



East Sussex County Council Fair Access Protocol

Adopted from 1st September 2025

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Executive Summary

The Fair Access Protocol (FAP) aims to ensure that all children and young people in East Sussex have equitable access to educational opportunities, particularly those who are most vulnerable. This summary outlines the key processes of the Fair Access Protocol, its objectives, and the collaborative strategies employed by East Sussex County Council, schools, and partner organisations to support the Protocol. It will be used to place children who have been unable to secure a place through the usual In Year Admission process.

Key Objectives:

1. **Equitable Access:** The FAP is designed to provide fair admissions to schools for children who may be disadvantaged due to various factors, including socio-economic status, children who are electively home educated (whose [EHE](#) has been deemed unsuitable) and now seeking to return to school, or previous exclusions.
2. **Collaboration:** The Protocol emphasises the importance of partnerships among schools, local authorities, and organisations to facilitate timely and effective placements for children in need.

Actions:

- To ensure that the framework for identifying children for the protocol aligns with the School Admissions Code (2021) and the Local Authority's statutory duties under the Education Act 1996, particularly in relation to placing children in schools in a fair and non-discriminatory manner.
- Establish an independent panel that will streamline the process for schools to ensure a consistent and fair approach and to facilitate access to resources and support for students, where applicable, under the FAP.

Outcome:

- The anticipated outcomes of the Fair Access Protocol include improved educational attainment for vulnerable students, increased school retention rates, and an inclusive school environment across East Sussex. Regular stakeholder feedback through the FAP panels, will be integral to ensuring its effectiveness.
- In conclusion, the Fair Access Protocol represents a key commitment by East Sussex County Council and schools to uphold the right to education for all children, fostering an inclusive community, where every student can thrive.

Aims of the Protocol

The aim of the Protocol is to:

1. Provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable, to include:
 - Every child, irrespective of their background, should have access to a school place.
 - Vulnerable children, including those with challenging circumstances, should be prioritised.
 - Including, every effort must be made to secure a timely school place for all children in accordance with their needs,
 - Schools cooperating with the LA to admit children under this protocol, ensuring that their admissions policies do not conflict with the principles of fairness and equity.
2. Provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable children by admitting children placed via the Fair Access Protocol. This includes supporting children who have been permanently excluded from other schools or who face barriers to accessing mainstream education, ensuring placements are made based on need rather than limiting factors such as prior exclusions or [challenging behaviour](#).
3. Ensure that vulnerable children have fair access to a school placement under the FAP and that no school can refuse placement based on concerns about their existing cohort.
4. Recognise the need for appropriate support for children with a history of challenging behaviour, ensuring they are placed in schools equipped to meet their needs. Ensure fair access to a mainstream school place for all our vulnerable children of compulsory school age living within the county of East Sussex, where they have not been able to secure a school place through the normal [in year admissions \(IYA\)](#) process.
5. Act with a sense of urgency to minimise a pupil's time out of education - allocating appropriate school places to vulnerable children **within 20 school days** of them being identified as requiring FAP support.

6. Work together restoratively in an open and honest way, offering constructive support and challenge to each other.
7. Ensure that strategies are developed to reduce unnecessary school moves whilst recognising the legal duty to place children under the FAP if they do not have a suitable school place. Where children already have a mainstream school place which they can reasonably continue to attend, they will not be placed via the Fair Access Protocol.
8. Ensure that there is a supportive reintegration process for pupils who are eligible under the protocol.

Equality Duty

The FAP does not replace the usual in-year admissions process. Parents can make an in-year application at any time and are entitled to have that preference met wherever possible, as well as the opportunity to appeal a decision when a place is not offered and be added to any waiting lists. The School Admissions Code outlines that schools are subject to the Public Sector Equality Duty and therefore must have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations in relation to people who share a relevant protected characteristic and people who do not share it.

Admission authorities who have chosen to go over PAN to accommodate children who could have been placed in another local school will not be exempt from admitting children via the Protocol. If this happens, it will be assumed that the school in question has planned to accommodate this number and is able to continue to do so for the duration of that cohort's attendance, unless unforeseen circumstances prevent this. Should this be the case, the admissions authority will need to update the Local Authority accordingly.

Every effort (within the boundaries of the law) will be made to identify cases needing to be placed via the Protocol, however, it is accepted that these cases will not always be apparent in advance, and some will only be identified as qualifying to be placed under the Protocol after they have started at the school, particularly where these cases have arrived from another Local Authority area.

Once an offer of a school place has been made, it cannot be withdrawn. However, the school will be entitled to **retrospective FAP credits** for such admissions to enable numbers of FAP admissions to be monitored.

In considering whether to refuse admission on grounds of ‘challenging behaviour’ (paragraph 3.10 of the Code), admission authorities **must** be mindful of their duties under the Equalities Act 2010, ‘when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability’.

The DfE guidance clarifies that, ‘all schools have a duty to make reasonable adjustments for students with disabilities. Schools should be aware that a child who displays challenging behaviour may do so as a result of their disability or any unmet needs. Schools must therefore consider whether any reasonable adjustments can be put in place to support the needs of a particular child when considering whether admission should be refused on these grounds’. In this context, a refusal is only appropriate if it is likely that the behaviour would still be considered ‘challenging’ once all reasonable adjustments have been made.

Legalities

The protocol is in accordance with:

- **Education Act 1996**
- **School Standards and Framework Act 1998**
- **Schools Admissions Code (2021) and School Admission Appeals Code (2022),**
- **Children Act 1989/2004.**

The School Admissions Code 2021 ('the Code')

Every Local Authority area is required by law to 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 soon as possible', and all admission authorities in the area must participate in it.

The Code, which carries the force of law, says 'participation includes making available a representative who is authorised to participate in discussions, make decisions on placing children via the Protocol, and admitting pupils when asked to do so in accordance with the Protocol, even when the school is full' (paragraph 3.15).

The Protocol must be consulted upon and developed in partnership with all schools in the Local Authority area. Once agreed, the Code is clear that, 'the existing Fair Access Protocol will remain binding on all schools in the local area until the point at which a new one is adopted', (3.22). The process for reviewing the Protocol is set out in the section 'Application of the Protocol' below.

The Protocol must only be used to place those children who are not able to be placed via the usual in year admissions process. It does not apply to those who are applying as part of the normal admissions round.

Children who already have a suitable offer of a mainstream school place do not qualify for placement under the Protocol. Unnecessary transfers between schools are strongly discouraged and schools are expected to work with children and their families to prevent these where possible. **The Local Authority recommends that**

direct contact is made between school settings to ensure timely information is shared.

Only the categories of children listed as a to m below qualify to be placed in this way. This is set out in the Code.

Children with an EHCP are not placed via the Protocol and cannot be refused a place at the school named in the plan.

Given that children being placed via the Protocol do not have EHCPs and are mainstream-appropriate, it is expected that any mainstream school will be able to make reasonable adjustments to meet the child's educational needs.

In year applicants not able to be offered a place at the preferred school must be offered the right to appeal, whether placed under the Protocol or otherwise.

Fair Access Protocol categories

The following children may be considered under the FAP if they **are without a school place** and have difficulty securing one through the normal in-year admissions process:

- a. 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.
- b. children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol.
- c. children from the criminal justice system.
- d. 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.
- e. children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions.
- f. children who are carers.
- g. children who are homeless.
- h. children in formal kinship care arrangements.

- i. children of, or who are, Gypsies, Roma, Travellers, refugees and asylum seekers.
- j. 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 the Code.
- k. children for whom a place has not been sought due to exceptional circumstances.
- l. 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.
- m. previously looked after children for whom the Local Authority has been unable to promptly secure a school place.

School Admissions Code

In Year Admissions

The Code is clear that, ‘a parent can apply for a place for their child at any school, at any time’ (2.23), and that admission authorities receiving an application ‘**must** process it in accordance with its own in-year admission arrangements’ (2.25).

Should there be more applicants than vacant places at any given time, admission authorities **must** allocate places on the basis of the oversubscription criteria in their determined admission arrangements only’ (2.29).

If an application for in-year admission (IYA) is received by a school, there are only two grounds for refusing:

- i) The year group is at capacity and to admit any further students would prejudice efficient education at the school or the efficient use of resources; or
- ii) The admission authority, ‘has good reason to believe that the child may display challenging behaviour’ (3.10) (defined in the ‘terms and definitions’ section below), and the school, ‘has a particularly high proportion of either children with challenging behaviour or previously permanently excluded children on roll compared to other local schools.’ (3.11)

This second ground cannot be used to refuse admission to looked after children, previously looked after children, or children with an EHCP naming the school. Nor can it be used to refuse admission to a child in the normal intake year (reception, year 3 of a junior school or year 7 of a secondary school).

The Code is clear that ground ii) must not be used ‘to refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs’ (3.13).

The Code requires that admission authorities consider their duties under the Equalities Act 2010, ‘when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability’.

Refusal Process: In all cases, where a child is to be refused on ground ii), following this refusal, the refusing school should complete, Primary Challenging behaviour refusal form (being drafted) and or for [Secondary Challenging behaviour refusal form](#) to enable the Local Authority to take such action as may be necessary under the Fair Access Protocol.

This should be done within **five school days** of the decision being reached. The law also requires that the admission authority to convey the decision in writing to the parent or carer, giving reasons for the decision and detailing the right of appeal and how to exercise it.

FAP credits: Where a child is admitted to a school via the **in-year admissions** process and is known, or subsequently found, to fall into one or more of categories **a-m** above, schools should send a secure email to, fair.accessprotocol@eastsussex.gov.uk, giving the child's name, year group and date of enrolment, to enable the school to be credited with this admission.

Application of the Protocol: Role for schools

Schools should inform the Local Authority if they believe an in-year admission applicant may meet the criteria for the Fair Access Protocol. Final determination of FAP eligibility will be made by the Local Authority once a school place has been formally offered and accepted through the in-year admissions process, it cannot ordinarily be withdrawn, except in cases of error, fraud, or misrepresentation, in line with the Code (2.13)

Retrospective credit should be requested by emailing fair.accessprotocol@eastsussex.gov.uk giving the child's name, year group and FAP category. It is important schools update the Local Authority **monthly** with this information as it will inform the decision making for allocation of future challenging FAP cases. This data helps the LA monitor the equitable distribution of vulnerable children across school.

If IYA applications fall into a FAP category and the school cannot offer a place, by reason of challenging behaviour or lack of space, the school should notify their admissions contact at the Local Authority within **five school days** and fair.accessprotocol@eastsussex.gov.uk to ensure that the child is identified as needing to be placed via the Protocol .

If the school believes an applicant's behaviour raises significant concerns, they should submit a challenging behaviour form by the appropriate deadline, and the Local Authority will consider whether placement through the Fair Access Protocol is appropriate. This would then be brought to the Fair Access Panel. If the information on the form does not demonstrate that the criteria for refusal have been met, clarification will be sought ahead of the meeting. If this is not forthcoming, the Panel is likely to place the child at the refusing school.

If the refusal is due to challenging behaviour, then evidence needs to be provided at the same time (of both behaviour and school context) using the challenging behaviour form, so that this can be considered when the child is placed.

This applies even if the child is already in an appropriate placement, as it is important to ensure that the correct procedures are being followed in all cases, and for the Local Authority to be aware of the reasoning should there be challenges from

the parent or carer. The form can also be used to evidence the validity of the decision-making to an Independent Appeal Panel if the family lodge an appeal. It is important to understand that the right of appeal applies to these cases, and that Independent Appeal Panels can override the decision of the Fair Access Panel should they feel that circumstances warrant this (see paragraph 3.23 of the School Admissions Appeals Code 2022).

When a school is allocated a child via the Protocol, the school must admit the child without delay. Children being allocated by the Protocol are some of the most vulnerable in the county and it is essential for them to have the protective factors a school place offers, and their admission should be prioritised above others.

Reintegration process and support

It is accepted that schools may need a short period to arrange timetables, reintegration programmes, and appropriate support. **However, children must be placed on roll within ten school days** and begin their reintegration plan promptly to ensure compliance with the duty to provide education without undue delay.

For reasons of, 'challenging behaviour', a period of reintegration support and planning can be supported by the Local Authority from the Team Around the School and Setting and this will be determined, if appropriate and necessary, at the Fair Access Panel. If agreed, the Team Around the School and Setting, Senior Manager will contact to arrange a multi-agency meeting with the receiving school.

If a school does not feel able to comply with the requirement to admit a particular child who has been allocated via the Protocol, due to a serious safeguarding concern with respect to attendance at that school of which the panel were not aware, this should be raised with the Service Manager: Admissions and Transport within **three school days** following the allocation.

If a safeguarding concern is raised, the Local Authority will investigate the matter thoroughly, considering the child's best interests, the legal duties under the Fair Access Protocol, and the evidence provided. In exceptional cases, if the concern is substantiated, an alternative placement may be considered. An extraordinary meeting of the Fair Access Panel may be convened to support this process.

East Sussex Fair Access Panel for placing children with ‘challenging behaviour’

The guiding principles of the panel is to provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable, by admitting their fair share of children being placed via the FAP. This includes supporting those children who have been permanently excluded from other schools and those who display challenging behaviour.

The independent chair will ensure there is fair access to a mainstream school place for all vulnerable children of compulsory school age living within the county of East Sussex, where they have not been able to secure a school place through the normal in year admissions process.

The panel will act with a sense of urgency to minimise a pupil's time out of education - allocating appropriate school places to vulnerable children within **20 school days** of them being identified as requiring FAP support.

Membership of the panel will support working together restoratively in an open and honest way, offering constructive support and challenge to each other.

An unplaced child generally should be placed via the panel if their behaviour or circumstances meet the criteria set out in paragraph 3.17 the School Admissions Code and the definition of ‘challenging behaviour’, [set out in footnote 76](#) of the Code and admission to school would require arrangements over and above those already made.

- 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 (**category d**)
- Children from the criminal justice system (**category c**)
- 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 the Code (**category j**)

Operation of Fair Access Panels

- a. Fair Access Panels will be administered and chaired by an independent chair.
- b. Fair Access Panels will discuss and consider all the evidence and decide whether a pupil meets the criteria for placement under the Fair Access Protocol and where the child will be placed.
- c. Final placement decisions will rest with the Local Authority.
- d. Placements of 'challenging behaviour' cases under the Fair Access Protocol will be made by the separate Primary Phase Fair Access Panel and the Secondary Phase Fair Access Panel.
- e. Fair Access Panels will meet monthly during term-time, to adhere to the 20 school-day timeframe for placing children under the Fair Access Protocol. Where no such cases are submitted prior to the deadline, the meeting will be cancelled.
- f. East Sussex Admissions and Transport Team will identify cases that need to be considered under the Fair Access Protocol but cannot legally research the child's circumstances.
- g. Letters will be sent to inform parents of referral under the Fair Access Protocol.
- h. A pupil generally should be placed via the panel if their behaviour or circumstances meet the criteria set out in paragraph 3.17 the School Admissions Code and the definition of 'challenging behaviour' set out in footnote 76 and admission to school would require arrangements over and above those already made. * Please note: Pupils are only placed in this way if the preferred school refuses the in-year admission. The FAP local agreement means, if it is a green or amber year group and the school has space, then the child should be offered a place via the IYA process.
- i. The panel also places categories c) and d)
- j. Membership of the monthly panels will consist of: Independent chair, East Sussex Officer(s), London South East Academy Trust (LSEAT) representative, on a rotational basis, Secondary Headteacher's, one per Area Group (Secondary panel only), Primary Headteacher's (Primary panel only - representing the EIP group). Any potential receiving schools will be invited to attend the panel(s) alongside the existing home school, as appropriate.

k. The discussion and decision on allocation of a school place by panel will consider all the following criteria and factors:

- Accessibility of the school to child's home: Distance
- Red RAG year* (x 1 only visual on sheet)
- Parental preference and pupil's best interests
- % FAP allocated to school
- % IYA across academic year
- Amber RAG year* (2 x only visual on sheet)
- Number EHCP % (census to capture data)
- Any further information submitted by the parent or carer

Primary only:

- Infant class size *primary only
- Where siblings currently attend *primary only

*Ragging reviewed by schools three times a year.

2. Fair Access Panel Outcome

School representatives will have delegated powers to make decisions for the school(s) they are representing. The decisions of the Panel are binding, and school representatives should be supported by the school(s) they represent in their capacity as Panel members.

Decisions will be sent by the ESCC Admissions Team, to the receiving school by email on the day of the meeting where possible, or on the following school day. ESCC will inform the parent or carer by email on the fourth school day following the meeting, giving appeal rights where the preferred school has not been offered.

3. Local Authority as the final decision maker

The purpose of any panel meeting is to identify the school place the vulnerable child will be offered, and all schools are required to attend the panel with this objective in mind.

If the Panel cannot agree on an appropriate school place, the Local Authority, as the final decision maker, will determine the appropriate placement based on the principles outlined above and in accordance with the legal framework. If necessary, the Local Authority may direct a school to admit the vulnerable pupil.

Application of the Protocol: Role of the Local Authority

Admissions and Transport:

- within **five school days** of an IYA application being received, the team will notify the relevant school, if the child has a history of challenging behaviour that the Local Authority is aware of, has been permanently excluded, or is currently attending Alternative Provision, where this information is known.
- where a school can **evidence** a refusal to admit a child on the grounds of challenging behaviour, the team will consider this information and, where appropriate, the case will be discussed at the East Sussex Fair Access Panel and the child to be placed via the Protocol. [See pages 16-17.](#)
- where a school has refused on the grounds of challenging behaviour and the case is referred to the Fair Access Panel, the parent or carer will be notified by email of the date of the meeting and offered the opportunity to submit further information in support of the placement if they wish.
- the Admissions team will convey the decision of panel to the school (within one school day) and to the parent (within five school days) after the meeting.
- where a school is non-compliant with the Protocol, the Admissions team will escalate to the Strategic Lead, Education Improvement, who will refer to the school for a follow up discussion.

Local Authority Powers of Direction:

- If a school refuses to admit at this stage, the Local Authority will consider pursuing a formal direction in line with the [School admissions code 2021](#).
- A Local Authority has the power to direct the governing body of a maintained school for which they are not the admission authority to admit a child in their area even when the school is full. See paragraphs 3.23 to 3.25 of the Code.
- Where a Local Authority considers that an academy will best meet the needs of any child, it can ask the Secretary of State to intervene - the Secretary of

State has the power to direct the admission of any child to any academy under the academy's funding agreement. See paragraphs 3.29 of the Code.

Application of the Protocol: Referral and criteria for FAP placement

The Code is clear that where a child who falls into one or more of categories **a to m** [listed above](#) is unable to be placed through the normal in-year admissions process, they must be placed under the Fair Access Protocol.

Once a child is identified as qualifying to be placed this way, a place must be made available within **twenty school days**. This means that, should a school be unable to offer a place to such a child, they must notify their admissions contact at the Local Authority as soon as the decision is reached, so that the placement process can be triggered.

Where a child falls into categories **a, b, e, f, g, h and i** above, they will be placed via the normal in year process, where there is a space available at a preferred school or one within a reasonable travelling distance.

If there is no space available at any school within a reasonable distance, a school will be identified by the Admissions & Transport Service and asked to admit the child over numbers.

Children falling into **category k**, will have a school identified by the Admissions and Transport service, which will normally be the nearest school suitable to the child's age, aptitude and abilities where a place can be made available unless they are returning from Elective Home Education when education has been deemed unsuitable by the EHE team, as [set out below](#).

Children who fall into **category l**, will have a school place identified by the Admissions & Transport Service. In areas served by only one school, this will normally be the school serving the area, unless there is a parental preference for an alternative which could reasonably accommodate the child.

In areas served by more than one school, this will be one of the local schools, considering parental preference, distance from home to school, sibling attendance,

numbers on roll and previous allocations under the Protocol.

Children falling into categories **c, d, and j**, will be placed by a panel using the placement criteria set. [See page 16.](#)

Application of the Protocol: Elective Home Education returners (including School Attendance Orders)

Where the Elective Home Education (EHE) has been deemed ‘unsuitable’ by the Local Authority, the EHE team will support the family to apply for a school place. In this case, the child will be treated as a normal in year admission although a retrospective FAP credit can be applied where appropriate.

If the family does not make an application within a reasonable timescale, the child will fall into **category ‘k’**. If the application is made, but is unsuccessful, the child will fall into **category ‘l’**. In both cases they will have a school identified by the Admissions and Transport service. Admissions and Transport will inform the Children Missing Education Team (CME) of the allocation of the school. The CME team will notify both the school and the family of the decision to initiate the School Attendance Order process, should the child remain without suitable education.

This SAO will normally name the last school attended (previous home school) unless this is no longer suitable by reason of distance, age or other exceptional factors, in which case it will be the nearest school suitable to the child’s age group at which a place can be made available. The CME team will issue a School Attendance Warning Letter to the school and Governing body. The school will have **3 working days** to submit any ‘exceptional factors’ of concern, to the Admissions Team.

It is important to understand that children whose EHE is ‘unsuitable’ are entitled to apply for a place at a different school under the normal in-year process and must be offered a place unless one of the grounds for refusal applies. [See page 6.](#)

Children who are not EHE returners but still require a School Attendance Order, e.g. those who have moved to East Sussex and not sought a school place, will fall into

category 'k' and will be placed in the nearest school suitable to the child's age group at which a place can be made available. If this happens the school will be awarded a FAP credit, but the child will not be placed by the FAP panel unless they also fall into 'c', 'd' or 'j' as well.

The Children Missing in Education team will offer reintegration support to children who are within this category.

Application of the Protocol: Alternative Provision

The commissioned Alternative Provision provider for permanently excluded children will work with the child and family ensuring appropriate assessments have taken place in preparation for the child returning to an educational setting with success. They will present the case at the Fair Access Panel when the child is ready for allocation at a mainstream setting.

Application of the Protocol: Safeguarding

Where there may be safeguarding concerns with children being managed through the FAP process, it is imperative that receiving schools are aware of any concerns at the earliest opportunity. The Local Authority recommends that direct contact is made between school settings to ensure timely information is shared and that schools are transparent about the behaviour, attendance and level of support that has been provided. The draft [Student Transition Information template](#) has been developed to ensure clarity of information shared.

The following guidance outlines Information Sharing Advice for practitioners providing safeguarding services for children, young people, parents and carers: [Information sharing advice for safeguarding practitioners](#).

Keeping Children Safe in Education (KCSiE) is clear that: *DPA and UK GDPR do not prevent the sharing of information for the purposes of keeping children safe and promoting their welfare. Fears about sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare of children.*

KCSiE goes on to state timeframes for sharing information but makes it clear that schools can share information with a new school in advance of the child leaving, to help the new school put support in place for the child. In that respect, schools must share safeguarding information in a timely way within the FAP process to support all schools with making informed decisions and developing suitable plans to keep children safe.

- *Where children leave the school or college (including in year admission) the designated safeguarding lead should ensure their child protection file is transferred to the new school or college as soon as possible, and within 5 days for an in-year admission or within the first 5 days of the start of a new term.*
- *Receiving schools and colleges should ensure key staff such as designated safeguarding leads and special educational needs co-ordinators (SENCOs) or the named person with oversight for SEND in colleges, are aware as required.*
- *In addition to the child protection file, the designated safeguarding lead should also consider if it would be appropriate to share any additional information with the new school or college in advance of a child leaving to help them put in place the right support to safeguard this child and to help the child thrive in the school or college.*

Where a child is known to have a history of safeguarding concerns or complex current circumstances, this is not reason enough for schools to not comply with the requirement to admit a child, who has been allocated via the Protocol.

A serious safeguarding concern which may preclude admission could be where a child has a history of harm with a particular child already on roll of a school or setting. Therefore, to bring them both into the same school environment would not be in either of their best interests.

Application of the Protocol:

Funding Information - Permanently Excluded children (only)

If a school or academy permanently excludes a child, the principles, as agreed at the Schools Forum include:

- that funding shall follow pupils and therefore be transferred between schools, academies and the Local Authority unless the pupil is from outside of East Sussex.
- where a pupil is permanently excluded, the school will passport to the LA the remainder of the age weighted pupil unit (AWPU) for that financial year, based on the calculation set out within the School and Early Years Finance (England) Regulations 2012.
- where the exclusion occurs after the October census the school or academy will also be required to pay the following year's full year AWPU.
- where a pupil transfers within the same financial year to another school or academy, the amount that the new school receives, will be calculated in accordance with the School and Early Years Finance (England) Regulations 2012.

FAP Review Process

The Protocol will be reviewed annually. Should the Protocol prove untenable to most schools/admission authorities in East Sussex, an early review will be triggered. This should be raised through the Primary and Secondary Boards.

The current Protocol will remain binding on all schools/admission authorities in East Sussex until a new one is agreed.

Appendices

Resources

- a) School Admissions Code 2021: [School Admissions Code 2021 \(gov.uk\)](#)
- b) DfE FAP guidance: [Fair access Protocol s: advice for local authorities and school admission authorities \(publishing.service.gov.uk\)](#)
- c) East Sussex County Council admissions information: [Apply for a school place | East Sussex County Council](#)

Terms and definitions

Admissions & Transport: the team within East Sussex County Council which is responsible for co-ordinating admissions and assessing entitlement to home to school transport and free school meals.

‘Challenging behaviour’ (footnote 76): this is defined in the School Admissions Code 2021 as ‘For the purposes of this Code, 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/other pupil’s education or jeopardise the right of staff and pupils to a safe and orderly environment’. While it is recognised that the Admissions Code uses the term ‘Challenging Behaviour’, this is not in line with East Sussex’s Therapeutic Thinking approach to behaviour. Where this document refers to ‘Challenging Behaviour’, this refers to what we would call difficult or dangerous behaviour. Where this behaviour results from a disability, this will be factored into the decision-making process.

CME: child missing education. This is a child without a school place available, or whose whereabouts are unknown to the current school, not a child who has a school place but is refusing to access it (or whose parents are refusing on their behalf). East Sussex County Council has a CME team responsible for tracing these children and ensuring their return to education.

CME Team: If a child is open to the team, a reintegration package is offered to support the child when returning to a school setting. This includes failed EHE where a School Attendance Order has been issued and children who have been missing in education for more than 4 weeks.

Cohort: a given year group in each school.

Direction: where an admission authority refuses to accept a child placed under the Protocol despite no safeguarding concerns having been raised and/or accepted, Admissions & Transport will request a direction from the Secretary of State and/or the funding agency.

EHE: Elective home education. In East Sussex, when a family withdraws a child from a local school to home educate, an agreement is in place stating that the child's previous school will offer them a place if home education is discontinued or deemed unsuitable by TLP. However, if home education is found to be unsuitable, parents also have the right to apply for a place at a different school.

Exceptional factors: in the context of a proposed SAO this can only be a severe school specific safeguarding concern. If the safeguarding concern would apply in other local schools, then the school will be expected to formulate an appropriate plan to manage the risk and admit the child.

Fair Access Panel: Placements under the Fair Access Protocol will be made by the separate Primary Phase Fair Access Panel and the Secondary Phase Fair Access Panel. Fair Access Panels will meet monthly, to adhere to the 20 school-day timeframe for placing children under the Fair Access Protocol. Fair Access Panels will be administered and chaired by an independent chair. The panel shall consider all the evidence presented to determine whether a pupil qualifies to be placed via the Fair Access Panel.

In year admission: admission of a student outside the normal timescale for admitting children at the beginning of term 1 of the intake year. This does not include staggered starts for reception admissions if these places were allocated via the annual admissions exercise.

Inclusion Partnership: Each area group has its own inclusion partnership which is made up of representatives from all the secondary schools in its area as well as Local Authority officers. It shares best practice, supports inclusion and discusses complex cases.

PAN: published admission number. This is the number of children each school expects to admit in its annual intake each year. Where the admission authority decides to admit above PAN in its intake year, schools and admission authorities will still be expected to admit children under the Protocol, returning from EHE or children for whom there is no space available within a reasonable travelling distance, unless this is impossible by reason of class size legislation.

RAG rating: each school is asked to rate every cohort in their school three times a year as red, amber or green based on the level of challenge/need in that year group, not places available. This is to enable panels to estimate the likely difficulties each school would face in admitting an additional child with ‘challenging behaviour’. RAG ratings can be altered up to three times in an academic year to reflect possible changes in the circumstances of the cohort (e.g., previously red year group may have settled, previously amber/green year group may have experienced trauma). Where a school has mixed age teaching, RAG rating will still need to reflect the cohort rather than the class.

Refusal on grounds of ‘challenging behaviour’: In the context of refusing children with ‘challenging behaviour’ for in year admission under category ‘j’, this either needs to be a red year group or a safeguarding issue specific to this allocation (i.e. an issue that would not present if this child attended another local mainstream school). It is unlawful to refuse a looked after child, a previously looked after child, or any child in the normal year of entry for this reason.

Relevant Accommodation: (as used in category b): A safe place to stay for victims and their children fleeing domestic abuse. This can include, but is not limited to, refuges, specialist safe accommodation, sanctuary schemes and second stage accommodation.

Retrospective FAP credit: where a child is admitted to a school via the in-year admissions process and is then identified as falling into one of the FAP categories set out in paragraph 3.17 of the School Admissions Code 2021 (and reproduced above), schools should send a secure email to fair.accessprotocol@eastsussex.gov.uk detailing the child’s name, year group and date of admission together with evidence of the FAP category applicable in their case. This information will then be added to the record of FAP admissions for that school used to place challenging behaviour children at the Fair Access Panel.

SAO: School Attendance Order. This is an order naming a school at which a child who is currently out of education must be enrolled within a given timescale. If a school is named in the order, they must make a place available, and the parent must enrol their child or make suitable alternative provision for their child’s education within the timescale in the order.

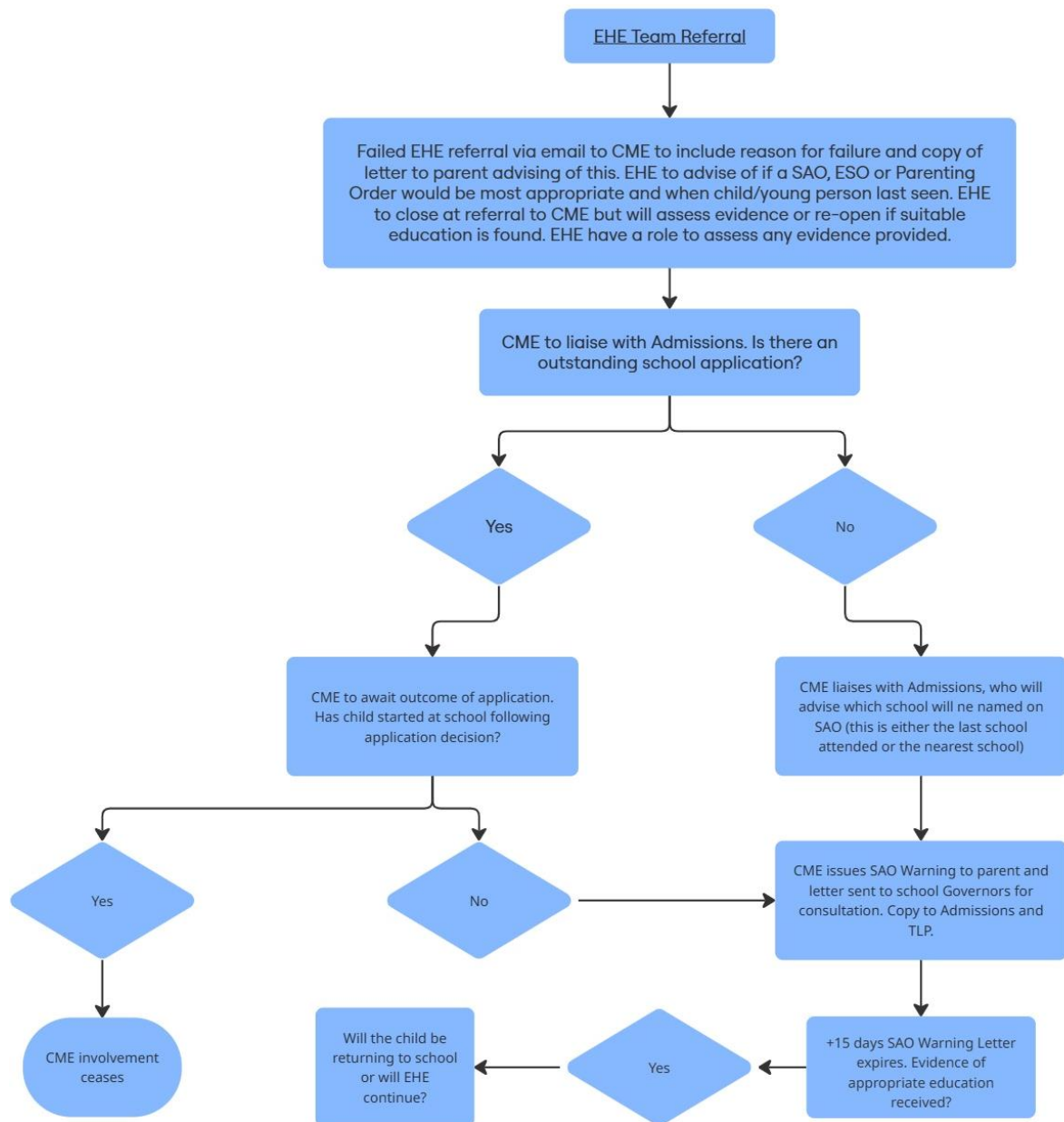
[Student Transition Information Form add link](#)

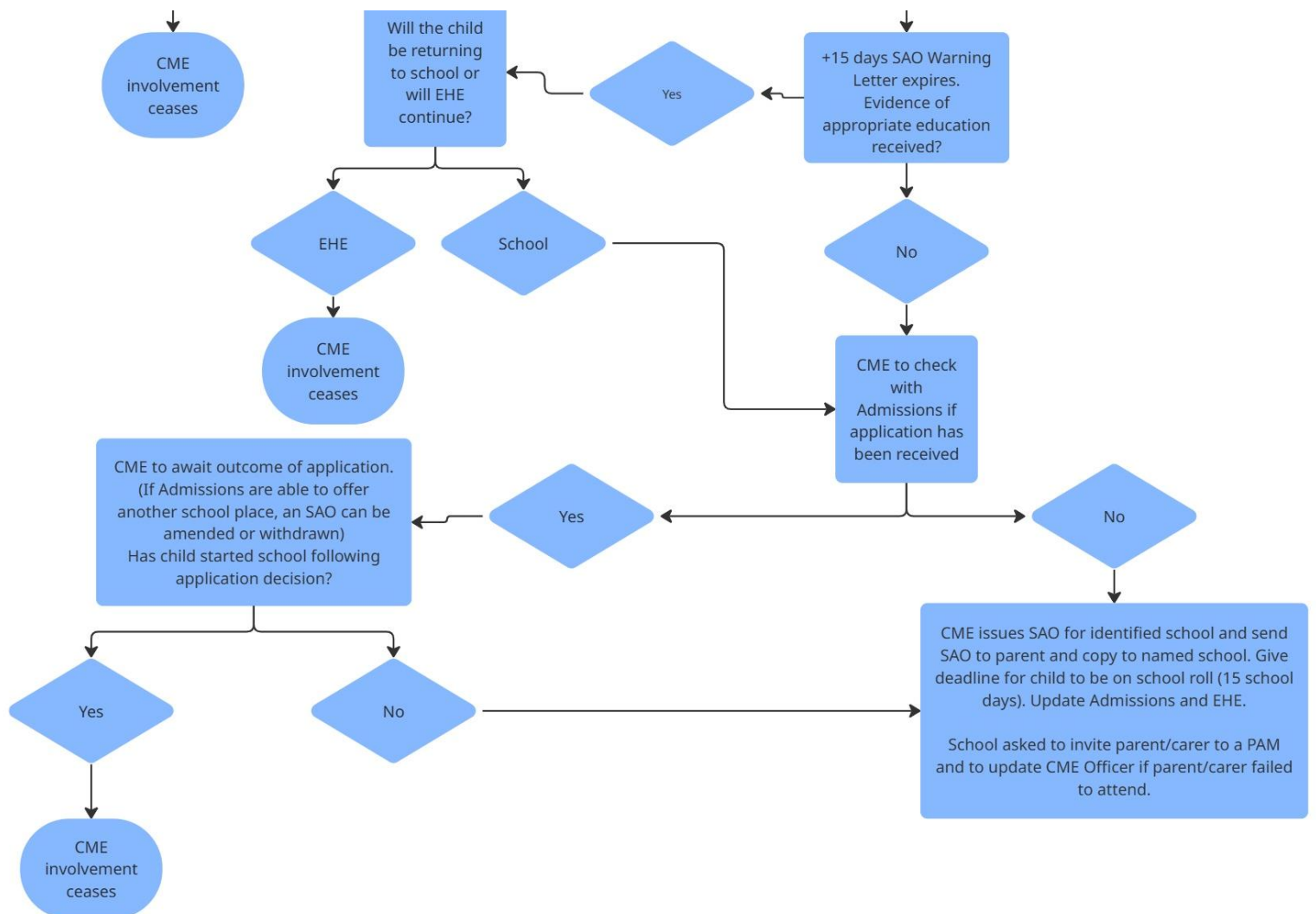
TLP: the team within East Sussex County Council responsible for Teaching and Learning Provision for children who are unable to attend school for health reasons. This team is also responsible for monitoring EHE provision.

Forms, flowcharts and linked documents

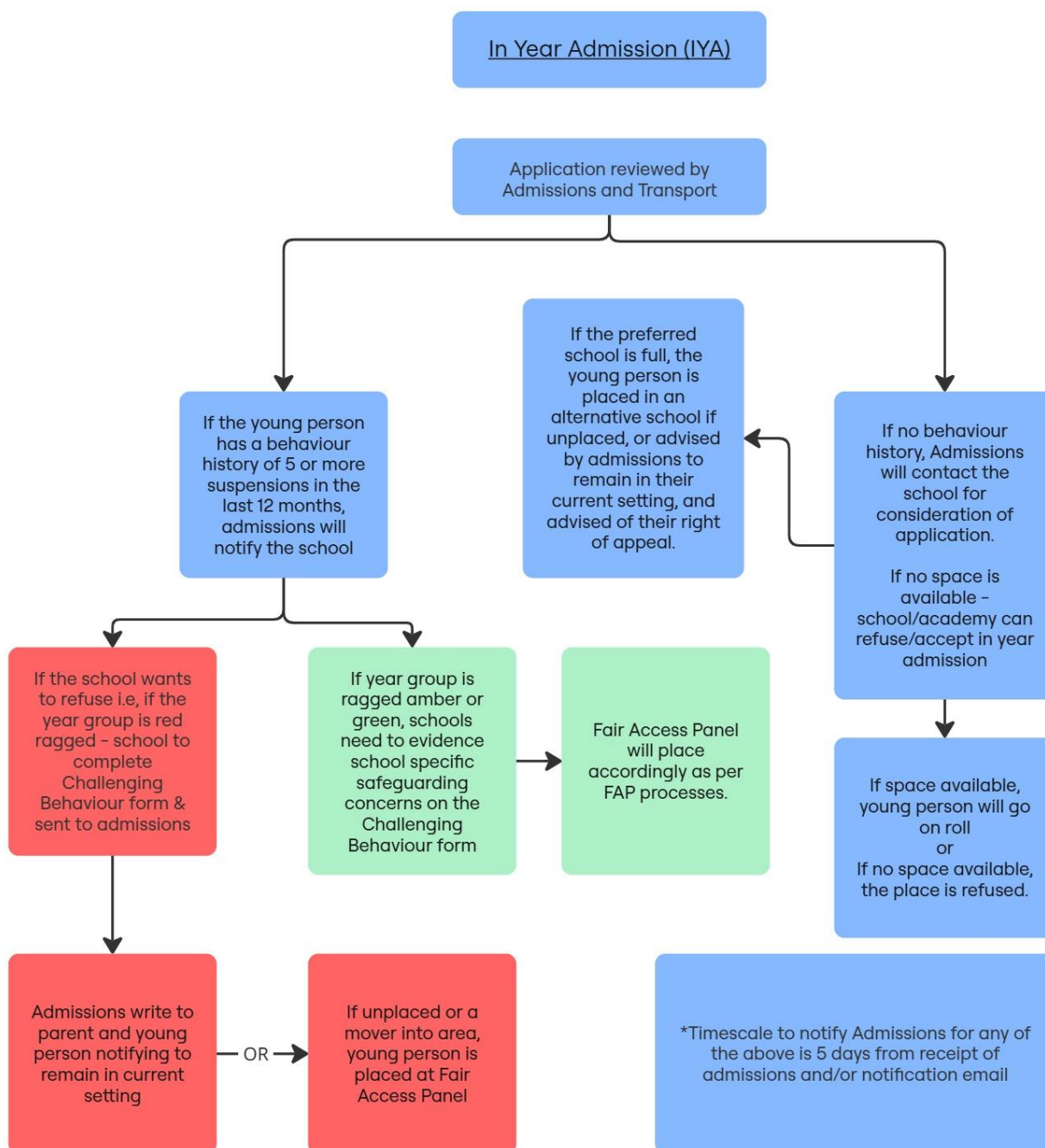
- a) [Challenging behaviour refusal form](#)
- b) East Sussex Fair Access Panel Process criteria and Terms of Reference
- c) Elective Home Education - School Attendance Orders (only) flowchart.
- d) In Year Admissions flowchart

Elective Home Education - School Attendance Orders (only)





In Year Admission Flow Chart



Draft Student Transition Information Form

Fair Access Protocol

Section A: Student Details

Full Name:

Date of Birth:

Current Year Group:

Current School:

Unique Pupil Number (UPN):

Section B: Reason for Referral via Fair Access Protocol

Brief description of the reason for the transition:

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Section C: Educational Information

Current Attainment Levels / Grades attach latest tracking / reporting document:

Attached: ☐ Yes ☐ No

Attendance (this academic year): _____ %

Punctuality concerns: ☐ Yes ☐ No If yes, provide details:

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SEN Status: ☐ No SEN ☐ SEN Support ☐ EHCP

If EHCP, attach latest plan and specify primary need: Attached: ☐ Yes ☐ No

Additional support provided in current school:

Section D: Behaviour and Safeguarding

Behaviour Concerns: ☐ Yes ☐ No

If yes, describe concerns and attach relevant evidence (e.g. behaviour logs,

exclusions):

Safeguarding Concerns: ☐ Yes ☐ No

If yes, confirm if DSL is aware and details are shared securely: Confirm ☐ Yes ☐ No

Section E: Support from Education Services (if applicable)

Involvement of External Agencies (tick all that apply):

☐ Educational Psychologist

☐ CAMHS

☐ Social Care

☐ Youth Offending Team

☐ Other (please specify): _____

Key Contacts:

Name: _____

Role/Agency: _____

Contact Info: _____

Summary of Support Received:

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Section F: Parent/Carer Engagement

Parental engagement level: ☐ High ☐ Medium ☐ Low

Have parents/carers been informed of the transition? ☐ Yes ☐ No

If yes, date of conversation: _____

Summary of discussion:

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Section G: Transition Planning

Suggested support strategies for transition:

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Key considerations for receiving school:

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Has a transition meeting been arranged? ☐ Yes ☐ No

Proposed date: _____

Section H: Supporting Documents Checklist

☐ Latest school report

☐ Attendance record

- ☐ Behaviour log
- ☐ SEN plan / EHCP (if applicable)
- ☐ Risk assessments (if applicable)
- ☐ Agency reports / referrals

Other relevant evidence: _____

Declaration (To Be Completed by Current School)

Name:

Position:

Signature:

Date:

DSL Signature (if safeguarding information shared):