

## Hard to Place Children - Developing and Agreeing a Protocol

1. The Government's Five Year Strategy for Children and Learners set out a number of ways in which schools will enjoy greater independence and freedom. However it also highlighted the need for schools to work together on their wider responsibilities, such as the provision of places for hard to place children. All schools should recognise that they share a collective responsibility to ensure that these children are admitted to a suitable school as quickly as possible.

2. As explained in Every Child Matters, the Government believes that all children should receive a good education to help them fulfil their potential. However, for some children that can be harder than for others. Sometimes children can find themselves without a school place, because their personal circumstances are such that they have had to move home; or they are looked after children; or they have been excluded from a school. The Government considers that it is important that, wherever possible and in the best interests of the child, a suitable school place should be found quickly – certainly it should take no longer than 20 school days in the case of a looked after child.

3. However, there is often a balance to be struck between finding a place quickly, say in an undersubscribed school or one facing challenging circumstances, and finding a school place that is appropriate for the child. It is also important that no school should be asked to take an excessive or unreasonable number of pupils who have been excluded from other schools. To ensure that the needs of the child and the needs of the school are taken into account, the Government expects that every local Admission Forum which does not already have one, will agree a protocol for sharing hard to place pupils, and that those protocols will be agreed with schools and in place for the school year starting September 2005 at the latest. Although this is aimed at secondary schools in the first instance, Forums should decide whether protocols are also required to cover primary schools in their area.

4. The School Admissions Code of Practice, to which all admission authorities must have regard, will in due course be amended to reflect this guidance.

5. **Getting started** For your protocol to be useful it must be more than just a shared aspiration to collaborate. A firm voluntary agreement is needed from all parties. It must be clear that **the protocol applies to all schools**, including voluntary aided and foundation schools and Academies, and it must be agreed with those schools. It also needs to explain in what circumstances it will be used, and how decisions about the admission of hard to place children will be agreed. It is worth bearing in mind that in the vast majority of cases, children requiring a school place will continue to be admitted in accordance with the usual admission procedures, rather than through the protocol.

6. We think the starting point should be for schools and LEAs, working through their Admission Forum, to identify the current scale of in year admissions and whether some schools are taking a disproportionate number of previously excluded pupils. This will help to analyse the types of pupils that are hard to place in their area.

7. **What if some schools have had to admit too many previously excluded pupils?** The general principle should be that no school should be required to admit an unreasonable number of these children. The protocol should state a maximum percentage of previously excluded pupils that an individual school will be asked to admit in any year group. We recommend that this should be cumulative and take into account previously excluded pupils already in the year, unless they have been in the school for 2 years without a fixed period exclusion. It is up to the Forum to agree the percentage for each school in their area. Where all the schools in a LEA have reached their limit in any year group, pupils may need to be placed in alternative provision until a place becomes available, unless schools agree to exceed the limit.

8. **Why is a protocol important?** It is a good way for everybody concerned to see what is happening, so that there is both openness and fairness about these admissions. It should demonstrate that the system is fair by working with schools and keeping them informed of any decisions or anything new that is happening. It is, for example, good practice for Forums to share statistics with head teachers each term to show how the protocol is working.

9. To help achieve this, the Forum needs to consider the following issues:

**Who should the protocol cover?** The Government expects all Forums to include looked after children and those pupils excluded from other local schools in these protocols. Forums could also agree, depending on local circumstances, to include children of compulsory school age in some, or all, of the following categories:-

Children attending PRUs who need to be reintegrated back into mainstream education  
Children who have been out of education for longer than one school term  
Children whose parents have been unable to find them a place after moving to the area, because of a shortage of places  
Children withdrawn from schools by their family, following fixed term exclusions and unable to find another place.  
Children of refugees and asylum seekers not in accommodation centres  
Homeless Children  
Children with unsupportive family backgrounds, where a place has not been sought  
Children known to the police or other agencies  
Children without a school place and with a history of serious attendance problems  
Traveller Children

Children with statements of special educational need are not covered by these protocols as their needs must be considered separately.

10. The key point to remember is that the children covered by the protocol will be the ones who are hard to place in a school and who need to be admitted to a school quickly.

11. **In what circumstances should it apply?** The protocol should apply to all admissions of hard to place children, but Forums need to agree how to balance the circumstances of the pupil and the circumstances of schools.

12. **The protocol could also cover alternative provision, especially PRUs.** An excluded child without a school place might be admitted to a PRU for a short period until they can be admitted back into mainstream school. The protocol should set out how PRUs and other forms of alternative provision, such as Skill Force or the Prince's Trust, fit into the process and how children can be reintegrated into mainstream schools (see also New Ways for Schools and LEAs to work together to manage Excluded Pupils and those at risk of Exclusion). This would not be appropriate for looked after children who must be found a suitable school placement quickly. There may of course be circumstances in which a child cannot tolerate the mainstream environment and consideration will need to be given to whether good quality alternative provision best provides a longer term solution.

13. **What schools are covered by the protocol?** We expect all schools to be covered by the protocol, including foundation schools, voluntary aided schools, faith schools, grammar schools and Academies. Any CTC that does not become an Academy will be strongly encouraged by the Department to play a full part in sharing pupils.

14. Differing arrangements can apply to different types of schools as appropriate, but all schools are expected to sign up to the general principle that they play their part in taking hard to place children. Ideally the protocol, when triggered, should identify the school that should admit the child. Consideration should be given to how this is best done. (Annex A provides a list of some of the issues which should be considered.) LEAs will need to work closely with their schools, both inside and outside the Forum, to get agreement and support for the protocol.

15. **Who else should be involved?** Forums could consider whether to set up a placement panel as a means of identifying which school is appropriate for the child. Such a panel might include LEA members from Social Services, welfare and exclusions, as well as head teachers or governors, as these people may already be involved in the child's case or they may be needed to provide additional support once the child is admitted to the school.

16. **What if people don't agree to the protocol or the child to be admitted?** We would expect that the protocol be agreed by the Forum and have the backing of all schools, the LEA and everybody else involved in supporting a hard to place pupil.
17. If any Forums fail to agree protocols on a voluntary basis, the Secretary of State will consider whether to take out legislation requiring them to do so, with the ability to impose a protocol if agreement cannot be reached.
18. If a school is identified as the one to admit a child and refuses to do so, the LEA can refer the matter to the Department (if it is a community or voluntary controlled school, or an Academy) or it can direct the school to admit the pupil (if it is a foundation or voluntary aided school).
19. The School Admissions Code of Practice will be amended in due course to make it clear that schools can be directed to comply with agreed protocols.
20. **Funding.** The protocol should cover arrangements for funding for the receiving school.
21. Where a pupil is permanently excluded the excluding school should pass the remainder of the 'age-weighted pupil unit' (AWPU) for that financial year back to the LEA. This money could be used either for alternative provision if it is not possible to place a pupil in a school, or passed to the receiving school when another school admits the pupil.
22. The protocol should also set out any additionally delegated funding relating to pupils in PRUs.
23. **Additional support.** The protocol should state what additional support, if any, and in what circumstances, will be provided by the LEA. This can include whether transport will be provided to schools beyond walking distance. Once a school has agreed to admit the child, a meeting should be arranged with the school and LEA to discuss the support needed.
24. **Finally** – the protocol should work for the benefit of all children concerned.
25. Annex B provides a sample of local protocols agreed by Admission Forums and in current use.