

# Fair Access Protocol

February 2016

## **Fair Access Protocols Terms of Reference**

Suffolk's Fair Access Protocols (FAP) are testament to the excellent and effective partnership work between local schools and the local authority to maximise the life chances and choices for local children and young people. Education should not be in isolation from the wider range of support and services already provided and should be available to meet the needs of all local children, young people and families.

**Suffolk's Fair Access Protocol/Children Missing Education Protocols reflect the LA's responsibility for safeguarding and promoting the welfare of children and young people as well as educational attainment**

# Suffolk County Council Fair Access Protocol Terms of Reference

## 1. Introduction

- 1.1 The Fair Access Protocol (FAP) in Suffolk was established in September 2005 and operates panels currently on a regular meeting cycle. Within the local authority it is the School Admissions and Inclusion Team that administers the processes and procedures associated with the FAP.
- 1.2 FAP Terms of Reference are guided by the School Admissions Code 2014 which clearly states that all admission authorities **must** comply with the mandatory requirements of the Code and admissions legislation. All schools and academies **must** participate in the local authority's Fair Access Protocol in order to ensure that unplaced young people, who live in the local authority, especially the most vulnerable, are offered a place within suitable provision as quickly as possible. This includes admitting children and young people above the published admission number to schools that are already full, where appropriate. The age group focus for this framework locally will be the statutory schooling age groups.
- 1.3 Currently in Suffolk the needs of children and young people with Statements of Special Educational Needs (which are being replaced by Education, Health and Care Plans) are not included in this protocol as their needs are considered separately by the local authority SEN panel. However, it should be recognised that from time to time pupils in possession of a statement or an Education, Health and Care Plan (EHC plan) may need to be referred to the In-Year Fair Access Panel (IYFAP) to seek alternative provision. This may be:
- when a child is permanently excluded as Day 6 procedures would need to be ratified by IYFAP;
  - to assist the SEN panel to take a determined way forward;
  - to assist SEN panel decisions;
  - for information sharing;
  - where an urgent interim placement is required whilst SEN/EHC plan decisions are put in place – this will need to be discussed on a case to case basis at IYFAP. The locality alternative provision should not be seen as the default position for SEN/EHC plan cases regarding urgent placement of a pupil;
  - Being at risk of permanent exclusion – SEN/EHC procedures should apply in relation to the formal SEN Statement or EHC Plan;
  - Where SEN/EHC plan cases are referred and presented to IYFAP this should be undertaken by the Group Manager with responsibility for SEN rather than other professionals. Any recommendations/observations made by the IYFAP should normally be reported to the next SEN/EHC plan panel which are not bound by them.

## 2. Principles of the In-year Fair Access Panel (IYFAP)

- 2.1 The majority of young people requiring a school place in-year will continue to be admitted to a school in accordance with the usual in-year admission procedures, rather than IYFAP.
- 2.2 It is essential to the success of IYFAP that all headteachers and governing bodies agree to the aims, principles and procedures and give their fullest support.
- 2.3 All schools are open to IYFAP allocations regardless of whether a headteacher attends or does not attend the panel. Adopting this principle will contribute to the equity of placements across all schools.

- 2.4 Decisions will be made fairly, consistently and transparently in the best interests of the young person's educational needs, the considered allocated school and in the spirit of the Children Act 2004, Education and Inspections Act 2006, the Education and Skills Act 2008 and the School Admissions Code.
- 2.5 Access to education following IYFAP allocation is secured within agreed timescales both at the point of entry and exit from provisions. This applies not only to mainstream school placements but alternative provision (AP) settings.
- 2.6 Decisions will be reached by consensus deploying the points based formula (weighting table), whenever possible, with the chair mandated to take appropriate action where this has not proved possible and/or in special circumstances when it would not be appropriate for a school to accommodate a pupil even if it was the relevant school's requirement to do so in line with the complexity weighting framework (appendix A).
- 2.7 No school should be asked to take a disproportionate number of pupils who have either been excluded from other schools, or who have been considered at IYFAP because they are viewed as being hard to place. The complexity points weighting table in appendix A provides a framework for supporting the equitable distribution of vulnerable learners into provision, with proportionate needs led weighting criteria.
- 2.8 All schools recognise their collective responsibility for all pupils and will work collaboratively to manage pupils with challenging behaviour, involving multi-agency support, accessed where appropriate. All members will work together to secure commitment to the inclusion agenda and to reduce exclusion from schools.
- 2.9 Recognise the success of proactive work being undertaken cooperatively by schools to prevent exclusion and to support young people.
- 2.10 Have a clear and transparent policy regarding Managed Moves between schools/academies and between schools/academies and AP and that this policy will be used through IYFAP arrangements wherever possible, to prevent permanent exclusions within the local authority.
- 2.11 The remaining age weighted pupil unit (AWPU) for the managed move pupil (a pro rata amount depending on the time of year) and a flat rate deduction of £2k will be transferred from the home school's budget to the receiving school from the date that the pupil successfully transfers onto the receiving school's roll. In the event that the trial period is unsuccessful, the home school will transfer £500 to the receiving school in recognition of additional support the receiving school has provided.
- 2.12 Parents will be given prior information about a decision to refer a pupil to IYFAP and where appropriate (i.e. non statutory placements) will have the opportunity to express preferences about alternative placements and/or to make a written representation to the panel. Wherever possible, parents' views will be considered, but will not override the protocol if the recommended school is not in a position to admit the young person.
- 2.13 Parents will be guided to the process of appeal if the preferred school/s on an in-year admission application are not met as an outcome of IYFAP deliberation/allocation.
- 2.14 The views of pupils will be sought whenever possible to inform the process prior to panel meetings taking place.

- 2.15 A parent can apply for a school place at any time on an in-year application form and it must be processed. Young people without a school place who are considered to be hard to place, will be referred to and allocated the most appropriate education provision by IYFAP. This is likely to be in a mainstream school unless there are legitimate reasons for refusing an application when places are available in a year group. It is anticipated that a mainstream placement will be the main allocated pathway. Schools must not take account of reports from previous schools about children's past behaviour, attendance, attitude or achievement, or that of any other children in the family.
- 2.16 It is acknowledged that some pupils with challenging behaviour would benefit from being educated other than in mainstream schools for periods of time, e.g. in AP settings. For the protocol to operate effectively there must be clear arrangements for entry/admission into AP and for reintegration/return to mainstream education.
- 2.17 The effectiveness of the protocol across all three locality panels must be monitored by the local authority, and in order to do this, it has been agreed by headteachers that the Inclusion Team co-ordinates IYFAP. Local authorities are required to submit an annual report to the Schools Adjudicator that outlines an assessment of the operation of the FAP, its effectiveness and a statement about how well the FAP has worked and how many young people have been admitted to each school in the local authority. This report should be submitted by the end of June each year.
- 2.18 The protocol will also need to be reviewed on an annual basis by the local authority, in conjunction with headteachers/principals. This will be required in order to assess its effectiveness in ensuring that unplaced children are being allocated places at schools/academies or in alternative educational provision on an equitable basis and in support of locality AP Commissioning arrangements.
- 2.19 The Home to School Travel policy applies to placements made by IYFAP. The county council is required to provide free transport for all pupils of compulsory school age (5 to 16) to their nearest suitable school when it is 2 miles or more (if below the age of 8); or three miles or more (if aged between 8 and 16). There are further statutory requirements in relation to pupils from low income families when the nearest suitable school is beyond 2 miles (for children over the age of 8 and under 11); the school is between 2 and 6 miles (if aged 11-16 and there are not three or more suitable nearer schools); or the school is between 2 and 15 miles and is the nearest school preferred on the grounds of religion or belief (aged 11-16). In addition to the statutory offer, the LA will provide help with free travel to the school designated within the Transport Priority Area. The Transport Priority Areas can be viewed at [www.suffolkonboard.com/home-to-school-transport/](http://www.suffolkonboard.com/home-to-school-transport/). Transport is provided to eligible pupils at the beginning and end of the school day. It is not provided during the school day. The policy is on the county council's website at [www.suffolkonboard.com/home-to-school-transport/](http://www.suffolkonboard.com/home-to-school-transport/). Transport is provided to eligible pupils at the beginning and end of the school day. It is not provided during the school day. When a school or AP provider identifies that provision of transport is required to meet a child or young person's very exceptional need, they should make a referral with relevant evidence to the Local Offer Manager, who will then consider the request.

### **3. School Admissions Code 2014, Legislation and Fair Access Protocols**

- 3.1 Fair Access Protocols are mandatory and protocols **must** include, as a minimum, children of compulsory school age who have difficulty in securing a school place in the following categories: (See paragraph 3.15 of the School Admissions Code.)

- Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- Children who have been out of education for two months or more;
- Children of Gypsies, Roma, Travellers, refugees and asylum seekers;
- Children who are homeless;
- Children with unsupportive family backgrounds for whom a place has not been sought;
- Children who are carers; and
- Children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care plan).

In Suffolk, the FAP will also include the following children of compulsory school age:

- Children resident at a Women's Refuge
- New arrivals in the catchment area for whom a placement at the nearest school with places available is considered by the local authority to be unreasonable. Such placements are likely to be considered unreasonable in the following circumstances:
  - The nearest school with places would require the child to move from a two tier to a three tier system or vice versa, other than admission to Key Stage 4.
  - The travelling time to and from the nearest school with places would exceed the maximum travel times used by the LA, i.e., up to 45 minutes for primary children and 1 hour 15 minutes for secondary aged pupils.
  - If the cost of transport to the nearest school with places is more than the age weighted pupil unit (AWPU).
- Other children who for exceptional reasons should be considered to be vulnerable. These students may have complex needs, contact with previous school may no longer be feasible, or they may not have been educated in a mainstream school when in their previous Authority. IYFAP will determine whether a child should be considered under this protocol in light of the evidence presented to it. However, given the nature of an individual case, the Head of School Admissions may ask a school to admit a child above its PAN in exceptional circumstances.
- Children withdrawn from schools by their family, following fixed term exclusions and unable to find another place;
- Children without a school place and with a history of serious persistent attendance problems;
- Children known to the police or other agencies;
- Children who are electively home educated (EHE) whose parents elect for them to return to mainstream education;
- Children at risk of permanent exclusion and those children permanently excluded from schools/academies or AP settings.

3.2 Within the terms of this protocol placement decisions may result in the admission of children above a school's/academy's admission number. Schools/academies cannot cite oversubscription as a reason for not admitting a young person under the Fair Access Protocol. The School Admissions Code requires that those children allocated a place at a school/academy in accordance with a Fair Access Protocol must take precedence over those on a waiting list.

3.3 Schools **must** respond quickly to requests for admission so that the admission of the child is not delayed. Admission should take place within 5 school days of a school/academy being notified of a decision under the Fair Access Protocol.

- 3.4 As part of assessing the suitability of a placement for a young person where practicable IYFAP **must** take account of any genuine concerns about the admission, for example a previous serious breakdown in the relationship between the school and the family, or a strong view about the religious ethos of the school.
- 3.5 Wherever possible, pupils with a religious affiliation **should** be matched to a suitable school, but this **should not** override the protocol if the school is unable to take the pupil, or if the pupil identified for the school does not have an affiliation.
- 3.6 Local authorities **must not** require undersubscribed schools to admit a greater proportion of young people with a recent history of challenging behaviour than other schools.
- 3.7 If a school/academy refuses to admit a pupil under the terms of the Fair Access Protocol, the case will be returned to the next IYFAP panel meeting where the reasons for the refusal will be considered and either: another school/academy or AP will be named or action will be taken either (a) for a direction letter to be issued to a maintained school; or (b) to seek a direction from the Secretary of State for an academy.

#### **4. Children with challenging behaviour and those who have been excluded twice**

- 4.1 Admission authorities **must not** refuse to admit children in the normal admission round on the basis of their poor behaviour elsewhere. Where a child has been permanently excluded from two or more schools/academies, there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion. The twice excluded rule does not apply to children who were below compulsory school age at the time of exclusion, children who have been re-instated following a permanent exclusion or would have been had it been practicable to do so and children with Statements of Special Educational Needs or EHC plans.
- 4.2 Where a governing body does not wish to admit a child with challenging behaviour outside the normal admission round, even though places are available, it must refer the case to the School Admissions Team for action under the Fair Access Protocol. This will only be appropriate where a school/academy has a particularly high proportion of children with challenging behaviour or previously excluded children. This provision will not apply to looked after children, a previously looked after child or a child with a Statement of Special Educational Needs/EHC plan, naming the school/academy in question, as these children must be admitted. 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 an EHC plan.
- 4.3 The governing body of a community or voluntary controlled school, whilst not the admission authority for the school, may still under the terms of Suffolk's Fair Access Protocol refer a case to the local authority for action under the FAP.

#### **5. The local authority's powers of direction**

- 5.1 **Local authority powers of direction (general powers)**
- 5.1.1 The local authority will consider giving a maintained school a direction to admit a child where it notifies the local authority within 7 calendar days of notification of the placement being made of its refusal to admit a child placed at the school via the Fair Access Protocol. The local authority has the power to direct the admission authority for any maintained school in Suffolk to admit a child even when the school is full. The local authority can only make such a direction in respect of a child residing in Suffolk

who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance. The local authority must choose a school that is a reasonable distance from the child's home and from which the child has not been permanently excluded. It must not choose a school that would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.

5.1.2 Before deciding to give a direction, the local authority **must** consult the governing body of the school concerned, the parent of the child and the child if they are over compulsory school age. If, following consultation, the local authority decides to direct, it **must** inform the governing body and the headteacher of the school concerned. The governing body can appeal by referring the case to the Schools Adjudicator within 15 calendar days (seven days for a looked after child). If it does this the governing body **must** tell the Local Authority. The Local Authority **must not** make a direction until the 15 days have passed and the case has not been referred.

5.1.3 If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school **must** admit the child. The Adjudicator's decision is binding. The Adjudicator **must not** direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.

## 5.2 **Secretary of State's power of direction (academies)**

Where the local authority considers that an academy will best meet the needs of any child, it will ask the academy to admit that child but has no power to direct it to do so. It is anticipated that the local authority and the academy concerned will usually come to an agreement, but if the academy refuses to admit the child, the local authority may ask the Secretary of State to intervene. The Secretary of State has the power under an academy's Funding Agreement to direct the academy to admit a child, and can seek advice from the Adjudicator in reaching a decision.

## **6. Chair's Action between IYFAP meetings**

6.1 Only in exceptional circumstances will the Chair be required to take decisions outside of IYFAP. Where possible these cases should be restricted to young people from the Youth Offending Service (YOS), cases with safeguarding considerations and where required to comply with statutory placement requirements for permanently excluded learners.

It is envisaged that Chair's action may be required in a limited number of YOS cases in order to meet required timescales. The majority of cases will be presented at IYFAP for consideration of the appropriate education pathway. It may be that local AP is considered as a first destination for the young person in order to gather evidence, evaluate needs and provide most relevant information for a future IYFAP meeting. If this is a consideration it should not be seen as the default position. The expectation is that IYFAP will deal with the majority of cases.

## **7. Managed Moves**

7.1 IYFAP will consider requests for Managed Moves (managed transfers) between schools or to an alternative provision and will progress the procedure on the condition that the suggested move will have a positive impact on the pupil's progress and inclusion in a mainstream setting where appropriate. In the case of pupils with a Statement of SEN or EHC plan it is important that schools involve the local authority's SEND team and/or SEN panel in the process for progressing managed moves for this cohort.

- 7.2 DfE issued guidance (July 2012) titled “Exclusion from maintained schools, academies and pupil referral units in England”, provides statutory guidance on factors that a headteacher should take into account before taking the decision to exclude. A pupil can also transfer to another school as part of a ‘managed move’ where this occurs with the consent of the parties involved, including the parents. However, the threat of exclusion must never be used to influence parents to remove their child from the school.
- 7.3 A Managed Move to another school is an option to enable the young person to have a fresh start in a new school.
- 7.4 By consideration of a Managed Move, the headteacher/principal recognises that there has been a serious breach of behaviour policy within the school/academy and that all support mechanisms to improve behaviour have been exhausted but is looking for an outcome other than a permanent exclusion.
- 7.5 The process would require the headteacher (referring school) to ask another headteacher (potential receiving school) to admit the pupil. This procedure should only be done with the full co-operation of all parties involved, including the parents, governors and the local authority supported by IYFAP.
- 7.6 The process would then require the headteacher/principal of the referring school/academy to refer the case for consideration by IYFAP. The headteacher/principal would need to provide information that there had been a serious breach of behaviour policy within the school/academy and that all support mechanisms to improve behaviour had been exhausted.

If support for a move is established the case can be taken to IYFAP for allocation recognition. If a potential receiving school has not been identified outside of IYFAP the case can be brought to panel for discussion and recommendation by the referring school for a fresh start managed move opportunity. In some circumstances, it may be necessary for a managed move to be arranged outside of IYFAP under Chair’s actions through the Local Offer Broker.

- 7.7 Cases for managed moves can only be submitted to IYFAP if the prior written consent of the parents/carers and the child concerned has been obtained.
- 7.8 Parents/carers should never be pressured into removing their child from school under threat of permanent exclusion, nor should pupils’ names be deleted from the school roll on disciplinary grounds unless the formal exclusion procedures set out in statute and in the July 2012 Exclusion guidance have been adhered to or unless a Managed Move has been agreed by all relevant parties.
- 7.9 A Managed Move should be reviewed after 6 weeks of the managed transfer starting. At this formal review meeting at which a member of the Inclusion Team should attend, a formal review date is to be set to complete the managed transfer or to extend the transition process. A clear deadline needs to be set to determine the success of the Managed Move – the maximum placement should be 9 weeks.
- 7.10 A Managed Move should be viewed as a trial placement. It is recommended that for the duration of the trial period the referring school maintains the Enrolment Status of ‘M’ (Main dual-registration). The receiving school has an Enrolment Status of ‘S’ (Subsidiary dual-registration).

- 7.11 The receiving school, the referring school and the local authority (Inclusion Team) should draw up a clear plan of support for the pupil, both prior to entry and during the trial period, drawing on all available and appropriate resources.
- 7.12 A final decision should be made by the receiving school at a formal review at the end of the trial period as to the permanency of the transfer. Either the pupil will transfer on to the roll of the receiving school or will return to the original school (if appropriate) or the case will return to the IYFAP for a case review/update.
- 7.13 All schools should act in the spirit of partnership and co-operate for Managed Move arrangements to be given the best chance to work.
- 7.14 The Home to School Travel policy applies to managed moves. The county council is required to provide free transport for all pupils of compulsory school age (5 to 16) to their nearest suitable school when it is 2 miles or more (if below the age of 8); or three miles or more (if aged between 8 and 16). There are further statutory requirements in relation to pupils from low income families when the nearest suitable school is beyond 2 miles (for children over the age of 8 and under 11); the school is between 2 and 6 miles (if aged 11-16 and there are not three or more suitable nearer schools); or the school is between 2 and 15 miles and is the nearest school preferred on the grounds of religion or belief (aged 11-16). In addition to the statutory offer, the LA will provide help with free travel to the school designated within the Transport Priority Area. The Transport Priority Areas can be viewed at [www.suffolkonboard.com/home-to-school-transport/](http://www.suffolkonboard.com/home-to-school-transport/). Transport is provided to eligible pupils at the beginning and end of the school day. It is not provided during the school day. When a school or AP provider identifies that provision of transport is required to meet a child or young person's very exceptional need, they should make a referral with relevant evidence to the Local Offer Manager, who will then consider the request. Free home to school travel would normally be provided to eligible pupils until the 6-week review has been completed.

## **8. FAP in relation to alternative provision (AP), formerly pupil referral units and Day 6 provision for permanently excluded pupils**

- 8.1 FAP where deployed effectively nationally has proven to have made a significant contribution to the downturn in permanent exclusions in a number of local authority areas since introduction in 2005.
- 8.2 Currently, AP settings within the local authority are the designated base for permanently excluded pupils.
- 8.3 It is intended that FAP and/or Chair's actions will be afforded the opportunity to discuss cases of permanently excluded pupils before the Governing Body Disciplinary Committee meets to deliberate/consider the exclusion. This will allow potential alternatives to permanent exclusion to be discussed.
- 8.4 Wherever possible, depending on the incident that led to the permanent exclusion, an alternative solution will be sought. It remains the right of a Headteacher to permanently exclude and recommend to IYFAP that the severity of the incident does not warrant consideration that the exclusion be withdrawn.
- 8.5 Wherever the young person is permanently excluded within the cycle of IYFAP panels the case will need to be presented at the forthcoming meeting not only to discuss the case but also to formally recognise the Day 6 allocation.
- 8.6 The Inclusion Team will be responsible to update the AP setting's Inclusion Manager as to the status of the young person in relation to the permanent exclusion:

- Paperwork in relation to permanent exclusion in order that Day 6 provision can be accessed.
- Date of Governing Body Committee (GDC) meeting.
- Discussions/decisions regarding potential withdrawing of permanent exclusion before GDC meeting.
- GDC outcome if permanent exclusion is not withdrawn.

- 8.7 As AP settings are the designated base for permanent exclusions, a clear procedure is required in order to meet the requirements of Day 6. Headteachers are asked to complete the IYFAP referral form at the point of the exclusion in order that the Inclusion Manager is provided with the fullest information on the young person to facilitate entry into the Day 6 provision.
- 8.8 During the first five days of the exclusion the school is required to use the 'E' Coding. From Day 6 the responsibility falls to the local authority to provide education and schools/academies should use an appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual registration).
- 8.9 Young people attending the locality AP to comply with Day 6 requirements will be returned to IYFAP after the Governing Body Disciplinary (GDC) Committee of the school/academy has met to determine whether to uphold the exclusion or direct reinstatement to the school. IYFAP will then determine the longer term education pathway for those children whose permanent exclusion is upheld.

### **9. IYFAP and criteria for selection of receiving school**

- 9.1 It is important that all schools are asked to admit a balance of pupils under the protocol. The decision should be mindful but not restricted to the following factors as well as taking account of professional advice from the referring school and appropriate professionals:
- Specific issues in relation to the individual case
  - Number of placements made by IYFAP to individual schools as reflected in the Weighting Table
  - Parental Preference
  - Geographical proximity
  - Distance factor.

### **10. IYFAP in relation to Alternative Provision (AP) allocation**

#### **Referrals being brought to IYFAP by mainstream schools requesting alternative provision allocation**

- 10.1 If a pupil is dual registered with a PRU and a school it doesn't matter which has main roll status, the results will always go to the school. The only results that stay with a PRU are those in which the pupil is only registered with the PRU. The date for this registration is the January Census.
- 10.2 Future agreement- all pupils in Year 11 attending AP full time go on to the roll of that AP but schools/academies must agree with the parents/ carers to remove their child from the roll to prevent future challenge.
- 10.3 Parents/carers are invited to AP Induction meeting.

- 10.4 If allocation is to alternative education provision, then the Referral Form must be completed by the school/academy or appropriate professional. No alternative provision interview will be arranged until the referral form is received.
- 10.5 Placement duration at the AP will be individual case specific but usually no longer than two terms. For KS4 pupils the duration period again will be case specific. However, for those attending provision during the autumn term of Year 10 a return to mainstream is possible. For those Year 10 pupils attending the AP during spring and summer terms it is less likely that mainstream will be a viable option. For Year 11 attending local AP it is unlikely that mainstream will be a viable option. However, a parent/carer stating that they require a mainstream opportunity for the young person will need to apply. A parent/carer will need to be guided to the appeals process if IYFAP does not allocate a mainstream school.
- 10.6 Named AP staff member in each provision will contact referring school for background information and school file.
- 10.7 Aim of service is for seven day turn around period from IYFAP presentation to pupil attending AP.
- 10.8 If parents decline allocation, case to be referred back to Inclusion Team by Inclusion Manager for action.

#### **Referrals being brought to IYFAP by alternative provision settings requesting mainstream schools**

- 10.9 AP presents paperwork to Inclusion Team for presentation at IYFAP with identified parental preferences. Referral forms **must be signed by parents** and received by the respective IYFAP deadline.
- 10.10 Inclusion Team to check whether parental preferences are likely to be met when considered against current allocation table. If there is a perceived problem the Inclusion Team will inform AP so that parents/carers can be further consulted on preferences.
- 10.11 Inclusion Team informs mainstream headteacher/principal of stated parental preference school/s. School invited to attend IYFAP. If headteacher is considering objecting to allocation, evidence must be presented at panel to show that the concerns they have are greater than those which may be presented at any other school.
- 10.12 AP presents case at panel.
- 10.13 IYFAP allocates pupil to mainstream pathway.
- 10.14 Inclusion Team to send formal letters to receiving school, family and AP within five working days after the IYFAP meeting.
- 10.15 AP contacts referring school to discuss pupil's placement at allocated school and to confirm date of admissions meeting.
- 10.16 AP contacts parent to invite/confirm details of admissions meeting.
- 10.17 Roll status at AP remains M main registration whilst the allocated school is the S subsidiary dual registration during integration/trial placement.

- 10.18 Expectation of a maximum seven day turn around period from IYFAP decision to pupil attending mainstream allocation.
- 10.19 If parents/carers decline allocation, the case is to be referred back to the Inclusion Team for action.
- 10.20 All Year 6 pupils should apply for a mainstream place. However, a limited number of Year 6 pupils attending the AP during the summer term may not be ready to take up allocated secondary placement. These cases need to be presented to Primary IYFAP for notification and to Secondary IYFAP for allocation to AP KS3 provision. Integration into mainstream will take place at the appropriate time case specific from the KS3 base. The admissions team must be advised if the mainstream place is to be withdrawn so that it may be allocated to another pupil.

### **11. FAP in relation to – Power to refer pupils to off-site alternative provision to improve their behaviour**

- 11.1 Section 154 of the Education and Skills Act 2008 added a new section 29A of the Education Act 2002 and introduced a power for governing bodies of maintained schools to require a registered pupil to attend off-site provision with a view to improving their behaviour. The statutory guidance on this notes that academies have a similar option available to them which comes from their general powers under their funding agreement.
- 11.2 The power is given to governing bodies and not IYFAP. Headteachers/principals can bring suitable cases to IYFAP asking for a supportive allocation but the panel and associated procedures would not have the authority to progress the allocation as the power resides with governing bodies. Governing Bodies attempting to use the 'Power to refer pupils to off-site provision to improve their behaviour' will need to consider making a stand-alone referral to IYFAP to allow IYFAP procedures to consider the case and determine allocation.
- 11.3 The requirement residing with governing bodies is a 'power' and not a 'duty'. There is a clear difference in law whereby a 'power' is discretionary whereas a 'duty' must be discharged/fulfilled.
- 11.4 A parent refusing to send/comply with the requirement stating reasons for this refusal would need that reason considered by the governing body not IYFAP. An example of refusal might be because of perceived gang culture or locality issues. Each case would need to be considered on its own facts by governing bodies.
- 11.5 As long as a governing body is able to rationalise and document the reasons for requiring the child to attend off-site provision using the power given a parent could be prosecuted for the child's non-attendance.
- 11.6 Headteachers and governing bodies are asked to consider using the power to refer pupils to off-site provision as a last resort option. This will allow for FAP and the associated protocols to deal with the overwhelming majority of cases that would be considered within the 'power'.

# **Appendix A**

## **1. Fair Access Protocol: allocation of children – Point scoring system**

- 1.1 This system aims to ensure fairness and equity in the distribution of those children identified as “fair access” as defined in the Protocol. It is intended to support the principle that all schools are inclusive and already take a wide and diverse population whilst recognising particular circumstances which may mitigate against admitting fair access children.

The system is designed to be easy to calculate, clear to understand and accurately represent the position of each school. The system will be managed and maintained by the IYFAP Panel.

### **1.2 The system**

1. Schools will be ranked according to their score
2. The scoring system will be made up of two component parts:
  - Initial score, set annually
  - Child complexity score, adjusted whenever a school receives or excludes a child.
3. The initial score for each school will be set from the latest available PLASC data.
4. The following data will be used to determine initial scores;

|   | <b>% base weighting for average school</b>  |
|---|---|
| <b>Number of pupils starting Key Stage 4 (high school) Key Stage 2 (primary) in low prior attainment band</b> | <b>30%</b>  |
| <b>Number disadvantage pupils</b>   | <b>30%</b>  |
| <b>Non mobile</b>   | <b>20%</b>  |
| <b>Total absence</b>  | <b>10%</b>  |
| <b>SEN percentage (calculated using all children for all ages )</b>   | <b>10%</b>  |
| <b>Baseline weighting</b>   | <b>100%</b>   |
| <b>Ofsted rating</b>  | <b>1.1 Outstanding</b><br><b>1.2 Good</b><br><b>1.3 Inadequate</b><br><b>1.4 Serious Weakness or Special Measures</b> |

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**Gross base weighting = Baseline weighting % X Ofsted rating**

In very exceptional circumstances the Panel may increase the points awarded up to the maximum of 30 points. For example, in the case of a child with a complex history which places them in multiple categories and who has been out of education in excess of one academic year.

5. The complexity weighting score (1.4 below) represents a figure given to children identified by the Protocol when they move into or out of a school, other than at times of transfer. The weighting given to each category is based on previous DfE guidance and the experience of the local authority in placing particular categories of children.
6. The figure is added or subtracted to determine the relevant school score and ranked position at any given point during the school year.

7. In the exceptional event that schools are unable to agree placement, then the Panel will determine a placement on the basis of the points scoring system having considered all relevant facts.
8. Should any school disagree with the placement decision, then they can appeal to the Assistant Director for Education and Learning.

### **1.3 Monitoring arrangements**

Schools will be responsible for confirming with the LA that children have been admitted within five working days of the admission date.

The LA will be responsible for updating and maintaining the formula ranking score for each school which will be updated on a secure site for schools to view at the start and end of each school year.

### **1.4 Complexity Weighting Score**

Point score for high schools are as stated on the table below, for primary and middle schools the point score will be multiplied by 0.5. The 'Complexity Weighting Score' is for guidance only and the final point score that is to be added to the Gross base weighting will be decided upon by the In Year Fair Access Panel.

|   | <b>Education Background</b>   | <b>Points</b> |
|---|---|---------------|
| A | Children from the criminal justice system   | 30            |
| B | Children moving into Suffolk having received out of school package in previous authority  | 30            |
| C | Children currently attending alternative provision settings who are ready to be integrated back into mainstream education   | 30            |
| D | Looked after children/previously looked after children  | 30            |
| E | Children without a school place and with a history of serious attendance problems (less than 85% attendance)  | 25            |
| F | CiN/TAC/Involved with Troubled Families (SFF)   | 20            |
| G | Children for whom it has been identified that they would benefit from a managed move  | 20            |
| H | Children reintegrated in Year 11  | 20            |
| I | Children with special educational needs and children with disabilities or medical conditions where there are difficulties with particular support or for reasonable adjustments which the involvement of the appropriate support services have been unable to resolve | 15            |
| J | Children withdrawn from school by their family, following fixed-term exclusions and unable to find another place  | 15            |
| K | Homeless Children   | 15            |
| L | Children who have been out of education for two months or more  | 15            |
| M | Gypsy, Roma, Traveller children   | 10            |
| N | Children of refugees and asylum seekers   | 5             |
| O | Children in refuges   | 5             |
|   | <b>Confirmed permanent exclusion penalty</b>  | <b>-50</b>    |