



South Tyneside Council

Fair Access Protocol

Background

1. The School Admissions Code came into force on 19 December 2014 and requires each Local Authority to have a Fair Access Protocol which has been agreed with the majority of schools in the area.
2. **All** Admissions Authorities **must** participate in the agreed Fair Access protocol (School Admissions Code 2014, paragraph 3.9) in order to ensure that unplaced children, especially the most vulnerable, are offered a place at a suitable school/Academy as soon as possible. This includes admitting children above the published admission number where the year group is already full. Therefore this protocol will cover all schools and Academies within the Borough.
3. Children with statements of special educational need or Education Health and Care Plan are **not** covered by this protocol as their needs are considered through a separate procedure.
4. The Fair Access Protocol is not applicable to admissions made through the normal admissions round for primary, junior or secondary schools and cannot be used where this would involve contravening the regulations on the size of infant classes.
5. Most in year admissions will continue to be processed through the normal admissions process and the Fair Access Panel is not a means of avoiding legal responsibilities to meet parental preference. Therefore where a parent requests a school place and the school has vacancies in the relevant year group there is no requirement for this to be considered by a Fair Access Panel unless the requirements set out in paragraph 19 apply.
6. There is no duty for local authorities or admissions authorities to comply with parental preference when allocating places through this protocol.

Purpose of the protocol

7. Fair Access Protocols exists for those **children**, especially the most vulnerable, **who cannot obtain a place through normal admissions procedures**, as outlined within the In Year Coordination arrangements, to ensure that:

- education is secured quickly for all children, whether they are out of education, in a mainstream school/Academy or in alternative provision
- schools/Academies admit their fair share of children with challenging behaviour
- no school/Academy, including those undersubscribed and those which achieve fewer exclusions through the effective management of challenging behaviour, is required to admit a greater proportion of children with a recent history of challenging behaviour.
- no school/Academy is required to take an excessive number of children who have been excluded from previous schools.

Key Principles

8. The protocol has been developed on a set of key principles:

The importance of the Admissions Procedure

9. The Admissions Procedure is the main way in which education is secured quickly for all children and schools can only refuse to admit a child under the circumstances outlined in paragraph 19.

Avoiding the need for a move

10. It is recognised that children are presented with a barrier when they move from one secondary school to another, particularly during Key Stage 4. A move should only be considered when it is clear that a fresh start is the only way forward and all other measures have been tried, such as attendance at a Pupil Referral Unit or part time attendance with vocational elements.

Managed Moves first

11. If a move becomes inevitable, schools will be encouraged to engage in the managed moves process. A managed move is an agreement between two schools, which is supported by the local authority. It is underpinned by an honest dialogue between the two schools about the nature of the problems that are being encountered with the child and is supported by all the appropriate information, correspondence and child data. The managed moves procedure is attached as appendix 2.

Considering the needs of the child, parents and school

12. The protocol aims to strike a balance between finding a school quickly and the needs of the child, parents and school. It will therefore ensure a range of factors is considered when deciding on the placement of a child. Safeguarding issues will be paramount throughout the consideration of an appropriate placement.

Appropriate use of alternative education

13. Where there is professional evidence that mainstream education may not be suitable at the present time, the Children, Adults and Families Directorate will consult with parents and other agencies to seek to provide appropriate

alternative education provision. This may involve pupils benefiting from an early start in a further education college or other setting.

A child referred to Alternative Education but who has not been permanently excluded remains the responsibility of the school once the time at alternative education is complete. He/she would not routinely come to the FAP, except for requests for help with a managed move placement.

Admitting to over-subscribed schools

14. Schools cannot cite oversubscription as a reason for not admitting a child under the protocol.

Admitting children previously denied a place at appeal

15. A school will not normally be required to admit a child where an Appeals Panel has dismissed a parental appeal in respect of the school within the current year. If the only school that can meet the needs of the child is the one where a place has been denied at an appeal then that school should not refuse to admit a pupil.

Responding quickly to requests for admission

16. Schools must respond immediately to requests for admission. They should not insist on an appeal being heard before admitting a child under the protocol.

17. For the protocol to operate in accordance with the statutory requirement:

17.1 Schools/Academies will continue to admit pupils whose parents apply for an available place, under normal admission arrangements.

17.2 Pupils identified as Panel cases under the Fair Access Protocol will be given priority for admission over others on a waiting list or awaiting an appeal. Managed Moves will not be given priority for admission, unless they meet the fair access criteria.

Exceptions

18. The School Admissions Code states in paragraph 3.8:
“Admission authorities **must not** refuse to admit children in the normal admissions round on the basis of their poor behaviour elsewhere. Where a child has been permanently excluded from two or more schools there is no need for an admission authority to comply with parental preference for a period of two years from the last exclusion.”
19. However, where a governing board does not wish to admit a child with challenging behaviour outside the normal admissions round it must refer the case to the Admissions Team for action under the Fair Access Protocol. **This will normally only be appropriate where the school can provide evidence that it has a particularly high proportion of children with challenging behaviour or previously excluded children and that evidence is accepted by a majority of school and local authority representatives at the Fair Access Panel.** Where the Fair Access Panel accepts that the child should not be admitted to a school under this provision

it will arrange an alternative placement which will normally be in another mainstream school. The parent of a child refused admission under this provision will also have a right of appeal to an independent admission appeal panel. The definition of “challenging behaviour” will be that set out in paragraph 21 of this Protocol.

20. The provision to refer a child to the Fair Access Panel even though a school has available places does 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 always be admitted.
21. Challenging behaviour will normally be defined as serious criminal behaviour resulting in a conviction or a police caution, behaviour resulting in a permanent exclusion or behaviour resulting in a significant number of fixed term exclusions/internal exclusions from which it is clear that the child is at serious risk of permanent exclusion. Children who pose a health and safety risk to themselves/staff/pupils will also be covered by this section.
22. 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 (paragraph 3.13)
23. Those children with attendance problems or those for whom English is an additional language will not as a result of these problems be considered as “challenging” under the Fair Access Protocol.
24. The Fair Access Protocol will not be used to require a school to automatically admit another child with challenging behaviour in the place of a child excluded from that school.
25. When making placements the Fair Access Panel will take into account any special circumstances, including possible transport costs.
26. Possible placements that depend upon the provision of free transport will need to be cleared with the Transport Manager.
27. Referrals for consideration under the Protocol can be made by schools in South Tyneside and the Admissions Team. Parents are unable to directly refer their children for consideration under the Protocol.
28. The Fair Access Panel will consider any valid concerns about admission (e.g. a previous serious breakdown in the relationship between the school/Academy and the family or serious historical issues with other children at the preferred school/Academy). Consideration will also be given to the individual situation, and contextual data for each school or Academy, including, the number of pupils admitted through the panel and being supported by the school or Academy.

Criteria Fair Access Panel

29. The School Admissions Code 2014 states 7 minimum categories to be included in a Fair Access Protocol. These categories identify a child as potentially “Hard to Place or vulnerable”. These are not meant to be exhaustive but provide an example of pupils who **must** be considered under the protocol. The Fair Access Panel will expect to see that schools have engaged other multi agencies through the Early Help procedures.

Pupils falling within the scope of this protocol

30. The Fair Access Protocol can be used to enable the placement of children of compulsory school age who fall within the following categories along with evidence as identified in paragraph 31 (i to vii are the minimum requirements):
- i. Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education
 - ii. Children who have been out of education for two months or more
 - iii. Children of Gypsies, Roma, Travellers, refugees and asylum seekers
 - iv. Children who are homeless
 - v. Children with unsupportive family backgrounds for whom a place has not been sought
 - vi. Children who are carers
 - vii. Children with special educational needs, disabilities or medical conditions (but without a statement)
 - viii. Children whose parents have been unable to find them a place after moving to the area, because of a shortage of places.
 - ix. Children withdrawn from school by their family, following fixed term exclusions and unable to find a place
 - x. Children known to the police or other agencies
 - xi. Children without a school place and with a history of serious attendance problems
 - xii. Children of UK service personnel and other Crown Servants
 - xiii. Unsuccessful managed moves (where there is an incident in the receiving school which is at the level which would warrant a permanent exclusion) (a case may also be considered where there is evidence that parents have refused to engage in the managed move process)
31. Not all children in the above categories will fall within the scope of the protocol. Evidence of at least one of the following applying will also be sought before deciding that a child falls within the scope of the protocol:
- Vulnerability increased by staying at current school/Academy
 - Relationship with current school/Academy irretrievable
 - Imminent danger of permanent exclusion
 - Current and previous permanent exclusions
 - Serious behaviour problems, including fixed term exclusions
 - Lengthy period of absence from school/Academy
 - Serious and persistent attendance record
 - Children fleeing domestic violence

Placement Forum

32. The Fair Access Panel (FAP), set within the Behaviour and Attendance Partnership (BAP), will decide the placement of children. Placements through the Fair Access Protocol will always be a priority item on the partnership's agenda.

Procedure

Responsibilities

33. Decisions taken by the Panel will be by representatives from the secondary schools. The quorum for decision making will be a minimum of three school representatives present and voting at a meeting of the FAP.
34. Where no consensus can be reached on specific referrals then the case will be referred to the Director of Children's Services for a decision, who will notify the allocated school within 7 days of the panel meeting.

Information

35. The referring body (School or Alternative Education and Behavioural Support Service) must provide, as a minimum, the following information to the BAP's coordinator **at least 10 days** before the meeting:
 - Information passport
 - Registration Certificate
 - Application Form from parent
 - Evidence that Pastoral Care Support Programme has been tried
 - Evidence that a managed move has been tried
 - Evidence that the child is ready for mainstream school - Early Help
 - Risk assessment (for serious incidents e.g. possession of knife, drugs, violent behaviour etc)
36. The Admissions Team will provide, as a minimum, the following data for the previous academic year and the current academic year to the BAP's coordinator at least seven days before the meeting:
 - Casual in-year admissions (including those from other authorities)
 - Admissions on appeals
 - Fair Access admissions
 - Exclusions
 - Managed Moves (successful and unsuccessful)

Decision Making

37. The FAP will make four decisions about each child:

A. Has sufficient information about the child been submitted?

The Panel must receive all the information as outlined in paragraphs 35 and 36 of the protocol at least five working days before the meeting (the

Chair of the Panel may decide to accept a case received within a shorter period).

B. Does the child fall within the scope of the protocol?

The Panel must decide whether or not the child falls within the scope of the protocol as outlined in paragraphs 30 and 31 of the protocol.

C. Is the child ready for a mainstream school?

Children should not be reintegrated into mainstream school unless they are ready and their behavioural problems have been assessed, suitably addressed and they are ready to take the step back into a mainstream setting (multi agency through Early Help).

D. Which school/Academy should the child be placed in?

This decision must be focused on the needs of the child. If appropriate, the child should return to the original school/Academy. If this is not appropriate (e.g. if vulnerability increased by staying at current school/Academy or relationship with current school/Academy irretrievable) the following criteria will be considered when placing the child:

- Previous school history e.g. managed moves broken down
- Distance from the child's home
- Parental preference
- Schools/Academy's position on rota
- Safeguarding issues

Whilst each protocol covers only the schools/Academies in its local authority area, the home Local Authority may contact neighbouring authorities to help secure a place in that area under the protocol. The protocol is in effect a safety net for where normal admission procedures for in year admission have failed.

38. Children allocated a place under the protocol must be admitted to the identified school/Academy within 15 days of the decision. The Admissions Team will report to the FAP on the progress of all those children previously placed through the protocol, including adherence to the 15 day admittance rule.
39. If a school or academy refuses to comply with the FAP decision, they must state their reasons in writing to the Chair of the panel within 5 school days from the date of the panel decision. The Chair will then determine a written view after consulting with the school/Academy and the Local Authority. Additionally, the Local Authority or Secretary of State can enforce the decision of the panel by using any powers of direction, if required.

Funding

40. A school/Academy identified by the panel as the appropriate recipient will promptly receive the full year's (regardless of the time of the year) total revenue funding for the child as identified on the "Consistent Financial Reporting" website.

41. Additionally, each child will attract a £500 payment from the 'leaving' school.

Monitoring and Review

42. The operation of the protocol will be reviewed by the FAP at the end of every academic year. The Admissions Team will prepare and submit the following information to the FAP for review purposes:

- Exclusions (permanent and fixed)
- Placements into the AEBS
- Casual in-year admissions
- Admissions on appeals
- Managed Moves
- Fair Access admissions
 - Numbers
 - Success rates in terms of sustainable placements

PRIMARY APPLICATIONS

Primary Panel Meetings

1. If an admission cannot be brokered directly with schools or Academies the Local Authority will arrange a Primary Placement Panel Meeting. The panel membership will use their expertise and knowledge to secure a decision for each individual pupil that is best for them. The Panel will need to balance between the pupil's needs and what school can best meet their needs, whilst ensuring that both are supported and that no school is asked to admit a disproportionate amount of pupils through the protocol, including consideration of Infant Class Sizes.
2. Panel membership will consist of both school/Academy and support services representatives. All Panel members are responsible for arranging for an informed colleague to attend in their place should they be unable to attend. All professionals must come fully prepared with information pertaining to the individual cases to be discussed.
3. Schools and Academies will be represented by 3 Primary Head Teachers/Principals (or representatives) selected from maintained, Academy and Voluntary Aided Schools. School or Academy representatives will provide educational expertise and knowledge as well as represent an overall educational perspective for the Borough. The Head Teacher/Principal (or representative) will be selected to represent the parents preferred schools and/or the area in which the pupil lives.
4. There will also be representatives from Support Services across Children Adults and Families. They will be expected to provide relevant information about any involvement and support that can be offered.
5. The panel members will be provided with case information 5 working days before a panel meeting.

Primary Panel Meetings

6. Panel meetings will be held as required.
7. Key contextual information will be provided by all schools and academies necessary prior to the panel meeting.
8. The Headteacher or Principal of the allocated school will be notified in writing within 24 hours of the Panel meeting. The school or academy must admit the pupil within 15 working days of being informed.

Infant class size

9. Infant classes (Reception, Year 1 and Year 2) **must not** contain more than 30 pupils with a single school teacher. Additional children may be admitted

under limited exceptional circumstances. These children will remain an 'excepted pupil' for the time they are in an infant class or until the class numbers fall back to the current infant class size limit. The excepted children are:

- a) children admitted outside the normal admissions round with statements of special educational needs or Education, Health and Care Plan specifying a school;
- b) looked after children admitted outside the normal admissions round;
- c) children admitted, after initial allocation of places, because of a procedural error made by the admission authority or local authority in the original application process;
- d) children admitted after an independent appeals panel upholds an appeal;
- e) children who move into the area outside the normal admissions round for whom there is no other available school within reasonable distance;
- f) children of UK service personnel admitted outside the normal admissions round;
- g) children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil;
- h) children with special educational needs who are normally taught in a special educational needs unit attached to the school, or registered at a special school, who attend some infant classes within the mainstream school.

Consideration will be given to the legal limit of class sizes in Key Stage 1. However, it may be necessary to admit pupils as exceptions through the Fair Access Protocol.

If pupils do not meet one of the excepted pupil criteria, priority pupils will be given precedence for admission over others on a waiting list or awaiting an appeal.

Managed Moves

Research has concluded the following key recommendations.

That a child should

- **Have an active role in the process**
- **Have a sense of belonging in their new environment**
- **Receive meaningful support**
- **Have commitment and belief.**

Procedure

1. The Managed Move protocol is completely reliant on the two schools, supported by the local authority, honestly brokering the best outcome for the child. The process relies upon accurate and complete information about the transferring child being provided by the original school, and a format for that information is included in these protocols.
2. Under the Managed Move protocol, the 'receiving' school is requested, following prescribed procedures, to admit the child, initially on a trial basis of 4 to 6 weeks. The child will remain on the original school's roll during this period.
3. The protocol will be triggered by the parent/carer and school forming a judgement that a move to another school for a 'fresh start' would potentially benefit the child
4. Before entering into any discussions with parents/carers or the child about the alternative school, the head teacher of the original school (School A) must discuss the case with the head teacher of the proposed receiving school (School B) in order to gain support, confirm its appropriateness, and agree to a trial placement.
5. School A will convene a meeting of all relevant parties in order to examine the case. This meeting should include the parent(s) or carer(s) of the child, and will seek to address collectively and formally the issues behind the proposed move. The meeting will establish the extent to which the school has responded to the various problems that have led to the proposed move. If there is commitment to the move by all parties then the parent/carer will sign an agreement and a managed move pro forma will be completed.
6. School A will contact the nominated school (School B) to present the endorsed managed move application, including the information passport and any other relevant student documentation requested by School B e.g. behaviour record, school report, results of MiDYIS, YELLIS, CAT scores, medical information.
7. School B will convene a managed move trial admission meeting of all relevant parties to include for Schools A and B and an admission date will be agreed. The School Admission Team must be informed at this point of the proposed move.

8. A review convened by School B at 6 – 10 weeks after admission comprising all relevant parties will be convened. If the managed move is deemed to be successful then the child will be formally enrolled at School B. The School Admission Team must be informed.
9. The managed move may be deemed as failed by the hosting school (or the original school following discussion) where a serious incident occurs that is of the severity that would have resulted in a formal fixed term exclusion.
10. A final review convened by School B at the end of the first full term after admission will be convened. The success of the placement will be reviewed based on an analysis of the following: attendance, behavioural incidents, progress, pupil perceptions and parental perceptions.

Registration and roll arrangements

11. Admissions Register – School A should change the enrolment status from “C” (current) to “M” (main dual registered). School B should record the enrolment status as “S” (subsidiary – dual registered).
12. Attendance Register – School A should record the child with a “D” code (dual registration). School B should record the attendances and absences using the appropriate code.
13. It is the responsibility of School A to keep the School Admissions Team informed of progress on the managed move.

Other Factors

14. Each school should identify a named contact person for the local authority in relation to managed moves.
15. At the initial managed move meeting a Pastoral Support Plan should be set up by School A in consultation with School B to support the child’s transfer.
16. Only the Head Teacher of School A can exclude the child.
17. The child’s transition into the new school must be on a full time basis, and will similarly need to be supported with effective induction processes that are something more than normally provided to new children. The key to success is likely to be the child’s and parent/carer feeling an ownership of the transfer, prepared for it, and supported in it by School A, School B and the Services for Young People (SYP).
18. School A should support families eligible for free school meals to access them in School B immediately.
19. There is no additional funding beyond the AWPU available from the LA for schools.

20. Oversubscription in School B or other special circumstances e.g. Ofsted judgements will not automatically prevent School B from entering into a managed move agreement.
21. Should a managed move transfer prove unsuccessful, the local authority's admission section will be informed; the pupil will be returned to school A and the case will be considered for referral under the fair access protocol. A failed Managed Move precludes a parent from transferring the pupil to that school at a later date.
22. A school is not expected to participate in more than 3 managed moves at any one time.
23. Careful consideration should be given to managed moves in year 10 and year 11.