

FAIR ACCESS PROTOCOL

Date: January 2026

**SCHOOL ADMISSION ARRANGEMENTS FOR
VULNERABLE CHILDREN WITHOUT A SCHOOL PLACE**

1. PURPOSE

This protocol is devised, as required by the School Admission Code 2021, to ensure that access to education is secured quickly for children who have no school place, and to ensure that all schools and academies in an area admit their fair share of vulnerable children. This protocol applies equally to all schools and academies. This protocol also reflects the Fair Access Protocol guidance issued by the Department for Education (DfE) in November 2012, reviewed in 2014 and 2021.

The protocol applies to the placement of vulnerable children **outside** the normal admissions round and will only take effect when parents/carers have exhausted the normal methods of admission and been unable to find a school place for their child (i.e. the in-year application process) unless the referral is made through an Alternative Provision School as the child has been permanently excluded. Parents may still use their legal right of appeal if they wish for their child to attend one of their preferred schools. This protocol cannot be used for a child with an Education Health Care Plan or for a Looked After Child (Child in Care).

Where the parents wish to change the child's school (for whatever reason), it is expected that the family work with the child's current school to address any issues, and if this is unsuccessful, that they follow the usual in-year admissions process to secure an alternative school place. Parents must not remove their child from school without alternative education already in place. This protocol will not apply to children on roll of a school; despite any attendance issues they may have – unless a change to the family circumstances means that continued attendance at the current school it is not viable (i.e. a house move to another part of the county).

The School Admission Code 2021 states that:

*“Each local authority **must** have a Fair Access Protocol, to ensure that unplaced and vulnerable children and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible.”* (Section 3.14)

*“Once the Protocol has been agreed by the majority of schools in its area, all admission authorities **must** participate in it.”* (Section 3.15)

2. SCOPE

Meeting the needs of children and young people is at the core of this policy and a holistic perspective will be taken in all circumstances. Under every child's right to education, long-term mainstream school places will be sought as priority over time limited placements at Alternative Provision schools to help every child reach their full potential. However, where necessary, pupils will be offered a short-term placement at an Alternative Provision school to ensure they continue to receive education whilst a school place is being sought through this protocol.

The School Admission Code 2021 states that:

“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, or who are placed via the Protocol.”

Gloucestershire’s response to this requirement has been to introduce a Fair Access Placement Panel system where relevant agencies consider the needs of children and secure their education.

To ensure that no school is allocated a disproportionate number of children who have been excluded or have challenging behaviour, in pursuing a school place under the Fair Access Protocol, parents cannot be guaranteed a place at a specific school – although parental preference will be considered alongside a range of other factors. Cases, therefore, where parents are only seeking admission to a named school, should be referred through the usual admissions’ appeals process.

Parents remain legally responsible for ensuring that their child receives education. Therefore, should they choose to refuse the school place offered under this protocol, they will need to secure a school place through the usual admissions and appeal process in recognition that the local authority has already made an offer of a school place. It should be noted that non-attendance at school may result in prosecution.

This protocol applies to the compulsory categories of vulnerable pupils as required by the School Admissions Code 2021:

- children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol
- children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol
- children from the criminal justice system
- 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.
- children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions
- children who are carers
- children who are homeless
- children in formal kinship care arrangements
- children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers
- 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 this Code
- children for whom a place has not been sought due to exceptional circumstances
- children who have been out of education for four 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
- previously looked after children for whom the local authority has been unable to promptly secure a school place.

Excepted Groups:

The Fair Access Protocol does not apply to the following groups due to enhanced provisions elsewhere in legislation to enable them to secure an appropriate school place more efficiently:

- i) Where a child has an Education Health & Care Plan - where the National SEND Code of Practice 2015 must be followed;
- ii) Where a child is a Looked After Child (Child in Care) – where Section 3.12 of the School Admission Code 2021 makes it clear that these pupils must be admitted to the school requested. The Local Authority may need to pursue a direction in such cases if a place is refused.

Fast Track FAP Route

A Fast Track FAP is when a child moves rapidly to another mainstream school to ensure continuity of education provision, particularly around public exam preparation and entry. In most cases this means they will not spend any time at The Altus Alternative Provision School.

Each case is considered individually by The Altus School senior staff, GCC Inclusion staff and the school that issued the permanent exclusion. When a notification is received, and it is deemed in the best interest of the child to consider the child for a Fast Track FAP, this process can be initiated by the excluding school, GCC Inclusion Service or The Altus School.

Common reasons leading to the consideration for a Fast Track FAP might be, but are not limited to, the following:

- the child is in line to achieve a high number of GCSE grades
- the child is in Year 11
- the permanent exclusion is for a one-off event

Challenging Behaviour:

Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it must refer the case to the Local Authority for referral under the Fair Access Protocol. This is done by completion of a Fair Access Referral form, which must be completed by the school and forwarded to the In-year Admission team. However, admission authorities may only do this if:

- the school has a particularly high proportion of children with challenging behaviour or previously excluded pupils on roll in comparison to other schools; and
- it believes admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.

For the purposes of this Fair Access Protocol, 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 pupil's or other pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment.

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; or
- having a disability.

Children refused under these criteria, and with no school place, will be referred through this protocol. The In-year Admissions team and Education Inclusion Service will support other children who are already on roll of a school to seek an alternative school place if required. When considering the placement of children within this category, the fair access panel will have regard to the proportion of pupils already within each school, and year group in question, who either:

- meet this definition of challenging behaviour
- have been admitted under previous fair access decisions
- have been placed by the Local Authority as a Looked After Child (Child in Care).

Any parent whose application for a school place has been refused on the grounds of their child's challenging behaviour will have a right of appeal to an independent admission appeal panel. The appeal process will take place within the timescales set out in the School Admissions Appeal Code.

Twice Excluded Pupils

This protocol includes the provision of education for those children who have been excluded from two or more schools/academies. There are, however, additional factors that can be considered:

- Where a child has been excluded permanently from two or more schools/academies, a parent can still express a preference for a school place, but the requirement to comply with that preference is removed for a period of two years from the date on which the latest exclusion took place. However, this does not apply to:
 - children who were below compulsory school age when excluded
 - children who were reinstated following a permanent exclusion; and
 - children who would have been reinstated following a permanent exclusion had it been practicable to do so.

A permanent exclusion is regarded as taking effect from the first school day the Headteacher has told the child not to attend the school or academy.

Further information regarding the duties on schools or academies to consider applications for a child who has been excluded twice can be found in the School Admissions Code 2021.

3. IMPLEMENTATION AND REVIEW

Fair Access Panels will be arranged as a core panel of 3 Headteachers. This panel membership will normally be the Headteacher, but where this is not possible, another member of staff authorised by the Headteacher to participate in discussion and decision making can be substituted.

All decisions regarding pupil placement at receiving schools or academies will be made by the 3 Headteachers at the Fair Access Panel. The panels will be co-ordinated by the In-year Admissions team and facilitated by the Access to Education Manager. An Outcome Co-ordinator and a representative from The Altus School will also attend if a permanently excluded child is being considered.

All Headteachers will be asked to confirm their availability to sit on the panel for the subsequent term and the panels will be held at either Shire Hall or virtually. This is to ensure that schools/academies retain ownership of the panels.

It is expected that each scheduled panel Headteacher will be present at the panel meeting where they have committed to attend. There must be at least 3 Headteachers present for the panel to be quorate.

All schools under consideration for the placement of the pupil will be invited to submit their comments through the FAP School Information Sheet, co-ordinated by the In-year Admissions Team. This will enable the panel to make informed decisions based upon consistent and relevant information – all written information must be given due consideration by the panel, although there can be no guarantee that this will preclude the school from being allocated the pupil. For **secondary schools** panels only, the In-year Admissions team, with support from school data submissions, will provide an up-to-date spreadsheet of schools' points to aid the decision-making process. This spreadsheet will be shared with all schools to ensure transparency and to enable schools to have oversight of the accuracy of the data. Please see Appendix 1 for the breakdown in the different categories.

The points-based system is an attempt to bring fairness, objectivity and consistency to the application of the protocol and to ensure that no school finds itself receiving a disproportionate number of students compared to other schools. The data tracking records additional characteristics such as if the child has SEN support, has Social Care involvement, or is in receipt of Pupil Premium. Also, information is held on the proposed named schools; number of FAP placements, proportion of pupils with an EHCP and In-year applications.

To secure timely education for all children, the panel considering each referral must determine a placement based on the information available at that date. The panel's decision must be the allocation of a school place.

In accordance with the DfE guidance, all schools are expected to respond to requests for placements under the Fair Access Protocol within 20 calendar days. The start date will be agreed between the named school and the Outcome Co-ordinator. The In-year Admissions team will be responsible for liaising with the relevant Headteacher associations on an annual basis to determine the effectiveness of this protocol and to consider any amendments which may be required.

Additionally, the Senior Manager (Access to Education) has a duty to report on the effectiveness of the Fair Access Protocol in the annual Office of Schools Adjudicator report on fair access and admissions.

4. PROCEDURE

4.1. Children will be referred by The Altus School in conjunction with the Outcome Co-ordinator involved with the family. The panel may also receive referrals through a keyworker under the categories listed in Section 2 of the protocol. The professional should complete the Fair Access Referral Form (Appendix 2), highlighting any individual circumstances that the receiving school/academy may need to be aware of, for example any behaviour patterns or social needs (please note that this information must not be used by admission authorities to refuse the child's admission). The form should also include any other details requiring consideration by the panel (e.g. highlighting a failed managed move at a school or a history of conflict with a pupil(s) at another school in the area) to assist with the allocation process. The completed form should be forwarded to the In-year Admissions team. The referring professional will need to engage the family in this process; they must make it clear that a place at any preferred school cannot be guaranteed.

- 4.2. All referrals to the Fair Access Placement Panel will be made through the In-year Admissions team who will be responsible for co-ordinating the administration of this protocol. Any school/academy which may be considered for placement of a child will be contacted by the team for a FAP School Information Sheet (Appendix 3a Secondary, Appendix 3b Primary) to be completed – this will provide the school level information for the panel to consider when making their decision.
- 4.3. Fair Access Placement Panels will be held at Shire Hall or virtually. Membership will include the 3 Headteachers, GCC Inclusion Service and members from the Access to Education team to facilitate as the independent officers. If the panel is considering a permanently excluded child an Outcome Co-ordinator will also attend. The purpose of these panels will be to match children to a suitable school or academy. The panel members will receive paperwork relevant to the case(s) to be considered within 5 days to the panel hearing.

The panel's decision will be final – there is no appeal process. The Local Authority may pursue a direction to ensure that pupils are admitted in accordance with the FAP decision.

In accordance with the School Admissions Code 2021, the panel must take the following factors into account when determining the receiving school or academy:

- That no school or academy is asked to admit a disproportionate number of pupils through the protocol, considering the following factors:
- Proportionality of allocations against a school's or academy's admission number – to distinguish between the varying size of schools, the 'points' information will be used as a reference as explained in section 3
- Any genuine concerns about the admission, for example a previous serious breakdown in the relationship between the school or academy and the family, or a strong view about the religious ethos of a school – including any submission received from local schools or academies.

The panel should also consider the following:

- The needs of the individual child and each school's or academy's ability to cater for these
- Parental preference (for twice excluded children please refer to the specific section – although fair access decisions should not be delayed pending the outcome of any appeals process
- Distances between the child's home and the allocated school or academy (a reasonable travelling distance is 45 minutes for primary pupils and 75 minutes for secondary pupils), and the ability of the Local Authority to cover the cost of this transport (please refer to the Vulnerable Pupils Home to School Transport Policy).

The panel will be provided with an Information Summary Sheet for each child which will contain comparative information on some of these factors for all schools under consideration.

The Access to Education Manager and the Education Inclusion Service **must** ensure that all decisions are clearly recorded and provide detailed rationale for allocating the chosen school above the other schools considered. This will be referenced by the Senior Manager (Fair Access) to take steps to formally direct a school to comply with the panel's decision or refer the matter to the Secretary of State to consider direction in the case of an academy. Any determination on a direction will include consideration as to whether due process has been followed in applying the provisions of the Fair Access Protocol.

- 4.4. Once a school place has been agreed by the Fair Access Placement Panel, the Access to Education Manager will advise the In-year Admissions team of the outcome after the close of the meeting and provide the formal FAP Decision Record.
- 4.5. The In-year Admission team will notify the named receiving school or academy of the decision in writing (through email) and will ask for The Altus/Outcome Co-ordinator to contact the school/academy to discuss the allocation within 5 days of the panel date. An Outcome Co-ordinator from the Education Inclusion Service will also contact the Headteacher to offer support with planning the transition (Warm Welcome).
- 4.6. Local Authorities and schools/academies in partnership are responsible for providing suitable full-time education for all children and the County Council will use its power of direction to support a Fair Access Panel decision if it feels that a school is being unreasonable in refusing to admit a child under this policy, or will refer the matter to the Secretary of State in the case of an academy.
- 4.7. Schools cannot make representation at a Fair Access Panel for non-admittance of pupils on the basis that they are full in the relevant year group, unless this would create significant health and safety risks – this is particularly true where schools have willingly admitted other children over their usual capacity. It is essential that schools share responsibility for admitting vulnerable children and that fairness is the abiding principle.
- 4.8. It will be the responsibility of the referring professional and the school/academy to ensure that the child accesses education.
- 4.9. Where it has been agreed that a child will be considered under the Fair Access Protocol, a school place must be allocated. Once a place has been allocated, arrangements should be made for the child to start at the school as soon as possible; however, they must be recorded as on roll within 10 school days. The receiving school/academy will be required to start working with the child. The Altus School and GCC Inclusion Service within 5 school days of notification of the decision, to discuss the reintegration package if a planned transition is required due to the needs of the child following the key transition activities plan available through the Outcome Co-ordinator.
5. The FAP transition can be extended for children transferring from The Altus School from 6 weeks to 12 weeks for persistently low attendance, significantly reduced timetable or phased reintegration and ongoing behaviour or safeguarding concerns that have already been discussed with the Outcome Co-ordinator.
6. The school can withdraw from the transition by the completion of the 'Request to withdraw from FAP Transition process' (Appendix 4) and the referral made to FAP panel for consideration. The placement can only be ended at the named school if there is a 'permanent exclusion event' under the school's behaviour policy.
7. Once a school placement has been allocated under the Fair Access Protocol, arrangements should be made for the child to start at the named school as soon as possible, ideally no later than 15 days after the panel date. The only exception to this timeline is when the child is in alternative provision and needs to be reintegrated into mainstream education or who has been permanently excluded but is still judged suitable to remain in mainstream education. In this case a supported transition will be in place for the child starting at the named school.

