfordshire.gov.uk

Admissions Team
Oxfordshire County Council