

# Warwickshire County Council Primary Fair Access Protocol

## **1. Purpose of the Protocol**

- 1.1. The School Admissions Code 2012 requires that each local authority must have a Fair Access Protocol (hereafter called the Protocol) agreed with the majority of schools in its area.
- 1.2. The Protocol is required to ensure that, outside the normal admissions round (“in year”), unplaced children, especially the most vulnerable, are offered a place as quickly as possible. In agreeing the 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.
- 1.3. The Protocol must also include how the local authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met. The Protocol sets out the expectations on Warwickshire County Council (WCC) and schools to work together to swiftly identify a school place for those children who are likely to have difficulty finding one. Any decision making under the protocol must be fair, consistent and transparent.
- 1.4. Warwickshire County Council does not operate Pupil Referral Units (PRUs) therefore pupils that are deemed to require additional support are referred by schools to the Specialist Teaching Service (STS from Jan17) Early Intervention Service (EIS) following the process outlined in the Memorandum of Understanding. See attached

## **2. The following principles will apply to the Protocol**

- 2.1. Applications will arrive in the local authority to be considered under the Protocol either directly from parents/carers (where WCC co-ordinates in-year admissions), or by referral from schools (where schools co-ordinate their own in year admissions and it is believed that the Protocol may apply).
- 2.2. The process will commence as soon as applications arrive for which it is believed that the Protocol applies, and not once admission becomes difficult at the schools of preference. The only exception to this will be if a standard in-year application does not result in the admission of a child within two months of the application, at which point the Protocol will lawfully apply.
- 2.3. All admissions authorities in WCC are required by law to participate in the local Fair Access Protocol. There is no duty for local authorities or admissions authorities to comply with parental preference when allocating places through the Protocol.
- 2.4. The Protocol does not apply to looked after children, previously looked after children or children with a statement of special educational needs or Education Health Care Plan naming the school in question as these children must be admitted in all cases.
- 2.5. Assessing eligibility of children to be considered under this Protocol In line with the School Admissions Code children of compulsory school age will be considered within the scope of the Protocol if they are judged by the council or a school which is its own admissions authority to be likely to have difficulty in

securing a school place. In WCC this means that a child meeting one or more of the following categories will be considered eligible:

1. Children who are in the Criminal Justice system and/or Pupil Referral Units (including Alternative Provision) who need to be reintegrated into mainstream education (statutory)
2. Children who have been out of education for two months or more (statutory)
3. Children of Gypsy, Roma, Traveller communities, refugees and asylum seekers (statutory)
4. Children who are homeless (statutory)
5. Children with unsupportive family backgrounds from whom a place has not been sought (statutory)
6. Children who are carers (statutory)
7. Children with special educational needs, disabilities or a medical condition (but without a statement) where there is professional evidence to support this (statutory)
8. Children referred by schools under paragraph 3.12 of the School Admissions Code which states, “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 action under the Fair Access Protocol. This will normally only be appropriate when a school has a particularly high proportion of children with challenging behaviour or previously excluded children” where this can be robustly evidenced (statutory).
9. Children of UK service personnel (UK Armed Forces) (local)
10. Children who have a persistent record (below 80% for each of two consecutive terms) of absence at the current or last school (local)

### **3. The Process**

- 3.1. Once an in year admissions application has been identified as having the potential to fall under the Protocol a clear process (attached at Annex A) will be consistently followed.
- 3.2. This process applies to all schools, including those which are full in the appropriate year group:
- 3.3. The application will be referred to the Primary Fair Access Panel. The Panel will meet at the end of each month, will compose of EIS representatives, Manager for Fair Access and In Year, Area Managers for ACE, Manager for CME and will be chaired by the Manager of Pupil Services.
- 3.4. The Panel will first determine whether the application does indeed fall under the Protocol. If the application does not clearly fall into one of the above then the application will return to the in-year admissions process.
- 3.5. If it is agreed that the application falls under the Protocol then the nearest mainstream school by straight line from the front of the home address to the front entrance of the school will be identified. If this school has not taken a child in this key stage via the Protocol in this academic year, this school will be identified to admit the child. The only exception to this will be if the child has already attended that school and the Panel agrees that there is evidence that it is not appropriate

for the child to return, in which case the next nearest school will be allocated.

Safe walking routes will be considered where appropriate

- 3.6. If the school identified to admit has already admitted a child to the relevant key stage via the Protocol this academic year, the next nearest school will be identified. This school will then be required to admit the child unless this school has also admitted a child under the Protocol in this key stage this academic year. If this does not result in an admission then the process will continue to identify the next nearest school until a school is found which has not admitted a child in the given key stage under the Protocol this academic year. The use of academic years is for reporting processes, schools that have taken a child spanning over the summer term will be considered as having accepted a child.
- 3.7. All schools are bound by the provisions of the Protocol without exception. The decision of the panel is final, if challenged this may result in referral to the Schools Adjudicator for direction, if a maintained school, the LA will direct the Governing Body.
- 3.8. Once a decision is made, the school will be expected to admit the child to a full time place within 10 working days. Please note the child must be placed on roll however, work with EIS may continue until the placement has settled.

#### **4. Reviewing the Protocol**

- 4.1. This Protocol will be in force with effect from September 2017 and will be reviewed in Summer 2018. The use of the Protocol does not remove a parent/carer's right to appeal against the decline of an application for a place at their preferred school.
- 4.2. Requests for places for looked after children, previously looked after children, children with an Education Health and Care Plan and children with a Statement of Special Educational Needs naming a school, will not be referred to the Fair Access Panels.
- 4.3. In accordance with legal requirements children who have an Education Health and Care Plan that names the school will be admitted to that school. In addition those children who have a Statement of Special Educational Needs that names a particular school in Part 4 of that Statement will also be admitted to that school.
- 4.4. Similarly children who are looked after by a local authority within the meaning of section 22 of the Children Act 1989 at the time of their application and previously looked after children will always be admitted.
- 4.5. The term "previously looked after children" refers only to children who were looked after but ceased to be so because they were adopted (or became subject to a child arrangements order 6 or special guardianship order 7).
- 4.6. Proposals to place children with an Education Health and Care Plan and children with a Statement of Special Educational Needs at a school outside the normal admissions round will be the subject of a formal consultation with the relevant school. Following the consultation if the responsible local authority decides a place is still required it will be made available by the school concerned.

## 5. Links with SEN and EHC

5.1. The memorandum of understanding as set out by Vulnerable Learning Service will be adopted as part of the FAP. See below

*An Education, Health and Care plan is a plan made by the local authority under Section 37 of the Children and Families Act 2014 specifying the special education provision required for that child.*

*Statements of Special Educational are being superseded by Education, Health and Care plans*

*A 'looked after child' is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see the definition in Section 22(1) of the Children Act 1989) at the time of making an application to a school.*

*This group includes children who were adopted under the Adoption Act 1976 (see section 12 adoption orders) and children who were adopted under the Adoption and Children Act 2002 (see section 46 adoption orders).*

*6 Under the provisions of s.14 of the Children and Families Act 2014, which amend section 8 of the Children Act 1989, residence orders have now been replaced by child arrangements orders.*

*7 Section 14A of the Children Act 1989 defines a 'special guardianship order' as an order appointing one or more individuals to be a child's special guardian (or special guardians).*

## The Process

School or council believe that application has the potential to fall under the Protocol

Yes Fair Access or

No-refer to in- year admissions

### Identify nearest school

If nearest school has already taken a FAP referral in this key stage in this academic year then identify next nearest school

If the next nearest school has already taken a FAP referral in this key stage in this academic year then identify next nearest school

Continue to identify next nearest school until an allocation is made and appropriate placement secured

If the admission of the child requires additional support this will be identified at the point of admission with the Early Intervention service

## **School based enhanced support for primary pupils with Social Emotional and Mental Health (SEMH) and/or Communication and Interaction (C&I) high level needs.**

Memorandum of Understanding (MOU) between Warwickshire County Council and Warwickshire Primary Schools and Academies.

### Context

Warwickshire Local Authority recognises that it has a statutory duty to provide support to vulnerable children of statutory school age who experience difficulty engaging with an appropriate package of education provision suitable to their age, aptitude and ability taking account of any Special Educational needs.

The Children and Families Act 2014 and SEND Code of Practice 2015 identifies 4 broad areas of need and recommends a holistic co- produced and evidenced based approach to the identification of SEND, assessment, interventions, provision and review.

Schools who offer universal and targeted education provision to this group as outlined in the Special Educational Needs & Disabilities Education Provision Matrix are eligible to receive support from the Specialist Teaching Service (STS) when the pre-requisites have been met. This support is reserved for children who met the criteria as set out in the MOU.

The memorandum of understanding seeks to clarify expectations of primary phase schools who wish to use STS commissioned school support. This support is at no direct cost to the school.

By signing this document, those schools are acknowledging the existence of a 'partnership agreement' between themselves and the Local Authority. As such, this document forms an important part of the generic 'Memorandum of Understanding' which covers a wide range of support services and defines the relationship between schools and the Local Authority.

### Principles of collaboration

- We will develop strong partnerships between schools, home and education, health and social care to ensure effective collaboration that supports our most vulnerable children.
- We will ensure that needs are identified early and that support is timely and appropriate through a systematic assess, plan , do, review cycle.
- We will seek to deliver that support in the school, home, or as close to home as possible.
- We will monitor our criteria, process and provision to ensure it is fit for purpose and achieves positive outcomes for the child.

### The agreement

1. Primary Schools and Academies

Every school should have policies and procedures in place designed to ensure its pupils engage with and behave well in school. There should be consistent and whole school approach, where all members of the school community are clear about the role. Consortiums are encouraged to develop consistent policies, forums for discussion and peer support to support challenging behaviour. In summary, schools should

- Demonstrate a strong inclusive ethos.
- Offer Universal and Targeted provision (as outlined in the SEND Education Provision Matrix Document) that meets the need of all children.
- Have a clear publicised policy on behaviour, stating how it will be managed.
- Have effective early intervention systems for securing good learning outcomes and promoting emotional wellbeing for vulnerable learners.
- Evidence the assess, plan, do, review cycle for vulnerable learners.
- Nominate a school governor/board member with a specific SEN/safeguarding remit.
- Have a named member of their management team with lead responsibility for SEMH and C&I.
- Ensure all staff receives appropriate training about SEMH and C&I issues. .
- Purchase specialist support either from the Specialist Teaching Service (STS) or from another specialist provider where needs require specialist assessment and interventions.
- Demonstrate pro-active communication with the family has been made.
- Offer Early Help and a Single Assessment if appropriate and inform the CAF Officer where this has been declined.

Where behaviour is causing removal from the class or fixed term exclusions and the pupil has made limited progress with targeted support, we would encourage schools to seek further advice and support from commissioned STS support.

Additionally, schools seeking STS commissioned support should be able to demonstrate that the Pastoral Support Plan has been implemented and adjusted in light of fortnightly reviews for a minimum period of one term. This forms part of the graduated response of assess, plan, do and review to meeting the needs of pupils with SEND.

## 2. The Local Authority/ Specialist Teaching Service (STS) commissioned support:

This service operates across every primary phase school in Warwickshire. STS will:

- Respond to enquiries at Area Manager/Assistant Area Manager level on whether the case meets the criteria for access to STS commissioned support.
- If eligible seek and attend an enhanced targeted review of the case with the school to identify next steps.

- Support meetings with parents and carers in planning appropriate actions
- Provide school based STS specialist support working in partnership with school staff.
- Provide STS Specialist Teaching Assistant support for coaching of school Teaching Assistants, a reintegration plan, or a supported transfer plan.

This will be subject to availability following weekly deployment meetings by STS Area Manager and Assistant Manager. This support is time limited, as specified in the relevant plan in agreement with the school/s

- Liaise with other key agencies from health and social care to facilitate a holistic plan of action.
- Provide supporting information for statutory assessment and annual reviews if appropriate. Including into Education, Health and Care plans.

\* See Appendix A

### 3. Parents, Carers and Adults who have 'Care of' a child (as defined by the 1996 Education Act)

Parental Agreement and engagement is required

Parents are committed to work with others to bring about change

Parents will ensure good attendance at school.

Parents will support actions in the Pastoral Support Plan and Single Assessment.

### 4. The Memorandum

This document forms a 'chapter' in the wider memorandum of understanding between Warwickshire County Council and Academy Schools / Alternative Providers of Education.

Any questions relating to content should, in the first instance be directed to

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Signed.....Signed.....

Dated.....

## Appendix A:

Criteria for access to STS commissioned work for primary children at risk of exclusion from January 2017

Schools Delegated funding for SEN Support

May be purchased through STS subscription/ Buy As You Need or from another specialist provider

LA commission through high Needs funding with Specialist Teaching Service

Evidence of the following

- School/Academy signed up to MOU
- Assessment and profile by specialist service -  
evidence that recommendations have been implemented, monitored and reviewed
- Pastoral Support Plan established including fortnightly reviews  
( minimum of one term)
- Targeted interventions implemented and monitored including regular reviews  
( minimum of one term)
- Single Assessment established and/or Social Care involved. If declined CAFO informed
- Parental support offered via SENDIAS

In addition to evidence left repeat fixed termed exclusions indicate need for:

- Reintegration plan / Supported Transfer Plan involving STS support
- Review of risk assessment
- Multi agency involvement / CAFO/Health /Social Care to ensure further family support.
- Additional small contribution towards funding of targeted intervention for Pastoral Support Plan to school
- LINK support (Nuneaton, Bedworth, and Rugby area)

See Appendix B

## Appendix B:

Criteria for access to STS commissioned work for primary children at risk of exclusion from January 2017

The Link previously known as The Specialist Inclusion Support Group

The LINK placement is a timed intervention for two terms inclusive of the reintegration. Initial placement is for four days a week with one day in the home school. The child will remain registered with the home school. For pupils to gain the maximum benefit the provisions outlined in the Link and Host School Agreement need to be in place.

The expectations outlined in the parent/carer contract details the provisions that need to be in place to ensure a successful partnership.

Prior to 'Placement Request' to The Link, schools should evidence that they have met the criteria for access to STS commissioned work for primary children at risk of exclusion as outlined in Appendix A of the Memorandum of Understanding.

From November 2016 Decisions on Link placements will be made by a panel of representative head teachers and specialist services.