

# Fair Access Protocol

2025

**2.22** Own admission authority schools must, on receipt of an in-year application, notify the local authority of both the application and its outcome, to allow the local authority to keep up to date figures on the availability of places in the area. The admission authority must also inform parents of their right to appeal against the refusal of a place

**2.24** When an admission authority informs a parent of a decision to refuse their child a place at a school for which they have applied, it must include 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. Parents must be informed that, if they wish to appeal, they must set out their grounds for appeal in writing. Admission authorities must not limit the grounds on which appeals can be made



School admissions code - GOV.UK ([www.gov.uk](http://www.gov.uk))

**2.4** In some cases, admission authorities will need to ask for supplementary information forms in order to process applications. If they do so, they must only use supplementary forms that request additional information when it has a direct bearing on decisions about oversubscription criteria or for the purpose of selection by aptitude or ability. **They must not ask, or use supplementary forms that ask, for any of the information prohibited by paragraph 1.9 above or for:** a) any personal details about parents and families, such as maiden names, criminal convictions, marital, or financial status (including marriage certificates); b) the first language of parents or the child; c) details about parents' or a child's disabilities, special educational needs or medical conditions; d) parents to agree to support the ethos of the school in a practical way; e) both parents to sign the form, or for the child to complete the form

Referral to the Fair Access Protocol Upon receipt of an in-year application, an admission authority must not refuse to admit the child to a school on the basis that they would be, or they believe they would be, eligible to be placed via the FAP. The application must be processed in accordance with the usual in-year admissions process

Fair access protocols: advice for local authorities and school admission authorities ([publishing.service.gov.uk](http://publishing.service.gov.uk))



# FAIR ACCESS FACTS



Fair Access is **ONLY** appropriate to children, who meet the **defined criteria**, where:

1.

They have been unsuccessful in securing a school place through the normal in-year admissions process – this could be that their preference schools are full **and** there are no school places available, within a **reasonable distance**.

2.

A school wishes to refuse on the grounds of challenging behaviour, paragraph 3.10 of the Code.

# 1. Fair Access Admissions process

They have been unsuccessful in securing a school place through the normal in-year admissions process



Where a child, who meets the fair access criteria, is having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a school place through the normal process, **only then** will the application be referred for placement via the Fair Access Protocol.

The admissions process will conclude – parent will be sent refusal letters for their preference school(s) and given their right of appeal.

Admissions Team will make an 'unplaced referral' and submit to Fair Access Panel

The Fair Access Panel assume responsibility for securing the child a school place.

The Fair Access Panel are bound to secure a school place within 20 school days from the date the case is first discussed by Panel

Upon a school being allocated via the Fair Access Panel, the child **must** be put on roll as a matter of urgency, even if the child is starting on a phased reintegration plan.

# DEFINED CRITERIA

*If unsuccessful applying in year...*



## 2. Refusal on the grounds of challenging behaviour



Where a school receives an in-year application, 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 application to Fair Access.



Schools must complete the Challenging Behaviour Referral Form – the case will be added to the agenda for the next available Fair Access Panel meeting.



At Panel schools can evidence that they have a particularly high proportion of children with challenging behaviour or previously excluded children on roll compared to other local schools; and



They can evidence that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

# Challenging Behaviour



Behaviour can be described as challenging where it 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.

We would expect this behaviour to significantly interfere with the pupils/other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment

A child with challenging behaviour may also be disabled as defined in the Equality Act 2012. When considering refusing admission on these grounds admissions authorities must consider their duties under that Act.

Admission authorities should also consider the effect of the decision of the Upper Tribunal in *C & C v The Governing Body of a School*. The Secretary of State of Education (First interested Party) and The National Autistic Society (Second interested Party) (SEN) (2018) UKUT 269 (AAC) about the implications of the Equality Act 2010 when a pupil exhibits a tendency to physical abuse of other personal as a consequence of a disability. Judicial Summary can be found [here](#)

Schools will need to evidence why they believe the child may present challenging behaviour before refusing admission on these grounds and can ask the previous school for background information to support this. The AIP may be able to support with this. Any information gathered should be made available for the consideration of the Fair Access Panel.

Please note: Challenging Behaviour (3.10 of the Code) is not a legitimate reason for refusing to admit any child who is seeking a place in Reception or Year 7 at any point during that year

# Criterion K criteria 2024 – due to exceptional circumstances



**Criterion K – Children for whom a place has not been sought due to exceptional circumstances** The School Admissions Code states that it is for the Local Authority to decide whether a child qualifies to be placed via the Protocol on this basis, based on the circumstances of the case.