Fair Access Protocols for Primary & Secondary Pupils

April 2015
2.II – Fair Access Protocols for Primary & Secondary Pupils

Rationale/Aims
The Kirklees Fair Access Protocol exists to ensure that the needs of children and young people, who have difficulty in securing a school place, are met appropriately and efficiently through enrolment in a mainstream school setting, minimising the time that pupils spend out of school. The protocol operates in a fair and transparent way and the system is underpinned by consistency, openness and honesty that has the confidence of schools, children and young people and parents/carers.

‘The operation of Fair Access Protocols is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures.’

All admission authorities must participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly.

(DfE School Admissions Code 2014)

The Fair Access Protocol requires all schools\(^1\) to take part and abide by the content and spirit of the agreement. Fair Access admissions panels of headteachers, supported by local authority officers, will ensure the equitable placement of pupils and monitor the operation of this protocol. The panels will contribute to a local directory of guidance, good practice and effective support strategies.

Statutory Requirements/Guidance

Guidance relating to Fair Access is contained within the current admission code of practice, which came into force on 19th December 2014. This confirms the requirement upon Local Authorities to have a Fair Access Protocol and for all schools and academies to participate in it.

Under the School Admissions Code (2014), all schools and academies share a collective responsibility to ensure that vulnerable groups of children are admitted on an equitable basis to a suitable school as quickly as possible. This approach prevents a small number of schools being under pressure to admit pupils who have a high level of need.

The School Admissions Code Section 3: Ensuring Fairness and Resolving Issues

3.9 Fair Access Protocols - Each local authority must have a Fair Access Protocol, agreed with the majority of 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 who have challenging behaviour. The protocol must include how the local authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met.

3.10 The operation of Fair Access Protocols is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year admission procedures.

3.11 All admission authorities must participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.

3.12 Where a governing body does not wish to admit a child with challenging behaviour 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\(^2\). This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. See page 8 of Protocol. This provision will not apply to a looked after child, a previously looked after child or a child with a statement of special educational needs naming the school in question, as these children must be admitted.

3.13 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.

---

\(^1\) This protocol applies to all academies, community, free, voluntary aided, voluntary controlled, or trust schools in Kirklees.

\(^2\) This protocol applies to all academies, community, free, voluntary aided, voluntary controlled, or trust schools in Kirklees.
3.14 A Fair Access Protocol **must not** require a school automatically to take another child with challenging behaviour in the place of a child excluded from the school.

**Which Pupils this applies to**

The School Admissions Code (2014) states;

3.15 The list of children to be included in a Fair Access Protocol is to be agreed with the majority of schools in the area but must, as a minimum, include the following children of compulsory school age who have difficulty securing a school place:

a) children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
b) children who have been out of education for two months or more;
c) children of Gypsies, Roma, Travellers, refugees and asylum seekers;
d) children who are homeless;
e) children with unsupportive family backgrounds for whom a place has not been sought;
f) children who are carers; and
g) children with special educational needs, disabilities or medical conditions (but without a statement or Education, Health and Care Plan).

Kirklees Council’s Fair Access Protocol also considers;

h) children at risk of permanent exclusion;
i) children who have been permanently excluded;
j) children a governing body does not wish to admit outside the normal admissions round due to challenging behaviour
k) children of UK Service personnel and crown servants
l) in-year applications for Kirklees children who have previously been educated in a school outside of the authority - where there is no house move, or whose change of address is not a significant one (a significant house move is defined as over 2 miles for Key Stage 1 or 3 miles for Key Stage 2 and above), but would like their child to change school.³

This provision will not apply to a looked after child, a previously looked after child or a child with a statement of special educational needs naming the school in question, as these children **must** be admitted.

³ Own admission authority schools would need to refer such ICAFs to Pupil Admissions within 2 days of receipt to ensure these are considered by the panel.
## Pupils who are considered as part of the Fair Access Protocol

<table>
<thead>
<tr>
<th>Target Group</th>
<th>Who refers (Stage 1)</th>
<th>Tally Y/N</th>
<th>Action</th>
<th>Integration Support &amp; Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Children attending PRUs who need to be integrated back into mainstream</td>
<td>Pupil Referral Service</td>
<td>Y</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>Pupil Referral Service organises and provides advice, guidance and support where necessary.</td>
</tr>
<tr>
<td>education.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children returning from the criminal justice system who need to be integrated</td>
<td>YO Team</td>
<td>Y</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>YO Team</td>
</tr>
<tr>
<td>into mainstream education.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Children out of education - those currently not on the roll of a school</td>
<td>CME Team</td>
<td>Y</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>CME Team responsibility to broker support package if two months or more with Pupil Admissions.</td>
</tr>
<tr>
<td>(unless a, c or e apply)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Children of Children of Gypsies, Roma, Travellers, refugees and asylum</td>
<td>CME Team</td>
<td>N</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>CME</td>
</tr>
<tr>
<td>seekers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Homeless children</td>
<td>CME Team</td>
<td>N</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>CME organises Homeless Unit provides advice and guidance. Homeless children submit referrals for Homeless children.</td>
</tr>
<tr>
<td>e) Children with unsupportive family backgrounds, where a place has not</td>
<td>Admissions/CME Team</td>
<td>N</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>CME provides advice and guidance and where appropriate. EHA completed CAF completed.</td>
</tr>
<tr>
<td>been sought</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>f) Children who are carers</td>
<td>Admissions APSO CME</td>
<td>N</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td></td>
</tr>
<tr>
<td>g) Children with special educational needs (but without EHC Plan/statement)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children with disabilities or medical conditions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>h) Children who are permanently excluded</td>
<td>Pupil Referral Service</td>
<td>Y</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>Pupil Referral Service organises and provides advice, guidance and support where necessary.</td>
</tr>
<tr>
<td>i) Children who are at risk of permanent exclusion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>j) Children a governing body does not wish to admit outside the normal</td>
<td>School refusing admission –</td>
<td>Y</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>Pupil Referral Service organises and provides advice, guidance and support where necessary.</td>
</tr>
<tr>
<td>admissions round due to challenging behaviour</td>
<td>in conjunction with</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Admissions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>k) Children of UK Service Personnel and Crown Servants</td>
<td>Admissions</td>
<td>N</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>n/a</td>
</tr>
<tr>
<td>l) in-year applications for Kirklees children who have previously been</td>
<td>Own admission authority/Pupil</td>
<td>N</td>
<td>Parental/carer preference will be made known to the panel to be taken into account. All schools within reasonable distance from the home to be considered. Fair Access Panel: Can admit over PAN.</td>
<td>n/a</td>
</tr>
<tr>
<td>educated in a school outside of the authority - where there is no house move</td>
<td>Admissions</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Placement Process

Context
Local Authorities must consider the circumstances of the individual pupil, in terms of what is best for them, whether they are ready for mainstream schooling and, if so, which mainstream school will be best able to meet their needs. Fair Access Protocols should avoid an inflexible approach, where schools are routinely expected to admit the next child in line without any consideration of other factors. The allocation of pupils should be equitable with no one school or academy being required to take a disproportionate number of challenging children.

Local Authorities, working with parents, should draw up reintegration plans for permanently excluded pupils at an early stage. In general, pupils should not be reintegrated to mainstream schools unless they are ready and schools should not be required or pressured into taking a pupil until any behavioural problems have been assessed, suitably addressed and are ready to take the step back into a mainstream setting.

Local Authorities should offer schools additional help to reintegrate some pupils, for example, Pupil Referral Service (PRS) teachers continuing to work with the pupil when they have returned to mainstream school or a dual registration arrangement where, for a short time, the pupil spends part of the week in a Pupil Referral Unit (PRU) and part in the school.

Admission arrangements will be formally amended such that schools will admit an “at risk” pupil under the scheme even if over Published Admission Number (PAN) as identified within the protocol. Any such an admission will not prejudice any admission appeal. “At risk” pupils as categorised under the admissions criteria have priority for admission over others on a waiting list or awaiting an appeal.

Schools cannot cite oversubscription as a reason for not admitting a pupil under the Fair Access Protocol. Hard to place pupils should be given priority for admission over others on a waiting list or awaiting an appeal. Schools must respond quickly to requests for admission so that the admission of the pupil is not delayed.

The Fair Access Panels

There are two age-related panels - primary (5-11) and secondary (11-16).

The Primary fair access admissions panel consists of;

- 3 representative headteachers appropriate to the child’s age drawn from the primary sector one of which will chair the panel.
- A representative of the pupil referral service
- A senior officer from learning and skills service
- A representative of the admissions team
- Clerk to the panel
- For “at risk” children, a representative from CME team or representative relative to the category of the child.

The primary admissions panel will meet termly and more often as and when required to support timely pupil placements.

Primary headteachers will be put forward by their peers to be part of a pool of nominated headteachers to serve on the panel, ideally for a minimum of 3 years in succession.
The **Secondary** fair access admissions panel consists of:

- 3 representative headteachers from KHSH.
- A representative of the pupil referral service
- A senior officer from learning and skills service
- A representative of the admissions team
- Clerk to the panel
- For “at risk” children, a representative from CME team or representative relative to the category of the child.

The secondary fair access admissions panels will meet monthly or as often as and when required to support timely pupil placements.

Headteachers will be put forward by their peers to be part of a pool of nominated headteachers to serve on the panel, ideally for a minimum of 3 years in succession.

**Operation (stage 2 and 3)**

Parents / carers will be asked to state 3 placements in order preference. *This should take place during a meeting with a local authority officer who will offer impartial advice and guidance (in line with the local authority choice advice principles) and provide data and information about placements made at schools under fair access (in the last 3 terms) in order to highlight that any preference school may not able to receive further placements at that time. Details of appeals procedures will also be given.* Parents/carers should also be informed that schools within a reasonable distance to the home address if not included within the 3 preferences, will also be considered by the Panel unless the pupil is currently on roll at that school.

The clerk will review the parent/carer preferences for availability, if any school is unavailable for consideration the clerk will nominate the nearest alternative school.

The clerk to the panel will normally contact the schools (electronically) that have been nominated by the parent/carer and any nominated by the local authority 5-10 school days before a panel meeting. Notified schools may offer, in writing (electronically), any extenuating circumstances which constitutes a refusal for not being able to accept a pupil into the school or into a given year group.

When considering the placement of pupils the Fair Access Admissions Panels will always operate:

- To meet the best interests of pupils
- To enable all schools to play their part in supporting hard to place pupils
- To share good practice and alternative options
- To seek placements for pupils who have been permanently excluded
- To ensure places are allocated equitably
- To challenge schools who do not adhere to the Fair Access Protocol
- To ensure the LA and schools are working in partnership when seeking admission for pupils via the Fair Access Protocol.
- To ensure that sufficient information on pupils is provided to schools and sufficient support is available to pupils to secure their effective integration into school.

When considering the placement of pupils the Fair Access Admissions Panels will always take into account:

- any previous serious breakdown in relationship between the school and the family,
- where the family do not agree with the religious ethos of the school,
- the potential of the child to meet entry requirements for selective schools,
- the data and information relating to pupils placed as well as the school context so no school is requested to admit numbers of children disproportionately
- other factual extenuating circumstances put forward by possible receiving schools.

---

4 2 miles for Primary School age pupils and 3 miles for Secondary age pupils
**Data and Information**

The Fair Access Panels will:

- Monitor the pattern of exclusions and re-integrations of pupils;
- Review the operation of this protocol with headteacher groups and produce an evaluative report annually;
- Annually at the September Fair Access panel meeting, monitor the number of pupils placed and the time they were out of school, the numbers who remain out of school and the reasons for this;
- Monitor the allocation of pupils to schools, whether each school has received its “fair” share and how to resolve any perceived inequities in the system;

Schools will be requested to admit pupils on the basis of the receiving school’s exclusion and placement weightings, parental / carer preference and the distance from the pupil’s home address. Each school will have a tally;

**Tally for pupils at risk of permanent exclusion/excluded pupils**

- Each tally reduction / increase will apply for 3 terms and go on a half termly basis (inclusive).
- The establishment of this protocol started in 2006 and all primary and secondary schools had a score of 0 at that time.
- Every placement of a pupil increases the tally by 1 from the date of allocation i.e. the date the panel make the decision to place the pupil.
- Every pupil leaving the school reduces the tally by 1 from the date the panel places the excluded pupil or the pupil at risk of permanent exclusion.
- If a pupil who has been placed at a school is taken off roll within the 3 term rolling programme, the school’s tally will be adjusted.

These numbers will be over a 3 term rolling basis and would only be exceeded in exceptional circumstances.

Data and information of the tally for all categories for all schools will be updated and circulated following each panel. In the interests of transparency, this information will be shared with all headteachers periodically.

**Admission following a panel decision**

In order to quickly and efficiently re-integrate children into mainstream schooling, the normal guidance not to admit mid-term is waived. Schools must respond to requests for admission without delay to ensure that access to education is secured quickly. Once a school has been identified through the Fair Access Panel, a start date should be agreed and the school will be accountable for the child’s full time education from that date.

The receiving school will contact parents within 5 working days following an admission assignment by the panel, and will place on roll within 10 working days - Notice is deemed to have been given on the same day if it is delivered directly, or on the second working day after posting if it is sent by first class mail.

Additional support for the integration of pupils who are not ready for mainstream schooling

- Kirklees Local Authority provides comprehensive support to schools, pupils and parents/carers through specialist learning support.
- The pupil referral service is part of specialist learning support and provides full-time or part-time education and support to pupils whose needs can currently not be met in mainstream education alone. The pupil referral service works very closely with mainstream schools and supports education of these pupils through full-time or part-time placement in one of our pupil referral units, additional support in the mainstream setting, outreach work or, for pupils in key stage four, full-time or part-time placement in alternative provision.
- Pupils who "are not ready for mainstream schooling" (paragraph 3.9 of the Admissions Code 2014) will normally already be known to the service and will in most cases have a full-time placement in the pupil referral unit appropriate for the key stage.
Reintegration into mainstream will only be considered when there is a realistic chance of success, any reintegration will be carefully planned in close cooperation with the receiving school and supported by the service, the support programme can include reasonable adjustments to be made by the receiving school.

When a school has been allocated an eligible pupil, the service shown in the table above will set up a pre-admission meeting to construct a support programme for the pupil and the school. At the end of that meeting, a support programme will be written up, clearly stating who is going to do what in terms of reintegration support.

For all pupils under the scope of this protocol, as for any other pupil in their care, schools can make a referral to the single point of referral (SPR) should they feel they cannot meet the needs of these pupils without additional input from specialist learning support. All referrals are considered by the panel within a week and the panel will allocate support where it considers it to be necessary (see section 6 (page 47) in this document).

Disputes (see diagram 1 below)

All schools are expected to admit a child under Fair Access Protocols within **15 school days**.

There is no right of appeal for a community or voluntary controlled school where the Local Authority is the admission authority.

If an own admission authority maintained school refuses to admit a pupil assigned under this protocol after the panel has fully considered the case (stage 4), the local authority will inform in writing (electronically) the school of their intention to direct to admit the pupil giving 7 calendar days notice (stage 5). The governing body has 7 calendar days to reconsider and respond. On the 8th day the Director for Children and Young People will direct the school to admit the pupil under her powers in Section 96 of the Schools Standards and Framework Act 1998. The Governing Body has the right to appeal the direction by submitting a case to the Schools Adjudicator within 15 calendar days of the direction (stage 6). The final decision will be made by the Schools Adjudicator.

If an academy refuses to admit a pupil assigned under this protocol after the panel has fully considered the case, the academy will inform in writing (electronically) the local authority of their within 7 calendar days of the panel decision (stage 4). The Local Authority informs the academy trust of their intention to request a direction from the Secretary of State (stage 5). The academy trust has 15 calendar days to reconsider and respond in writing (stage 6). On the 16th day the Director for Children and Young People will make the application to the EFA for a decision by the Secretary of State. When reviewing an academy direction case, the Education Funding Agency will act on behalf of the Secretary of State. The final decision will be made by the Secretary of State.

If a parent / carer is not happy with the place allocated by the fair access panel they can apply in the normal way for the school of their preference. If this application is refused they can then appeal in the normal way.
Diagram 1
The flowchart below has been produced by the Department for Education to help recipients understand their obligations and duties in relation to the School Admissions Code 2014. The protocol has been annotated to show how this correlates to the Kirklees process.

Directions flow chart (overview of process)

Child is considered under the Fair Access Protocol

School identified and notified

Consultation and negotiation between local authority, governing body, parent and child

Maintained school, for which the local authority is not the admission authority, refuses to accept child (local authority to be notified within seven calendar days)

School agrees to accept child on roll

Academy refuses to accept child (local authority to be notified within seven calendar days)

Local authority informs school of intention to direct (if child has been refused entry to, or permanently excluded from, every suitable school within reasonable distance)

Governing body can appeal by referring case to Schools Adjudicator within 15 calendar days (seven days for a looked after child)

Local authority informs Academy of intention to request a direction

Academy sets out reasons for refusal in writing to local authority within 15 calendar days (seven days for a looked after child)

Local authority applies for a direction to the EFA from the Secretary of State putting forward case for and against (Academy has seven days to make further representations)

Direction not upheld – local authority cannot direct (Schools Adjudicator can direct to alternative school)

Direction upheld – local authority has power to direct

Secretary of State directs Academy

No direction – alternative school to be identified by local authority

School agrees start date with child’s parents

*Note: A community or voluntary controlled school cannot refuse to admit a pupil if requested by its own admissions authority.*

<table>
<thead>
<tr>
<th>Type of School</th>
<th>Who is the admission authority?</th>
<th>Who deals with complaints about arrangements?</th>
<th>Who is responsible for arranging/providing for an appeal against refusal of a place at a school?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academies</td>
<td>Academy Trust</td>
<td>Schools Adjudicator</td>
<td>Academy Trust</td>
</tr>
<tr>
<td>Community Schools</td>
<td>Local Authority</td>
<td>Schools Adjudicator</td>
<td>Local Authority</td>
</tr>
<tr>
<td>Foundation Schools</td>
<td>Governing body</td>
<td>Schools Adjudicator</td>
<td>Governing body</td>
</tr>
<tr>
<td>Voluntary aided schools</td>
<td>Governing body</td>
<td>Schools Adjudicator</td>
<td>Governing body</td>
</tr>
<tr>
<td>Voluntary controlled schools</td>
<td>Local Authority</td>
<td>Schools Adjudicator</td>
<td>Local Authority</td>
</tr>
</tbody>
</table>
Funding via consultation via Schools Forum
The principle underpinning financial support is that the funding should always follow the pupil.

Please see section 4 which sets out the details about financial support in relation to Fair Access. This will be reviewed annually and/or in line with any changes to school funding and legislation.

The pupil placement tariff is transferred to the receiving school to support reintegration. These payments are reviewed and agreed by Schools Forum in consultation with KHSH, KPH and senior officers in the authority.

N.B. Pupils with an Education Health and Care Plan or a Statement of Special Educational Needs or Looked After Children (should they be excluded) are not placed by Fair Access Protocols.

Any balance of AWPU received and sums for pupils with an Education Health and Care Plan /Statement of Special Educational Needs are retained by the LA to:

• fund the support of Kirklees pupils who have been excluded by another authority

• transfer to the Pupil Referral Service to fund personalised packages of support when a Day 6 place at the Pupil Referral Unit is not available or is not appropriate.

Key Contacts

Key Contact

School Admissions Team
1 floor, Kirkgate Building, Byram Street, Huddersfield, HD1 1BY
01484 225007
Email: schooladmissions@kirklees.gov.uk

Pupil Referral Service
2nd floor, Kirkgate Building, Byram Street, Huddersfield, HD1 1BY
01484 456838
Email: clare.davies@kirklees.gov.uk

Children Missing Education (CME) Team
2nd floor, Kirkgate Building, Byram Street, Huddersfield, HD1 1BY
01484 221000
Email: missing.children@kirklees.gov.uk