

Fair Access Protocol

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Fair Access Protocol

1. Background

- 1.1 The statutory School Admissions Code (December 2014), requires each local authority to have a Fair Access Protocol. The Code states that, “Each local authority must have a Fair Access Protocol, agreed with the majority of the schools in its area to ensure that – outside the normal admissions round – unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a 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 have challenging behaviour.”
- 1.2 The protocol is designed to ensure that no school, including those with available places is asked to take an unreasonable number of children who are considered ‘hard to place’. It provides a mechanism for fairer distribution of such pupils, whilst recognising that they should not necessarily be denied access to their catchment, nearest or most suitable school if it is full.
- 1.3 All admission authorities (Academies, Community, Voluntary Aided, and Voluntary Controlled schools) must participate in the Fair Access Protocol in order that unplaced children are allocated a school place quickly. This includes admitting children above the published admission number where the year group is already full.
- 1.4 The School Admissions Code states that Fair Access Protocols should be triggered when a parent of an eligible child has not secured a school place under in-year admission procedures. However the Fair Access Protocol in Stockport aims to be proactive in identifying potentially ‘hard to place’ or vulnerable pupils at an early stage, in order to reduce the potential length of time such pupils are without an education placement.
- 1.5 Children with statements of special educational need/Education Health & Care Plans are not covered by this protocol as their applications are considered through a separate procedure.

2. Main Principles

- 2.1 Where a governing body does not wish to admit a child with challenging behaviour or other complexities outside the normal admissions round, even though places are available, it must refer the case to the local authority for action under the Fair Access Protocol. In all other cases, schools and academies will continue to admit pupils who apply for an available place, under normal admission arrangements.

- 2.2 Schools 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.
- 2.3 Schools cannot cite over-subscription as a reason for not admitting a pupil under the protocol.
- 2.4 Pupils seeking a school place under the Protocol will be given priority over pupils awaiting an appeal.
- 2.5 When considering transfers between schools within Stockport, stability of placement will be given priority by all schools. Schools will be expected to evidence how they have attempted to resolve the issues that have led to the request for an in-year transfer.
- 2.6 Schools must respond immediately to requests for admission so that the admission of the pupil is not unduly delayed.
- 2.7 For all admissions under the protocol it is essential that the receiving school receive relevant information from the previous school so that appropriate provision can be made.
- 2.8 The local authority will take account of any genuine concerns about the admission and will take into account the views of the Headteachers of both the original and receiving schools. If on consideration of all the factors the local authority believes that the school in question is still the most suitable for the child, the school should make arrangements for the child to be admitted.
- 2.9 Where there is evidence that mainstream education may not be suitable, the local authority will consult parents and other agencies and seek to provide appropriate alternative provision where appropriate/available.

3. Identification of Fair Access Pupils

- 3.1 A pupil placed under the Fair Access Protocol is not necessarily a challenging pupil. Any child in this category is however potentially a vulnerable child as long as an appropriate educational placement has not been secured.
- 3.2 The local authority has agreed the following list of categories that it considers identifies a child as potentially 'hard to place' or 'vulnerable'. These are not meant to be exhaustive, but provide an example of pupils who may be considered under the protocol:
 - Permanently excluded pupils.
 - Children requiring reintegration into mainstream education from Pupil Referral Units (other than those permanently excluded).
 - Children moving into the area with a history of behaviour difficulties.
 - Children returning to the area from a specialised outside placement or secure accommodation who are not on a school roll.
 - Children who have been out of education for longer than one term.

- Children without a school place and with a history of serious attendance problems.
- Children moving into the area or transferring schools with less than 60% attendance over the previous two terms at their last school.
- Key Stage 4 pupils from the January of Year 10.
- Children for whom it has been identified would benefit from a managed transfer.
- Children of Gypsies, Roma, Travellers, refugees and asylum seekers.
- Children who are homeless.
- Children who are known to be young carers.
- Looked After Children and previously Looked After Children*.

* Schools cannot refuse admission of Looked After Children or previously looked after children, however the number of such admissions to each school is taken into account when considering and agreeing future Fair Access Protocol applications.

**All pupils with a Statement of Special Educational Needs where Behaviour, Emotional and Social Difficulties / those with an Education Health & Care Plan will automatically be taken into consideration when places are allocated under the Fair Access Protocol. They are no longer a separate category.

4. Process

- 4.1 An officer from the local authority, in consultation with schools and professionals where appropriate, will consider whether an in-year application is likely to fall within one of the above categories.
- 4.2 Preferences for particular schools in respect of a child falling within one of the above categories will normally be agreed with the parent following discussion with the local authority, even where the preferred schools are already operating at or above the indicated admission number in the year group concerned. However there is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.
- 4.3 The application will be referred to the local authority's Fair Access Panel, known as the Secondary Panel for Inclusion, for consideration and agreement as to whether it meets the Fair Access Protocol criteria. The Panel will allocate a school place taking account of the number of Fair Access admissions each school has already taken against the agreed quota, and parental preference where appropriate. Consideration will also be given to what the most appropriate school might be in terms of the needs of the pupil.

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parental preference where appropriate. Consideration will also be given to what the most appropriate school might be in terms of the needs of the pupil.

- 4.4 The Headteacher (or nominated representative) will be notified of a decision by the Secondary Panel for Inclusion to allocate a pupil to the school under the Fair Access Protocol following the Panel meeting. The Headteacher will be given the opportunity to express any views or concerns, but an admission of a pupil meeting the above criteria would not ordinarily be refused unless the school could demonstrate exceptional reasons as to why the child should not be admitted.
- 4.5 In cases where admission cannot be agreed following discussion between the local authority and the Headteacher, the case will be discussed at the next Secondary Panel for Inclusion meeting and consideration given to directing admission if appropriate (see section 6).
- 4.6 Headteachers and governing bodies of schools which are their own admission authorities are asked to agree a procedure whereby the Headteacher in consultation with the Chair of Governors is empowered to make immediate decisions about the placement of a pupil so that there is not a further period of absence from school.
- 4.7 Parents have the right to appeal following a decision to refuse their child a place at any school for which they have applied and this also applies to refusals made under the Fair Access Protocol.

5. Distribution of Fair Access Pupils

5.1 Primary

The equal distribution of challenging and 'hard to place' pupils in the primary phase is not as problematic as in the secondary sector due to the number of schools, therefore a Fair Access Panel and associated procedures are not in place. The same general principles of the protocol apply to primary and secondary schools, but the local authority will manage 'hard to place' primary admissions on a case-by-case basis (with support from the Behaviour Support Service where appropriate).

5.2 Secondary

Fair Access Protocol admissions to secondary schools will be managed on a 'fair share' basis. The Secondary Panel for Inclusion will determine which school should be allocated a Fair Access application, taking account of parental preference and the number of pupils each school has already admitted in the relevant year group and in total through the Fair Access Protocol that academic year. Consideration will also be given to other in-year admissions and the number of Looked After Children and children with statements of special educational needs or Education, Health & Care Plans at each school.

Whilst pupils can be admitted to schools above the published admission number under the Fair Access Protocol, consideration will be given to identifying an alternative school if a school is significantly oversubscribed in the relevant year group.

The size of the school will also be taken into consideration. Larger schools will be expected to admit more pupils under the Protocol than smaller schools.

6. Powers of direction

6.1 Local authority powers of direction

The local authority has the power to direct the admission authority of 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.

6.2 Before deciding to give a direction, the local authority must consult the governing body of the school and the parent of the child. If following consultation, the local authority decides to direct, it must inform the governing body and Headteacher of the school.

6.3 The governing body can appeal by referring the case to the Schools Adjudicator within 15 days. If it does this, the governing body must inform the local authority. The local authority must not make a direction until 15 days have passed and the case has not been referred.

6.4 If referred to the Adjudicator, the Adjudicator can either uphold the direction or determine that another maintained school must admit the child. The Adjudicator's decision is binding.

6.5 Secretary of State's power of direction (Academies)

Where a local authority considers that an Academy can 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.

7. Monitoring and Review

7.1 The Secondary Panel for Inclusion (SPI) will monitor the admission of all secondary-aged pupils under the protocol. The Panel will aim to ensure the fair distribution of 'hard to place' pupils across the schools in Stockport, taking into account home address, parental preference and other factors; and will monitor the number of pupils that each school admits against the agreed quota.

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7.2 The Admissions Team, in consultation with schools and relevant services, will maintain a record of the total number of pupils admitted to each school, which includes Looked After and previously Looked After Children, pupils with statements of SEN/Education, Health & Care Plans and pupils placed via the Fair Access Protocol.

7.3 The number of pupils admitted to each school via the protocol will be reported:

- Via email to the Secondary Headteachers and PARE (Pupils at Risk of Exclusion) Forum on a monthly basis via the Fair Access Protocol Table so that they can ensure the same accurate data is held by all
- Directly to the Secondary Headteachers Consortium on a half-termly basis
- Directly to the PARE (Pupils at Risk of Exclusion) Forum on a half-termly basis
- Directly to the Admissions Forum annually

7.4 The Fair Access Protocol will be reviewed following every revision of the Schools Admissions Code and periodically to ensure it adequately meets the needs of children and schools in the area. As the protocol must be agreed by the majority of schools within the area, Headteachers may also request a review if they have concerns about the protocol.

For further information about the Fair Access Protocol, please contact the Education Access Service on 0161 474 3971 or 3972