

Bracknell Forest Fair Access Protocol (FAP)

1. Legislation

- 1.1 The School Admissions Code (September 2021) requires the Local Authority (LA) to have a Fair Access Protocol (FAP), agreed by the majority of schools in which all schools must participate¹. FAP ensures that unplaced and vulnerable children, and those who are having difficulty in securing a school place, are allocated a suitable school place as quickly as possible.
- 1.2 FAP is designed for the admission of pupils to Bracknell Forest schools outside the normal points of entry. It specifically applies to children who have been unable to obtain a place through the standard in-year admissions process. Referrals to FAP should only be made when it is evident that all reasonable efforts to secure a place through in-year procedures have been exhausted, and the child meets one of the defined eligibility categories under the Protocol.
- 1.3 The Protocol applies to children resident in Bracknell Forest and to Bracknell Forest schools. However, it may also be extended to children seeking places outside the borough, or to non-Bracknell Forest schools admitting such children, subject to the agreement of the respective admitting authorities.
- 1.4 The Protocol does not apply to children whose parent/carer did not secure provision at their preferred school during standard admission points, such as starting school, moving from infant to junior school or transferring to secondary school.

2. Key principles

- 2.1 In agreeing a Protocol, the Local Authority must ensure that when seeking to place a child through FAP, schools (including those with places available) should not be asked to take a disproportionate number of children who have been permanently excluded from other schools, who display challenging behaviour, or who are otherwise being placed via FAP.
- 2.2 Referral to FAP should be seen as the **last resort** to secure a school place for a child. Where possible, children should be placed in school through the usual in-year admissions process in the first instance (**see Appendix 1**).
- 2.3 FAP is intended to facilitate access to a school place for every child. Its focus is on placement arrangements rather than the provision of support for the child or school following admission.
- 2.4 Eligibility under FAP does not restrict a parent/carer's right to apply for a school place at any time. Admission authorities must not refuse admission solely on the basis of FAP eligibility. Parents/carers retain the statutory right of appeal against any refusal of a place, including where a child has been placed under the Protocol and formal appeals are not required prior to admitting hard-to-place children through FAP.
- 2.5 FAP will not normally apply to children who already have a school place where a parent/carer is seeking an in-year transfer. In these cases, applications must be considered through the usual in-year admissions process, and the right of appeal remains where an application is refused. FAP **must not** be used to secure a preferred school placement or to circumvent normal admission arrangements.
- 2.6 A child who has been denied a place at a school by the Independent Appeal Panel may be admitted by that school if it is identified under the terms of this Protocol as being the one to admit the child.
- 2.7 If an admission authority receives an in-year application but refuses admission due to concerns about the child's challenging behaviour—despite having available places—it

¹ Participation means providing an authorised representative to engage in discussions, make placement decisions under the Protocol, and admit pupils when requested—even if the school is full

must refer the case to the Local Authority for consideration under FAP. This will only be appropriate where the school has:

- i. **a particularly high proportion of children with challenging behaviour or previously excluded pupils on roll, in comparison to other schools; and**
- ii. **it believes admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources.**

This provision cannot be used to refuse the admission of looked after children, previously looked after children and children with an Education Health and Care (EHC) Plan naming the school in question.

Admission authorities must not 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. Children eligible for Fair Access Protocol

FAP is intended to act as a safety net for the most vulnerable. As such, it may **only** be used to place the following categories of children, **where a child is having difficulty in securing a school place in-year**, and it can be demonstrated that reasonable measures have been taken to secure a place through the in-year admissions²:

- 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 School Admissions 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; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

² For example, where an application has been made to at least one school and this has been refused, or the local authority has confirmed that there are no places available at any school within a reasonable distance

4. Schools referring to FAP under category j – Challenging Behaviour (Section 3.10)

Where a school has a place available, it must not refuse admission and refer to the FAP, except where the referral is made in accordance with Section 3.10 of the School Admissions Code.

To meet eligibility for referral to FAP under section 3.10, **ALL** the below must apply.

- a) The application is **not** for a normal admission round or for a normal year of entry at any point in that year (Year 7 or Reception) (*section 3.9 SAC*), or where it is, the child in question has been permanently excluded from two or more schools and the last exclusion was within the last two years (*section 3.8 SAC*)
- b) The child in question's behaviour is such that 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 pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment (*section 3.10, note 76 SAC*)
- c) The child in question is not Looked after, previously looked after, or has an EHCP naming the school (*section 3.12 SAC*)
- d) The school has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources (*section 3.11 SAC*)

The following reasons on their own should **not** be grounds for considering that a child may display challenging behaviour:

- poor attendance elsewhere;
- a defined number of suspensions, without consideration of the grounds on which they were made;
- special educational needs; or
- having a disability.

Admission authorities should consider the effect of the decision of the Upper Tribunal in [C & C v The Governing Body of a School, The Secretary of State for Education \(First Interested Party\) and The National Autistic Society \(Second Interested Party\) \(SEN\): \[2018\] UKUT 269 \(AAC\) ; \[2019\] AACR 10 - GOV.UK \(www.gov.uk\)](#) about the implications of the Equality Act 2010 when a pupil exhibits a tendency to physical abuse of other persons as a consequence of a disability.

Twice permanently excluded pupils (3.8 School Admissions Code)³

Where a child has been permanently excluded from two or more schools and the last exclusion is within the last two years, there is no need for an admission authority to comply with parental preference.

³ The twice excluded rule does not apply to the following children: children who were below compulsory school age at the time of the exclusion; children who have been reinstated following a permanent exclusion (or would have been reinstated had it been practicable to do so); children whose permanent exclusion has been considered by a review panel, and the panel has decided to quash a decision not to reinstate them following the exclusion; and children with education, health and care plans naming the school

These children can only be referred to the FAP using:

- Section 3.10 of the School Admissions Code, where the admission authority can prove they meet the threshold for section 3.10 **or**
- FAP category **d**, if they are currently being provided with alternative provision and are ready to integrate into mainstream.

If they fail to meet any of the above, they can only be referred to FAP after 4 weeks of not receiving an education under category **I**.

5. FAP Process

5.1 Referral to FAP

- 5.1.1 Admissions authorities will process all in-year applications in accordance with parental preference and the School Admissions Code, working to ensure every child is placed without unnecessary delay.
- 5.1.2 All admission authorities and schools should work to admit every child where they have places.**
- 5.1.3 Where an admission authority decides to refuse a place under section 3.10 of the School Admissions, it must notify the LA immediately, providing detailed reasons for the refusal and inform the parent/carer. This must occur within the statutory 15 school days allowed to respond to an application.
- 5.1.4 For schools whose admissions are processed by the LA, if the LA has reason to believe a child may display challenging behaviour, before an application is forwarded to the school:
- The LA will pause sending the offer letter while consulting the school.
 - The school will be given a set deadline to respond with concerns, based on how long it remains within the 15-school-day limit.
 - Schools may then request a refusal under paragraph 3.10 by completing a FAP referral form.
 - The admission authority will determine whether the application meets the criteria for refusal under Section 3.10. If agreed the parent will be notified of the refusal and referred to FAP. If not agreed, the school will be instructed to admit the child without delay.
 - If a FAP referral is not submitted by the deadline, the offer will be sent to the parent/carer and school will be required to admit.
- 5.1.5 Where an admission authority refuses an in-year application because the year group is full and it considers that the child would be eligible to be placed via the FAP i.e. they fall or may fall into one of the categories set out in this protocol, the admission authority **must** notify the LA of this. The LA will then decide whether the child is eligible to be placed in school via the FAP.
- 5.1.6 Schools referring a child for consideration under FAP must complete the FAP referral form, with all relevant documentation, by the stated deadline.
- 5.1.7 School Admissions will respond to parents and schools regarding the outcome of their application/FAP referral and whether it meets FAP criteria.
- 5.1.8 Schools must collaborate with the referring school and the LA, sharing all relevant information promptly to support a FAP referral. The referring school may use the FAP Information Request Form included in this protocol to obtain relevant information from the pupil's current school (Appendix 3).**

5.2 Review of the FAP referral

5.2.1 The FAP Officer will review each referral in consultation with the Head of Service and School Admissions, to determine whether it is appropriate to refer the child directly to a school for placement or whether the circumstances warrant discussion at panel:

- Children who meet categories **d** and **j** within the Protocol will be referred to panel for placement.
- Children falling within one of the other categories will generally be referred directly to a school for placement.

Referrals made under category **j** are not eligible for placement under FAP if the child is already on a school roll, as they are not considered unplaced. In such cases, School Admissions will notify the parent and inform them of their right to appeal any refusal.

5.2.2 The FAP Officer will liaise with relevant services (e.g., Children's Social Care, Early Help, Education Welfare) to gather background information to inform the placement decision. The child's current or previous school may also be contacted.

5.2.3 The FAP Officer will contact the parent/carer and where appropriate, carry out a home visit to obtain parent/carer and child views and any additional information. This information will be shared with the FAP panel and receiving school.

5.2.4 Records will be maintained for all children placed under FAP.

5.3 Decision making on placement

5.3.1 Once a referral is accepted under FAP a school place must be allocated within 20 school days.

5.3.2 The FAP process will be transparent, collaborative and centered on the best interests of the child. It will aim to:

- Minimise time out of education
- Secure suitable school placements
- Ensure fair distribution of pupils across all schools
- Promote shared responsibility among schools regardless of their individual circumstances
- Hold schools accountable for non-compliance with FAP placement decisions

5.3.3 The FAP Officer will identify an appropriate school(s) for that child based on:

- The child's specific needs
- Parental preference
- The number of hard-to-place pupils and permanently excluded children already admitted by each school
- Each school's context and capacity, with supporting evidence if needed
- Proximity to home address⁴

⁴The FAP will prioritise placing the child at a school that is within statutory school walking distance of the child's home address. The receiving school will ideally be the closest school to the child's home address that is eligible to receive a child under the FAP. However, if none of the schools within statutory school walking distance are eligible to admit a child under the FAP a place may be offered which is further away. In such cases, the child may be eligible for home to school transport (see Bracknell Forest School Transport Policy)

- 5.3.4 The FAP Officer will contact the nominated school(s) that are being considered for the child and request they provide any compelling reasons for not being able to admit the child e.g. evidence under section 3.11, prior to presenting at the FAP Panel
- 5.3.5 Although there is no duty to comply with parental preference when placing a child through the FAP, every effort will be made to allocate a place within a reasonable distance of a child's home to support good attendance and education achievement.
- 5.3.6 Children returning from elective home education are generally expected to return to their previous school—unless they have moved into a new educational phase or the FAP panel agrees an alternative placement is in the child's best interests.

5.4 Confirmation of placement

5.4.1 The FAP Officer will:

- Notify the allocated school, which must respond within **2 school days** to avoid unnecessary delay
- Share all relevant background information with the school to support the child's successful transition
- Confirm the placement in writing to both the parent/carer and the school
- Inform relevant professionals, that may have involvement with the child, of the placement
- Provide support to both parent/carer, child and school for at least one term following placement, including attendance at review meetings to monitor progress and identify any additional support needs.

5.4.2 The allocated school will:

- Arrange an initial meeting as soon as possible with the child and parent/carer to agree a start date—ideally within **5 school days** of being notified of the placement. Other professionals should be included in the meeting where appropriate.
- Schedule follow-up review meetings involving relevant professionals, the family and the FAP Officer as needed.

5.4.3 Children placed under the Protocol must be added to the school roll and admitted

promptly, so that their needs can be assessed before any referrals for additional support are made.

5.4.4 Reaching or exceeding the Published Admission Number (PAN) is not a valid reason for refusing admission under the Protocol.

5.4.5 The Fair Access Panel cannot place a child in a school where it would breach Infant Class Size Legislation, unless such pupil meets the very limited criteria of an 'excepted pupil' as defined in section 2.16 of The School Admissions Code 2021.

5.4.6 Children placed through FAP take priority over those on waiting lists.

5.4.7 Schools must not request that an appeal be heard before a child is admitted under the Protocol and must not refuse a child on the basis that an appeal was previously unsuccessful.

6 FAP Panel

6.1. Composition

The Panel meets monthly (see Appendix 2). The Panel will be chaired by the Head of Service or a designate. Best practice would be for the panel to consist of at least two mainstream primary school headteachers, a special school headteacher and two mainstream secondary school headteachers, the Headteacher from Horizons Alternative Provision Academy, the FAP Officer and a School Admissions representative. However, at each panel meeting there may be a need for representatives from various agencies that have been involved with a child. This could be, but not limited to, professionals from Early Help, Children Social Care, Youth Justice Service and Virtual School.

6.2 Role and Responsibility of Panel

- 6.2.1 The Panel is responsible for agreeing the most appropriate school placement for each child presented by the FAP Officer and to have an overview of the process and journey for that child following their referral.
- 6.2.2 If a headteacher who has referred a child to FAP is a member of the panel, they must withdraw from the meeting during any discussion of that case.
- 6.2.3 Where it is known in advance that there may be a conflict of interest which would prevent one or more headteacher representatives from participating in the discussion of a case, the FAP Officer will endeavour to invite alternative headteacher representatives to attend the panel to ensure that a broad range of school representation is maintained.
- 6.2.4 The Panel will ensure due process has been followed and will consider safeguarding arrangements to place the child's wellbeing at the centre of all decision making.
- 6.2.5 The Panel may recommend additional support to help ensure a successful transition and integration for the child.
- 6.2.6 The Panel discussions and decisions will be recorded. Meeting notes can be shared with schools on request.
- 6.2.7 The Panel will consider transport requests where a child is placed at a school beyond statutory walking distance.
- 6.2.8 The Panel will challenge any school not fully engaging with the Protocol. Where necessary, it may direct a school to admit a child or refer non-compliance to the Secretary of State with a request for placement.

7 Compliance and Direction

- 7.1 Schools and admission authorities must admit a child when instructed under FAP, including where the waiting list is in operation.
- 7.2 If a school or admission authority fails to comply with a FAP decision, they may be formally directed to admit the child.
- 7.3 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.
- 7.4 If the local authority believes an academy is the most suitable placement, it may request the Secretary of State to intervene. The Secretary of State has the authority to direct an academy to admit a child under the terms of its funding agreement.

8 Funding

- 8.1 In the case of Year 11 pupils additional support may be required to ensure they can

access a suitable curriculum that enables them to access education, employment and training.

9 Provision for permanently excluded (PEX) pupils

- 9.1 The school is required to inform the LA immediately following the decision to permanently exclude a pupil. The school must complete the appropriate PEX notification form which can be found on the 'Inform Us' page on CANDO.
- 9.2 All children who are permanently excluded will be referred, by the FAP Officer, to the LA's commissioned provider, Horizons Alternative Provision Academy, for Day 6 education provision.
- 9.3 The LA will attend Governing Discipline Committee (GDC) meetings for maintained schools within its jurisdiction, and for academies, if invited by the academy or the parent has requested the LA attends. If the LA is unable to attend, it will provide a statement. The LA, upon request, will also attend GDC meetings for a pupil resident in Bracknell Forest who attends an out of authority school.
- 9.4 Following the Governors Discipline Committee (GDC) meeting or in the case of an appeal, after the IRP, the FAP Officer will advise the parent/carer to apply for a school place through the usual school admissions process. Parents/carers have the right to apply for a school place at any point during the exclusion process. If after a reasonable time the parent/carer has not applied, Horizons Alternative Provision Academy will refer the child to FAP, under category d of the protocol, for placement.
- 9.5 Horizons Alternative Provision Academy and the FAP Officer will support the child's reintegration back into a mainstream setting once a placement has been agreed.

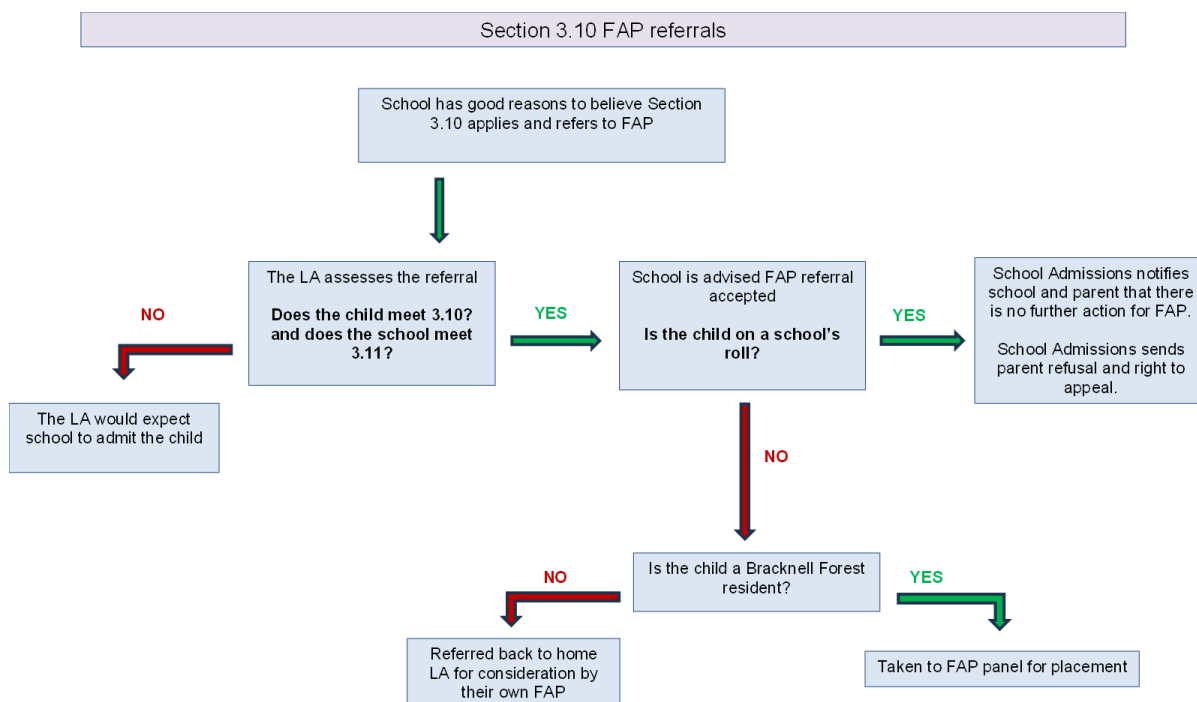
10 Reviewing the protocol

- 10.1 If the majority of schools in Bracknell Forest, no longer support the principles of this protocol, they may request a formal review with the Local Authority.
- 10.2 To initiate a review, a written request must be submitted to the FAP Officer.
- 10.3 The request must include supporting signatures from more than 50% of schools in the borough. Upon receipt, the Local Authority will carry out a review in collaboration with schools.
- 10.4 The current protocol will remain in effect for all schools until a revised version is formally adopted.

For all queries regarding the Fair Access Protocol please contact Viya Berridge, FAP Officer viya.berridge@bracknell-forest.gov.uk, Tel: 01344 354264

APPENDICIES

Appendix 1 – Section 3.10 flowchart



Section 3.10 Challenging Behaviour Test

“The child in question’s behaviour is such that 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 pupils’ education or jeopardise the right of staff and pupils to a safe and orderly environment” (section 3.10, note 76 SAC)

Behaviour must be severe, persistent and beyond normal school support

Likely to meet 3.10 threshold:

- Physical aggression or serious verbal threats (towards staff/pupils)
- Frequent incidents (daily / repeated incidents despite support)
- Significant disruption to learning (own or others’)
- Significant damage to property
- Risk to safety (including unsafe behaviour or absconding)
- Not responding to interventions / behaviours escalating

Not enough on its own:

- Low-level disruption
- Poor attendance
- SEND needs alone
- Isolated incidents

If behaviour cannot be managed with usual interventions and affects safety or learning, it may meet 3.10.

3.11 Evidence Requirements

The school has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources (section 3.11 SAC)

School must evidence both the child AND the school context.

Evidence required:

1. Evidence of challenging behaviour in the school cohort, including:
 - number of pupils with challenging behaviour (particularly in the year group)
 - number of previously permanently excluded pupils on roll
 - Fair Access placements in the last 2 years
2. Evidence of behaviour pressures within the school, e.g. suspension levels across year groups
3. Clear explanation of why admitting this child would prejudice education or resources, including:
 - impact on learning, staffing, timetabling or class capacity
 - why support or adjustments would not be sufficient to mitigate risk
4. Evidence that the decision is based on the individual child, including consideration of reasonable adjustments before refusal

Where it is not clear how the school could reasonably accommodate an additional high-need pupil, the referral may not meet the threshold.

Appendix 2 - FAP Panel Dates

FAP panel meetings are held monthly on Thursday afternoons. Referrals for consideration must be submitted no later than the Thursday of the preceding week.

FAP Panel Dates 2026-27		
Autumn Term 2026	Spring Term 2027	Summer Term 2027
17 September	14 January	22 April
15 October	11 February	20 May
12 November	18 March	17 June
10 December		15 July

Appendix 3



**FAIR ACCESS PROTOCOL (FAP)
INFORMATION REQUEST FOR CHALLENGING BEHAVIOUR
(SCHOOL ADMISSIONS CODE SECTION 3.10)**

This form can be used by schools making a FAP referral to obtain evidence from the pupil's current school as to whether the pupil may meet the definition of challenging behaviour set out in the School Admissions Code.

Pupil Name:	DOB:	Year Group:
Current School:		
1. Severity of Behaviour Please select the level that best describes the severity of the behaviour demonstrated by the pupil during the current academic year. ☐ 1 – Low • Occasional low-level disruption • Off-task behaviour. • Behaviour managed through normal classroom strategies ☐ 2 – Mild • Repeated disruption requiring pastoral intervention • Defiance towards staff • Behaviour resulting in removal from lessons on occasion ☐ 3 – Moderate • Regular refusal to follow instructions • Frequent lesson removals • Verbal aggression or intimidation • Behaviour requiring targeted behaviour support ☐ 4 – Significant • Physical aggression towards pupils or staff • Serious verbal threats • Significant damage to property • Behaviour requiring physical intervention • Behaviour causing serious disruption to learning ☐ 5 – Severe • Persistent or high-risk behaviour posing a significant risk to safety. • Serious assault • Behaviour requiring emergency response, police involvement or repeated physical intervention • Behaviour clearly beyond the normal range schools would ordinarily tolerate 2. Frequency of Behaviour Please select the level that best reflects how often the behaviour occurs. ☐ 1 – Rare • Less than once per half-term ☐ 2 – Occasional • Approximately monthly ☐ 3 – Regular • Weekly		

- ☐ 4 – Frequent
 - Several times per week
- ☐ 5 – Persistent
 - Daily or near-daily

3. Duration of Behaviour

Please select the level that best reflects how long the behaviour pattern has been present despite intervention.

- ☐ 1 – Very Short - Less than 4 weeks
- ☐ 2 – Short Term - 1–3 months
- ☐ 3 – Medium Term - One school term
- ☐ 4 – Long Term - More than one term
- ☐ 5 – Persistent - More than one academic year

4. Impact on Education and Safety

- ☐ 1 – Minimal impact - Little effect on learning or safety
- ☐ 2 – Limited impact - Occasional disruption to learning
- ☐ 3 – Moderate impact - Regular disruption to the pupil's learning and/or others
- ☐ 4 – Significant impact - Frequent disruption to learning or concerns regarding safety
- ☐ 5 – Severe impact - Significant interference with education and/or serious risk to the safety and orderly running of the school

3. Response to Interventions

What interventions have been implemented and why does the current school believe the behaviour may be unlikely to respond to the usual range of interventions?

4. Supporting Evidence Available

Are these currently in place (tick any that apply) and if so please provide the date of last review:

- ☐ Incident reports
- ☐ Risk assessment Date of last review:
- ☐ Behaviour support plan(or equivalent) Date of last review:

Please provide the number of suspensions since the beginning of academic year:

Has the pupil been permanently excluded from the current school: ☐ Yes ☐ No
Date of exclusion:

5. Professional View

Does the current school believe the pupil may meet the definition of challenging behaviour under paragraph 3.10 of the School Admissions Code?

“The child in question’s behaviour is such that 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 pupils' education or jeopardise the right of staff and pupils to a safe and orderly environment"

☐ Yes ☐ No

Reasons:

Completed by: _____

Role: _____

Date: _____