



In Year Fair Access Protocol

(Admissions Code 2021)

1.0 Introduction

1.1 There is a requirement under the School Admissions Code 2021 (Section 3.14) that all admission authorities must operate an In Year Fair Access (IYFA) scheme. All schools **must** participate in their local authority area's protocol. This is 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.

1.2 The aim of Dorset's scheme is to:

- have every child on the roll of a school
- ensure that the needs of vulnerable young people who are not on the roll of any school are dealt with quickly and sympathetically,
- reduce the time that hard to place pupils spend out of school,
- 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, who have challenging behaviours
- be fair and transparent.

2.0 Main Principles

2.1 The key principle is any decision and action should be based on the needs of the child rather than the needs of the supporting agencies. This scheme applies to children who live within the Dorset Local Authority (LA) area. The scheme applies to children who have not been placed in a school under the standard in year admission procedure and where difficulty in accessing education would render the child vulnerable. As part of the scheme:

- all schools must participate, including those that under normal admission arrangements have no places available in the relevant year groups,
- schools cannot use oversubscription as a reason not to admit a pupil under this policy,
- the LA has in place a process which identifies all those who meet the protocol,
- schools will not be expected to admit applicants on a turn taking process without consideration of other factors,
- schools will not be asked to take a disproportionate number of pupils with challenging behaviour, those who have been permanently excluded or those placed under this protocol

- no school would be asked to take a disproportionate number of children over the PAN as a result of admitting children under the protocol (Section 3.1.3)
- there are no limits to the number of pupils schools will be required to admit under this protocol,
- places will be allocated in a proportionally balanced way having regard to other relevant factors including the size of the schools in each of the areas, SEN levels, accessibility to and within the school and budgetary factors,
- it will be inclusive and emphasis will be given to 'local schools for local children' in accordance with the local authority's school admissions policy,
- those who meet the protocol will still have the same rights as other applicants in expressing preferences and having the right of appeal in the event of a refusal,
- those who meet the protocol will be given priority for admission over any others on a waiting list or awaiting appeal,
- should it not be possible to offer a child a place at any school following the normal admission and appeal process, i.e. the child is therefore without a school place, the panel will need to identify a place and the nominated school should not refuse to admit the child, despite the outcome of the appeal,
- the LA will 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 aversion or desire by the family to the religious ethos of the school,
- parents' views will be considered, but will not override the protocol if the preferred school is not considered the most appropriate allocation,
- upon notification of a placement, schools (or other educational settings) must respond immediately to the request so that the admission of the pupil is not unduly delayed.

3.0 Criteria

3.1 Those with challenging behaviour:

3.1.1 Admission authorities must not refuse to admit a child on behavioural grounds in the normal admissions round, except where the child has been twice excluded. Where an admission authority receives an in-year application for a year group that is not the normal point of entry and it does not wish to admit the child, despite having places, because it has good reason to believe that the child may display challenging behaviour, it may refuse admission and refer the child to the Fair Access Protocol.

3.1.2 A child defined as having challenging behaviour is as follows (see Appendix 2):

For the purposes of the IYFA Protocol, behaviour can be described as challenging where it significantly interferes with the pupil's/other pupils' education; jeopardises the right of staff and pupils to a safe and orderly environment; is of such an intensity, frequency or duration that it is beyond the normal range that schools can tolerate; and is unlikely to be responsive to the usual range of interventions to address pupil misbehaviour.

3.1.3 IN addition only the following categories of children may be referred to the IYFA protocol when they are unable to secure a local school place. These categories of children can't be refused a school place, when it is available, in order to refer to the IYFA protocol. They may only be referred to the protocol when a local, appropriate and accessible school place is unavailable:

- i. Children either subject to a Child in Need Plan or a Child Protection Plan or having a Child in Need Plan or Child Protection Plan within 12 months at the point of being referred to the protocol;
- ii. Children living in a refuge or in other Relevant Accommodation at the point of being referred to the protocol;
- iii. Children from the criminal justice system;
- iv. Children in alternative provision who need to be re-integrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- v. Children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions;
- vi. Children who are carers;
- vii. Children who are homeless;
- viii. Children in formal kinship care arrangements;
- ix. Children of, or who are, Gypsies, Roma Travellers, refugees and asylum seekers;
- x. Children for whom a place has not been sought due to exceptional circumstances;
- xi. 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;
- xii. Previously Looked After (PLAC) and International Adopted Previously Looked After Children (IAPLAC) for whom the LA has been unable to promptly secure a school place;

3.1.4 All schools will be deemed to have space in the Point of Entry Year group from 1 September to the last day of the academic year if they are under their published Pupil Admissions Number, regardless of the class organisation.

3.1.5 In the Primary Sector, other than in the year of entry, where a school has 'capped' numbers in a year group below their PAN, and where this results in classes not operating in multiples of 30, then that school is not deemed to be full in terms of admitting a child under criteria 3.1.3.

3.1.6 In the Secondary Sector, other than in the year of entry, a school will be deemed full, only when it is at or over PAN, or, where a school is low on numbers and the number on roll equates to a multiple of 30 and the school is organised in those multiples.

4.0 Processes

4.1 Returning from a Learning Centres (PRUs) & Alternative Provision including those having been Permanently Excluded

4.1.1 All children (including those resident outside of Dorset Council Area) attending alternative education settings including Learning Centres who have not been permanently excluded but where the parent applies for a mainstream place, their application will be treated under normal admissions arrangements and may only be referred to IYFA if local appropriate schools are full and it is deemed in the best interest of the child to attend one of those schools where there are no spaces.

4.1.2 Where a child or young person is subject to their first Permanent Exclusion families may make an application for another school. This will be treated according to the process outlined in 7.1.

4.1.3 Where a child or young person is moving into the Dorset Council Area and is applying for a school place, but they have been Permanently Excluded from their previous school due to behaviour consistent with 3.1.2, then the application will be referred to the IYFA for placement at a mainstream school or in exceptional circumstances at a Learning Centre or Alternative Provision.

5.0 Waiting Lists & Appeals

5.1 Where an application has been referred to the IYFA panel on 'challenging behaviour', despite places being available at a preference school, if the child is not offered a place at their highest or higher preference school due to the challenges that the panel feels those schools are under, then the pupil will not be placed on the waiting list for that/those schools.

5.2 A family may appeal the decision not to offer a higher preference school. This will be managed within the normal School Appeals protocol.

6.0 The IYFA protocol does not cover:

- children in care who are covered by a separate policy,
- children who do not fall into any of the categories identified above,
- children whose families deliberately keep them out of school or purposely endeavour to meet a criterion in the hope of improving their chances of getting a place at their preferred school through the scheme. In these cases the existing school or the school that was initially offered would still apply,
- children with an Education Health & Care Plan as they are considered separately.

7.0 How does the protocol work?

7.1 Referrals into IYFA for those Permanently Excluded:

- 7.1.1 Where a child or young person has been permanently excluded, the Locality Inclusion Team will assess whether a place at Alternative Provision is required or it is appropriate to return them straight into a new mainstream setting. The options will be discussed with parents.
- 7.1.2 If it is deemed appropriate for a child to return to mainstream immediately, then based on parental preferences, Locality Inclusion officers will have direct discussions, involving the HT of the institution that initiates the PEX, to secure a school place. Once this has been identified then the Locality Team inform School Admissions.
- 7.1.3 Where an immediate return to mainstream is deemed appropriate, though no institution is prepared to offer a place, an application is received into Admissions and the case will be discussed at the next IYFA panel. Alternative Provision will have to be made from the 6th day as necessary
- 7.1.4 If it is not appropriate for an immediate return, AP/LC will be commissioned by the Locality Team, and on a case by case basis, an application will be submitted for a school place to ensure that the medium term direction of travel for the young person is agreed should they be deemed suitable for a return to mainstream education without an EHCP.

7.2 Referrals into IYFA based on Behaviour

- 7.2.1 Where a school receives an application from a child who they feel fits the 'challenging behaviour' criteria, and they intend to refuse admission based on this criteria despite having places, they must immediately inform the LA School Admissions Team and provide the written documentation that details and confirms their reasons for refusal and that the child or young person's behaviour reaches the threshold as detailed in section 3.1.2. (see APPENDIX 2)

7.3 Referrals into IYFA based on criteria 3.1.3

- 7.3.1 Schools are required to inform Dorset Admissions Team the outcome of all school place applications within 2 school days.
- 7.3.2 If that child is unable to secure a school place, with assistance from the Admissions Team, and they fit the criteria laid out in 3.1.3, then they will be referred to the IYFA protocol for the identification of a local school place.

- 7.4 Where an appeal has been refused for a child that hits the IYFA criteria, a place may still be allocated at that school through the IYFA protocol where the panel feels that the pupil still requires a school place and the previously appealed school is deemed the most appropriate.
- 7.5 When an application is received which meets the criteria set out in either Section 3.1.2 or Section 3.1.3 or is a Permanent Exclusion, the following process will be carried out:
- a request for background information on the applicant will be sent to the existing/previous school. Upon receipt of that information, an assessment will be made to confirm the applicant meets the IYFA criteria. This information will be passed to the panel.
 - any school identified on the application form as a preference will be made aware of the submission and invited to provide evidence to the IYFA Panel.
 - Other qualifying schools in the geographical area may also be asked to submit evidence to the panel in relation to the application.
- 7.6 Upon confirmation of the IYFA criteria being met, cases will be referred to the next available meeting of the IYFA Panel. The Panel meets every two weeks during term time. The Panels, which will comprise representatives from the LA and schools (identified head teachers), will consider the circumstances of the individual applicant, in terms of:
- preference,
 - readiness for mainstream school – in the case of behavioural criteria
 - current pupil numbers,
 - transport implications,
 - which school is best able to meet the pupil's needs,
 - current school profile and previous IYFA allocations.
- 7.7 During the preparation of paperwork for the panel and on circulation of the paperwork, schools will be encouraged to agree to the admission of a child under the IYFA protocol prior the meeting of the panel. This process will ensure an accelerated turn-around of a child's application for a place and is appropriate where all parties are broadly in agreement at the outset as to which school they should attend.
- 7.8 Applications will generally be considered for provision within the local area of the home address. This is to enable a reasonable distribution of children and ensure workable support. It is also to meet the legislative requirements for transport.
- 7.9 Upon determination of a new placement, the nominated school will be required to inform the Local Authority if they are prepared to admit the pupil. The Local Authority would expect that a family would get confirmation of a placement within 48 hours of a panel, though a school has 7 days to formally refuse to accept a IYFA placement.

- 7.10 In the event of a refusal to accept an admission, the procedures laid out in Section 10 and Appendix 1 will be followed depending on the status of the school in question.
- 7.11 Admission Appeal Panels will be briefed about the scheme and advised that the protocol takes precedence over all other admission policies and arrangements. They will also be made aware that pupils can be admitted through this protocol over and above PAN, including in cases of Infant Class Size restriction. However, this does not mean other pupils can be offered without causing prejudice.
- 7.12 Dashboard of information will be maintained by the Admissions Service which will provide each IYFA Panel with the levels of PEX and Challenging Behaviour Admissions to each school as well as admissions over number for children under 3.1.3
- 7.13 The Dashboard will include information on the following:
- Overall Numbers on Roll (excluding 6th Form)
 - Permanent Exclusions (1st).
 - Challenging Behaviour Admissions
 - Criteria 3.1.3 (OverNumber)
 - Successful Managed moves

8.0 Support for Schools

- 8.1 Where a return to mainstream is deemed to be in the child's best interest, the Locality Early Help and Education Team will support the family and school to smooth the transition into the new mainstream setting.

9.0 Panel Members & Structure

9.1 Meetings will be chaired by a lead officer from The Local Authority.

9.2 There will be 3 panels that meet every 2 weeks in term time. Each panel covers a geographical district.

1. West & North

Membership:

All secondary Heads:

- Woodroffe
- Beaminster
- Colfox
- Gryphon
- Sturminster Newton
- Blandford
- Shaftesbury

- Gillingham
- Harbour Vale (Learning Centre)
- A Primary Head Teacher

In Addition

- The Inclusion Lead and Early Intervention Team Manager for West & North

2. Dorchester & Chesil

Membership:

All secondary Heads:

- Atlantic Academy
- All Saints Academy
- Budmouth Academy
- Wey Valley Academy
- Thomas Hardy School
- Dorset Studio School
- Middle School Representative
- A Primary/First School Representative
- Dorchester Learning Centre

In Addition

- The Inclusion Lead and Early Intervention Team Manager for Dorchester & Chesil

3. East & Purbeck

Membership:

All Secondary Heads:

- Ferndown Upper School
- Queen Elizabeth School
- The Purbeck School
- Lytchett Minster School
- Swanage School
- Middle School Representation
- First/Primary School Representation
- Forum Learning Centre

In Addition

- The Inclusion Lead and Early Intervention Team Manager for East & Purbeck

9.4 Though schools are represented on the panel, the panels are responsible for making the placements. The panels are not forums within which schools are merely there to defend their position as to why they are unable to take.

9.5 Three days in advance of the panel, paperwork will be circulated, along with any BSS, EP or other professional assessments.

9.6 Any Dorset Council Area Head Teacher may request participation in their local panel.

10.0 The Local Authority Directing or Seeking a Direction

10.1 Academies and Own Admission Authority Schools (Voluntary Aided and Foundation).

10.1.1 Should a school not wish to admit a child having been asked to do so through the IYFA protocol, they may follow the procedure outlined in the Directions Flow Chart in Appendix 1.

10.1.2 The Local Authority will provide education for a child or young person from the point when a school has informed the Local Authority that they do not wish to admit a child (within 7 days of the panel decision). This refusal to admit needs to take the form of a letter to the Admissions Manager/School Place Sufficiency Manager from the Head and Chair of Governors.

10.1.3 The Local Authority will endeavour to provide education while the directions process is underway.

10.1.4 Should a direction to admit be forthcoming from the either the Schools Adjudicator or the Secretary of State for the school identified by the IYFA panel, then the LA will recoup the costs from the school of the alternative provision that has been provided since the 7th day of the IYFA decision.

10.2 Schools for whom, the Local Authority is the Admissions Authority (Community and Voluntary Controlled).

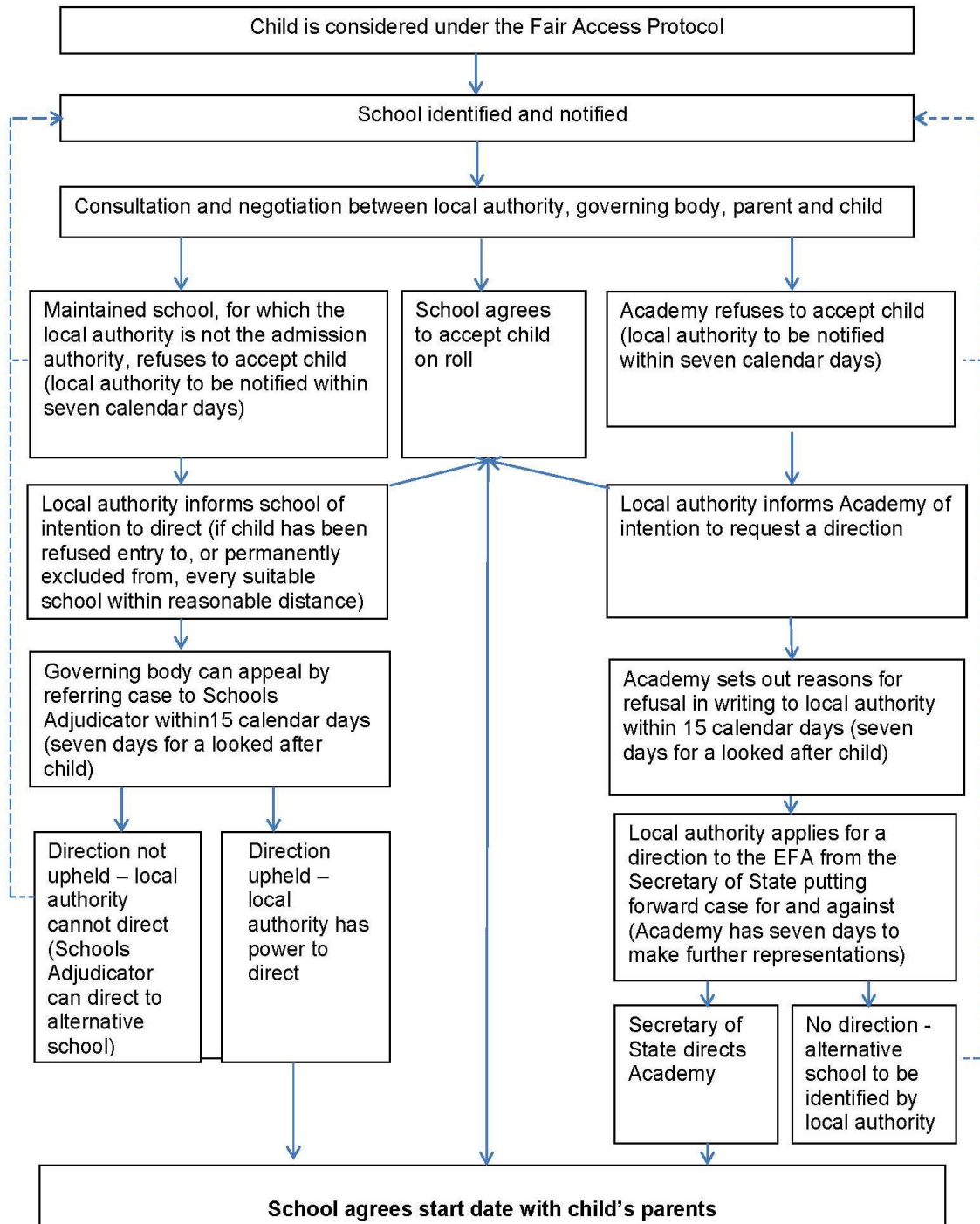
10.2.1 Should a school not wish to admit a child having been asked to do so by the IYFA panel, they are required to inform the Director of Children's Services within 7 days of being notified of the panel decision.

10.2.2 If it is deemed appropriate, the Director of Children's Services will instruct/direct the school to place the child on roll and admit.

10.2.3 It should be noted that the current legislation does not allow the school to refer the decision to the Office of the Schools Adjudicator nor the Secretary of State.

APPENDIX 1

Directions flow chart (overview of process)



* Note: A community or voluntary controlled school cannot refuse to admit a pupil if requested by its own admissions authority.

APPENDIX 2

Challenging Behaviour

The DFE Guidance states that schools may only refuse a place and refer an application to the IYFA protocol when there is significant challenging behaviour.

In addition to the language set out in 3.1.2, additional clarification for challenging behaviour for the purposes of the Dorset IFYA protocol is set out below:

Challenging behaviour needs to fit one of the following criteria:

1. The child/young person has been implicated in an incident of serious sexual assault or serious physical assault on another pupil or member of staff.
2. The student is on the verge of Permanent Exclusion and is subject to discussions with the relevant Local Authority* to address the significant behavioural challenges – this may also include the pupil being the subject of a Local Authority supported Managed Move to prevent a Permanent Exclusion.
3. Pupil accesses off-site Alternative Provision as a result of poor behaviour when on the school site – this does not include students who for SEMH / anxiety etc need part-time timetables to develop resilience to engage full time at school.
4. Pupil is subject to a formal Police Investigation or there is a history of police intervention or historical charges.

*Dorset Council – a pupil is an ongoing case for the Local Inclusion Panel (LIP) for significant behaviour issues.