

## **Dudley MBC**

### **People Services Directorate**

### **Dudley Primary Schools**

## **In-Year Admissions Fair Access Protocol 2017/2018 (November 2017)**

### **Background**

The School Admissions Code sets out the mandatory requirements regarding the admissions process and makes clear that all local authorities and admission authorities are required to have a Fair Access Protocol and that all schools must participate in their local authority's protocol in order to ensure that unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. This includes admitting children above the published admission number to schools that are already full with the exception of KS1 classes where class size legislation would be breached.

The School Admissions Code 2014 also makes clear that, 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.

### **Aims of the Protocol**

The protocol is designed to:

- a. acknowledge the need for vulnerable young people who are seeking a school place to be dealt with quickly and sympathetically;
- b. reduce the time that these pupils spend out of school;
- c. ensure that schools admit pupils including those with challenging educational needs on a fair basis;
- d. be fair and transparent, and to have the confidence of all schools;
- e. ensure that all schools accept a fair and equitable share of pupils.

### **Main Principles**

The majority of pupils are already admitted to Dudley schools through the routine admissions procedures operated by the School Admissions Service. In order for this protocol to be successful:

- a. All primary schools will take part.
- b. There will be a single point of entry and a coordinated approach for all in-year admissions via the School Admissions Service. These admissions include school to school transfers; new to the borough or country.
- c. The protocol will apply to all primary aged pupils (4-11).
- d. The protocol will only apply to those pupils whose residence is within the borough boundaries with the exception of children permanently excluded from school. These children will be placed through the protocol regardless of where they reside.

- e. All schools will subscribe to a 'no walk-in' admissions process.
- f. The protocol may require schools to admit pupils above their Published Admission Number (PAN) and ahead of pupils on their waiting list or awaiting an appeal, unless to do so would breach class size legislation in KS 1.
- g. Under-subscribed schools must not be required to admit a greater proportion of children, particularly those with a recent history of challenging behaviour, than other schools.
- h. Schools must respond immediately to decisions on admission so that the admission of the pupil is not unduly delayed.
- i. Schools cannot refuse to admit a child who has been denied a place at the school appeal, if the protocol identifies that school as the one to admit the child.

### **Children Not Covered by the Protocol**

School Admissions Code 2014 - Fair Access provision will not apply to Children Looked After, Previously Children Looked After or a child with a Statement of Special Educational Need or Education Health and Care Plan, as these children must be admitted.

### **Children Covered by the Protocol**

In accordance with the School Admissions Code 2014, The Fair Access Protocol must cover children who do not have a school place and fall into one of the following categories:

- a. children returning from the criminal justice system and children attending PRUs ( Sycamore Short Stay School / Cherry Tree Learning Centre) and/or have been permanently excluded and who need to be reintegrated back into mainstream education;.
- b. children who have been out of education or without a school place (including those in Elective Home Education) for two months or more;
- c. children from within the Gypsy, Roma and traveller communities, refugees and asylum seekers;
- d. children who are homeless;
- e. children with unsupportive family backgrounds, where a place has not been sought;
- f. children who are carers;
- g. children with special educational needs, disabilities or medical conditions (but without a statement or EHCP.)

### **Dudley's Fair Access protocol also covers children in the following 'Hard to Place' categories:**

- h. children with a history of serious attendance problems (<85% over last 3 terms). This category will only be applied when the normal in year admissions process has failed to place the pupil.
- i. recently arrived children whose level of English has been assessed as either 'survival' or 'basic' by the Multi Cultural Support Service
- j. children with a school place who have attended 3 or more schools within the last 5 terms.
- k. children with a school place from within the Gypsy, Roma and traveller communities, refugees and asylum seekers;

### **Children returning from Elective Home Education**

Children resident within the borough who wish to return to school following a period of elective home education would, in the majority of circumstances, be admitted to their previous school.

### **Fair Access Protocol Procedure**

Admission of hard to place children will be co-ordinated by the Schools Admission Service. Where they identify that an application meets the criteria for a 'hard to place' pupil as defined above, the case will be referred to the fair access panel.

The panel will be made up of 2 headteachers or senior management representatives (with delegated powers for admission) from each township location and will meet monthly as required to consider the admission of hard to place pupils. The panel will appoint a clerk to carry out the duties as detailed in the terms of reference.

In reaching a decision on the placement of a hard to place pupil, the panel will consider the balance of circumstances of the pupil and the circumstances of the school, giving due reference to the following factors with equal weighting:

- i. the distance from home to school\*;
- ii. the fairness of any placement and proportion of hard to place pupils placed in each school as reflected in the weightings grid – see below;
- iii. the school that is the preferred choice;
- iv. other reasonable considerations.

\* The School Admissions Service will identify the nearest schools, by straight line measurement, within a 2 mile radius of the home address.

### **Weightings Grid**

The School Admissions Service oversee the maintenance of a weighted list in order to identify the school with the lowest weighting score whose turn it may be to admit next. The weighting grid will operate on a 'one out, one in' principle and is there to aid decisions. When a pupil is admitted under the protocol, this will add a positive factor to the school's weighting whilst exclusions will add a negative factor. (See Appendix B: 'The Schools Weightings'). Pupils admitted through a 'Managed Move' (see Appendix C for an example protocol) will also be included on this grid.

### **School data**

Schools will provide the Admissions Service with a termly data return (template already issued to schools) which will be used by the panel to support the decision making process. Should schools wish to submit data more frequently, it is their responsibility to send it to School Admissions 10 days prior to the next panel meeting.

### **Outcomes of the panel**

The Admissions Service will inform schools of any pupils placed at their school via the panel (within 24 hours). They will also inform parents in writing within 5 days with a copy to the school. This will be reviewed once the protocol is fully embedded.

If a school is identified as the one to admit a child and refuses to do so, the local authority may use their powers of direction in the case of maintained schools or request the Secretary of State to intervene and direct an academy school. See Appendix E, 'Rules Governing Direction'.

Where no school has been identified and the panel have refused to place the child, a meeting will take place with an Education Outcomes Lead and the Head of School Admissions Service who will decide on the appropriate course of action.

### **Waiting lists**

Where the child has not secured a place at their preferred school/s in KS1 they will be eligible to join the waiting list.

### **Managed Moves**

Managed transfers between schools are used by headteachers where it is felt a pupil may benefit from a fresh start in another school. The headteacher may ask another headteacher to admit the pupil. However, such transfers must be processed within a township location Managed Move Protocol in order that schools are in no doubt as to who is responsible for the pupil at any time during the process (see Appendix C for an example protocol).

When a school has taken a pupil as a result of a successful managed move and the pupil is entered as full registration with the receiving school, this should be reported to School Admissions using the relevant proforma, so that a record can be kept and the weightings grid adjusted to reflect this permanent move.

### **Placement Procedure**

The Education (Pupil Registration) Regulations 2006, regulation 5 (3).

For the purposes of this regulation a child is a pupil at the school from the beginning of the first day on which the school has agreed, or has been notified, that the pupil will attend the school.

Pupils join the school roll on the expected first day of attendance and must be listed in both admissions and the attendance registers from that day. If a child is the subject of a School Attendance Order, he/she only becomes registered at the school if the parents enrol him/her at the school and agree the first day on which the child will attend. If this does not happen the parent(s) are in breach of the Order. If the parents agree the first day that their child will attend, any subsequent absence should be treated in the same way as any other pupil.

If a pupil has accepted a place at the school (through general admission or the FAP protocol or notified in another way) and fails to attend on the agreed date, the school must follow up the absence, establish the reason and mark it in the normal way. This will ensure that the pupil does not lose his/her place and that any safeguarding and missing from education concerns are addressed.

The school should maintain a record of contacts or attempted contacts with parents regarding admission, e.g. letter, e-mail, logged telephone call, home visit etc.

If the pupil has been delayed in joining the school then the school can agree a new first date of expected attendance. For example, a pupil might be relocating to the school from another part of the country and the relocation could be delayed. In this circumstance the school can agree to keep the pupil's place open and agree a new start date.

### **Monitoring**

In order to maintain transparency in the placement process and to facilitate the work of the panel, the local authority will collect data on admissions and the weighted list of schools.

### **Review**

The protocol will be reviewed summer term 2018

### **Meeting Dates**

23<sup>rd</sup> November 2017  
14<sup>th</sup> December 2017  
25<sup>th</sup> January 2018  
15<sup>th</sup> February 2018  
22<sup>nd</sup> March 2018  
26<sup>th</sup> April 2018  
24<sup>th</sup> May 2018  
21<sup>st</sup> June 2018  
19<sup>th</sup> July 2018

### **Data return required by**

13<sup>th</sup> November 2017  
4<sup>th</sup> December 2017  
15<sup>th</sup> January 2018  
5<sup>th</sup> February 2018  
12<sup>th</sup> March 2018  
16<sup>th</sup> April 2018  
14<sup>th</sup> May 2018  
11<sup>th</sup> June 2018  
9<sup>th</sup> July 2018

## APPENDIX A

### Panel membership and terms of reference

#### The Panel

1. The panel will meet monthly and the membership will consist of:-
  - Clerk
  - 2 Headteachers (or their representative) from each township location for the 2017/18 academic year these will be as follows:-
    - .Brierley Hill – Dave Porter (Belle Vue) and Brad Jones (Brockmoor)
    - Central Dudley – Katherine Harvey (Kate’s Hill) and Phil Rawlings (Netherbrook)
    - North Dudley – Ruth Whyllie (Wrens Nest) and Claire Williams (Cotwall End)
    - Halesowen – Angela Mander (Newfield Park) and Stephen Payne (Halesowen CE)
    - Stourbridge – Jenny Birchall (Oldswinford CE) and Jo Quigley (Wollescote)Headteacher representatives will form no part of the discussion when their school is being considered for placement and may be asked to leave the room.
  - Education Outcomes Lead
  - School Admissions Service representative
  - Education Investigation Service representative
  - Pupil Access Service representative
  - Other relevant officers where necessary
2. All in-year admissions will go through the Schools Admissions Service.
3. The clerk will be responsible for ensuring that all paperwork is made available to the panel and the identified schools within a 2 mile radius, 5 school days prior to the panel meeting. They will record an accurate account of the meeting noting the decisions and reasons for those decisions. They will also ensure that the decision is communicated to the receiving school within 24 hours and the parent/carer within 5 school days.
4. A start date will be agreed that is no later than 5 school days from the panel meeting.
5. Where the offer of a place is not in line with parental preference parent/carers will be advised of the appropriate course of action they can take.
6. The Panel will be chaired by a headteacher or their representative on a rota basis
7. The quorum for the panel will be a minimum of 5 headteachers or their representatives
8. Decisions on placement will be by majority view of the headteachers.

9. The Chair's role is pivotal to the success of the panel. This includes overseeing data, liaising with Head of School Admissions and school reps, providing support and acting as a mediator with some of the more difficult cases, negotiating with Heads and ultimately ensuring decisions taken are carried through.

## IN YEAR FAIR ACCESS PROTOCOL

### The School Weightings

#### PRINCIPLES

1. The weightings will build on the previous 'one out, one in' principle adopted by the previous Protocol.
2. The list will be open and transparent in its operation so that comparisons between schools and township locations in the admission, exclusion and transfer of pupils can easily be tracked
3. The weightings will enhance the priority of very vulnerable groups of children

#### FORMAT OF THE WEIGHTINGS

4. The list will be a simple excel spreadsheet identifying all primary schools in the township location
5. There will be columns to track pupils 'IN - Excluded' and pupils 'IN - transferred' i.e. these will be permanently excluded and other hard to place pupils admitted by the school which will attract positive weighting factors to the school's score.
6. Permanently excluded pupils will attract double weighting (2 points). Other hard to place pupils will attract single weighting (1 point)
7. Columns will also track 'Excluded - OUT' which will attract negative a weighting factor (-2 points) to the school score and 'Transfers OUT' of hard to place pupils.
8. The difference between the 'IN' and the 'OUT' columns will give a weighted score for the school. The school with the lowest or most negative weighted score will be deemed the next most likely school to admit a pupil.
9. The spreadsheet will also maintain a column that records the number of 'managed moves' involving each school in the township location. These pupils will attract a single weighting (+1 point for the receiving school and -1 point for the transfer out school), which will be added to weighted score for each school to give a total weighting.
10. The spreadsheet will also give an overall score for the township location in order that comparison can be made across the four township locations of the overall impact of the protocol.

#### MAINTENANCE AND USE OF THE WEIGHTINGS

11. The People Directorate will maintain copies of the relative weightings and will ensure they are updated before the next relevant panel meeting.
12. The weightings will be used by the panel to inform their decision making about the school indicated to admit a pupil
13. Pupils will remain on the weighting grid until they leave the roll of the school, e.g. permanently excluded, complete their Year 6 studies or move to a new school etc



### Managed Moves

#### Guidance on Managed Moves

This guidance has been written for use in Dudley Schools to ensure that pupils' education is maintained, parents' rights are protected and there is clarity between the schools involved over the responsibility for each pupil. We fully support the strategy to use Managed Moves in order to avoid a permanent exclusion but it is intended that Managed Moves across schools may also be used where pupils experience social and emotional difficulties that prevent them from accessing learning. It is not intended for use in circumstances where parents themselves initiate a transfer from one school to another. In these cases the normal admission procedures for the new school should be followed.

#### Principles

- Managed moves should only take place if the student's parents / carers are in agreement.
- The student should be open to the idea of a transfer and be willing to attend the new school.
- Students with Special Educational Needs will have a named educational placement as part of their EHCP. Therefore, if circumstances around a child mean that a Managed Move may be considered, this must form part of an Emergency Interim EHCP Review, if the timing of the students Annual Review does not facilitate this. Looked After Children will need to have an emergency Personal Education Plan (PEP) review before a Managed Move is facilitated
- Managed moves should be for a time-limited period of a maximum of 12 weeks (a term) with a minimum of three reviews scheduled. There should be a planned date for a final review at which a decision is made over whether the move can become permanent.
- The student must remain on the roll of the home school during the managed move period and the attendance register must be maintained at the home school with the receiving school providing attendance information at least weekly.
- The home school must allow the student to return to the school if, after review, the new school is not willing to admit the student on a permanent basis or the arrangements break down in the interim period.
- The receiving school can end the arrangement at any time, although it is expected that this is 'review driven'.

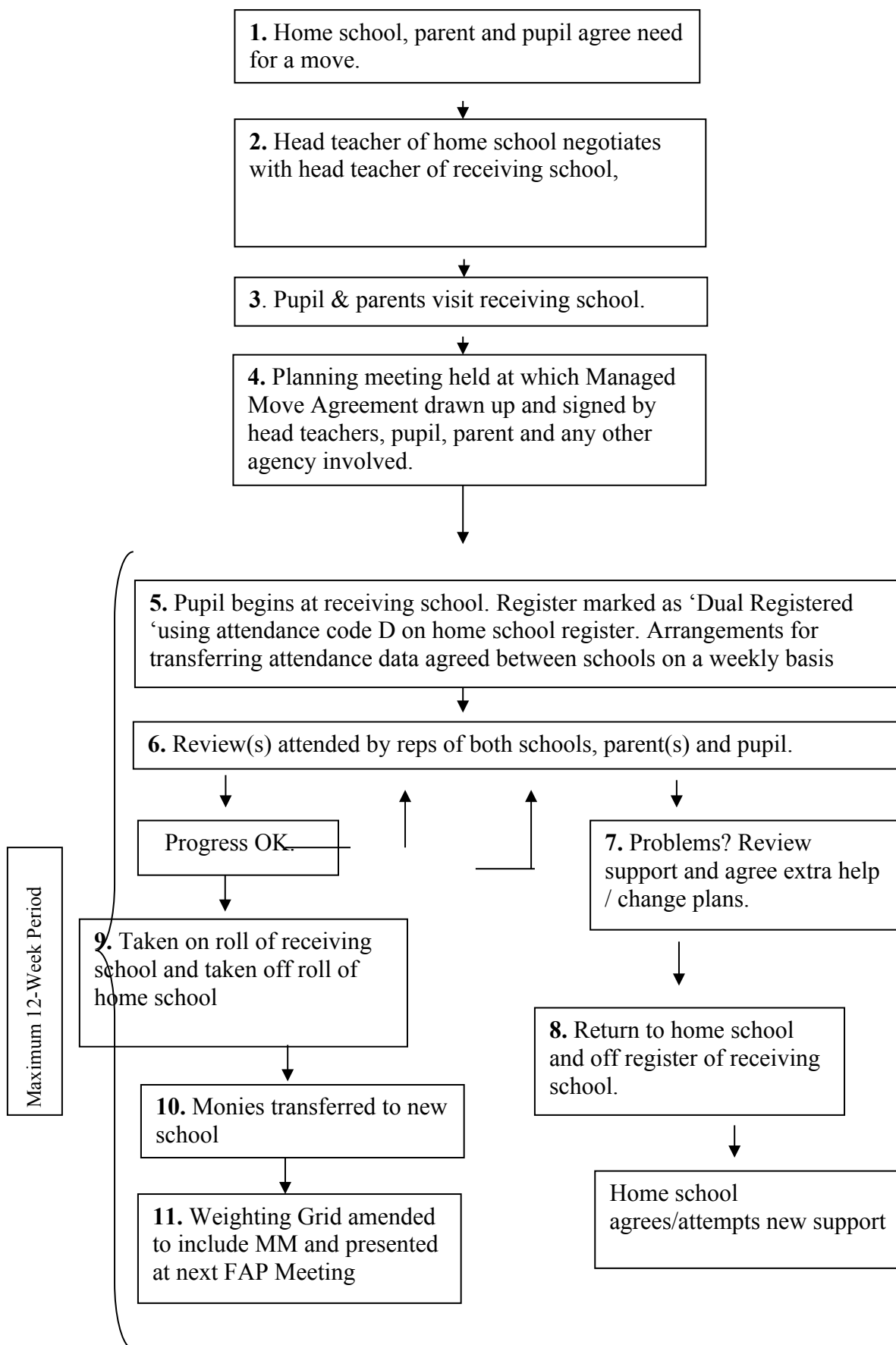
#### Procedures

The flowchart below summarises the procedures to be followed. The numbers relate to the boxes on the flowchart.

1. When a head teacher wishes to initiate a managed move they must first discuss this with the parents. The decision about which alternative school to

- approach should take into account parental views. For a Looked After student, the student's social worker and LACES should also be consulted.
2. The head teacher should then discuss the transfer with the head teacher of the possible receiving school or raise the matter for discussion at a Fair Access Panel meeting.
  3. The student and his / her parents should be offered an opportunity to visit the receiving school. The home school will offer to support the visit.
  4. Once a receiving school has been agreed a meeting should be arranged between the two schools, the parent(s) carers, the student and other people / agencies as appropriate to the individual case. The home school should provide detailed information about the student, their progress, attainment, behaviour, attendance, curriculum details, special educational needs etc. If a managed move is agreed the appropriate Managed Move Agreement Form on page 5 should be adapted / completed and signed by all parties. Review dates including the final placement review will also be agreed on this form. The final placement review should be within 12 weeks maximum of the start date proposed.
  5. Arrangements for the marking of registers must be agreed. The receiving school should record the student's attendance on a 'shadow register' and report this to the home school on a weekly basis. The pupil should appear on both registers marked D. The D code represents a present mark and will identify that the student is dual registered. The home school will manage any persistent non attendance
  6. Reviews should be planned at the outset, and attended by representatives of both schools, the student, parents/carers and any others involved.
  7. If the receiving school is considering ending the managed move, the head teacher or their representative should hold an urgent review meeting.
  8. Any termination of the placement must be confirmed in writing to the parent(s) and to the home school head teacher, specifying the date at which the child must return to their home school.
  9. At the final review meeting a decision must be made as to whether the child will return to their home school or be admitted to the receiving school on a permanent basis. An extension beyond 12 weeks should only be made in exceptional circumstances. This will necessitate an updated Managed Move Agreement following the above procedures. On the agreed date for permanent admission to the receiving school the student will be removed from the register of the home school and admitted to the register of the receiving school. Any remaining school records should be transferred to the receiving school.
  10. At the point of being taken on roll at the new school associated Pupil Led Funding (pro rata) could also transfer between schools along with the PRG should be transferred to the school with effect from the date of commencement of the managed move. The LA does not arrange or monitor or transfer of any funds between schools.
  11. In relation to the 'Fair Access Protocol' a permanent move resulting from a managed move will count as a transfer in (+1 point) and transfer out (-1 point) in relation to the township location weightings grid.
  12. Protocol subject to annual review.

## Managed Moves Flowchart



**Education Investigation Service Involvement: School Attendance Orders**

The head teachers comprising the Borough panel may request that the EIS intervene with a family if it can be shown that a pupil has been allocated a place via a panel, and that the named school have made attempts but parent/carer(s) have failed to engage in securing admission of the child to the school.

Schools should take steps to record all contact and photocopy any original written communication to the parent/carer. Where admission has been unsuccessful because of parent/carer(s) failure to engage with the process within 15 working school days then the panel may agree to refer the matter to EIS for consideration of a School Attendance Order. To ensure equity, the school named at the panel will be the preferred choice of school named in any school attendance order.

If a school attendance order is made, the school do not have to enter the pupil onto the register until he/she has attended on the day or subsequent agreed day for admission. Where possible the Education Investigation Service will secure admission without the need to resort to an order.

Any intervention by the Education Investigation Service has to be based on the evidence; the central allegation is that a parent or carer is failing to ensure that a child is being educated, and thus is alleged to be committing an offence. Therefore, if a prima facie case is identified and a prosecution follows, officers have to record and exhibit all the evidence available and allow the best evidence to be put to the court to allow them to come to an impartial decision. The Education Investigation Service whilst employed by the Local Authority must act independently and the the criminal procedural rules apply.

### Rules Governing Direction

**Local authority powers of direction (general)** - A local authority has the power<sup>1</sup> to direct the admission authority for any maintained school in its area to admit a child even when the school is full. The local authority can only make such a direction in respect of a child in the local authority's area who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance. The local authority **must** choose a school that is a reasonable distance from the child's home and from which the child is not permanently excluded. It **must not** choose a sixth-form that selects by ability unless the child meets the selection requirements, or a school that would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.

Before deciding to give a direction, the local authority **must** consult the governing body of the school, the parent of the child and the child if they are over compulsory school age. If, following consultation, the local authority decides to direct, it **must** inform the governing body and head teacher of the school. The governing body can appeal by referring the case to the Schools Adjudicator within 15 days. If it does this, the governing body **must** tell the local authority. The local authority **must not** make a direction until the 15 days have passed and the case has not been referred.

If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school **must** admit the child. The Adjudicator's decision is binding. The Adjudicator **must not** direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.

**Secretary of State's power of direction (Academies)** - Where a local authority considers that an Academy will best meet the needs of any child, it can ask the Academy to admit that child but has no power to direct it to do so. The local authority and the Academy will usually come to an agreement, but if the Academy refuses to admit the child, the local authority can ask the Secretary of State to intervene. The Secretary of State has the power under an Academy's Funding Agreement to direct the Academy to admit a child, and can seek advice from the Adjudicator in reaching a decision<sup>2</sup>.

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<sup>1</sup>Sections 96 and 97 of the SSFA 1998.

<sup>2</sup> Section 25(3A) of the SSFA 1998.