



## **Fair Access Protocol**

### **Introduction**

- 1.1 The School Admissions Code states that each local authority must have a Fair Access Protocol, agreed with the majority of schools in its area, which sets out how, outside the normal admissions round, schools in the area will admit their fair share of children with challenging behaviour, children excluded from other schools and children who arrive outside the admissions round who may have difficulty securing a school place. In these circumstances, admission authorities may, if necessary, admit above their Pupil Admission Number (PAN).
- 1.2 The operation of the Fair Access Protocol 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, even following the outcome of an appeal.
- 1.3 The Code requires that all admission authorities must participate in the Fair Access Protocol in order to ensure that unplaced children are allocated a school place quickly and that no school takes more than its fair share of children with challenging behaviour. A list of the 31 admission authorities currently operating within the local authority area is set out at Appendix A.
- 1.4 There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.
- 1.5 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. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children.
- 1.6 Admission authorities must not refuse to admit a child thought to be potentially disruptive, or to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.

- 1.7 The Fair Access Protocol does not require a school automatically to take another child with challenging behaviour in the place of a child excluded from the school.

## **Scope**

- 2.1 The Fair Access Protocol does not apply to a looked after child or one with a statement of special educational needs naming the school in question, as these children must be admitted.
- 2.2 The list of children included in the Fair Access Protocol, agreed with the majority of schools in the local authority area, includes the following children of compulsory school age who have difficulty securing a school place:
- children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
  - children who have been out of education for more than two months;
  - children with poor attendance (less than 80% in the last year);
  - children of Gypsies, Roma, Travellers, refugees and asylum seekers;
  - children who are homeless;
  - children for whom a place has not been sought;
  - children who are carers;
  - children with special educational needs (at Action Plus), disabilities or medical conditions<sup>1</sup>;
  - children known to the police;
  - children with safeguarding concerns; and
  - children at risk of permanent exclusion.

## **Principles of the Fair Access Protocol**

- 3.1 The Protocol is designed to work for the benefit of all children. All children should receive a high standard of education and care to help them fulfil their potential.
- 3.2 The Protocol will:
- be fair and transparent;
  - have the confidence of all schools;
  - acknowledge the needs of vulnerable young people;
  - respect parents' right to express a preference for the school which they wish their child to attend;
  - deal with the young people and their families sympathetically, quickly and with respect;
  - seek to minimise the time that young people are out of education; and

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<sup>1</sup> Not all children at School Action Plus will have needs that require the support of the Fair Access Panel. Where a school makes a Fair Access Panel referral, the panel holds responsibility for making that decision.

- provide an equitable basis on which schools will be asked to admit a young person with challenging educational needs.
- 3.3 Pupils included in the Fair Access Protocol will take precedence over pupils held on waiting lists by admission authorities covered by this Protocol.
- 3.4 In processing appropriate outcomes for pupils under the Fair Access Protocol, recognition will be given to the number of pupils already admitted to schools during the course of the school year, the proportion of the school roll which they represent and the impact on individual year groups.
- 3.5 Account will be taken of schools' records in excluding pupils. Schools which have a record of excluding a high number of pupils should be expected to reintegrate a higher number of pupils under the Protocol.
- 3.6 All agencies of the local authority and its partners will support schools to help with the integration of pupils who are difficult to place.

### **The Commitment**

- 4.1 All schools in Stoke-on-Trent will be party to the Protocol and support its implementation.
- 4.2 The local authority will operate normal admissions procedures for children falling outside the Fair Access Protocol.
- 4.3 Schools will not say that they are full if asked to take a pupil under this Protocol.
- 4.4 All requests will be dealt with within the agreed timeframe.
- 4.5 The Fair Access Panel (Fair Access Panel) will consider any case which has not been possible to resolve through agreement between all the parties involved. The Panel will be supported by all schools covered by this agreement on a rota basis. The constitution and terms of reference for the Panel are set out at Appendix 2.

### **Procedures**

- 5.1 Once a child is thought to be covered by the Fair Access Protocol, the Admissions Team will ask for a copy of his/her school record and any information relevant to the child's placement. This will include information about incidents which have led to the conclusion that the child is difficult to place. A copy of the request form is set out at Appendix 3. This should be provided within 5 working days.

- 5.2 The Admissions Team will, within the following 3 working days, seek the views of the Headteachers of any schools which are considered to be likely to provide a place for the child. The factors taken into account include:
- distance from the child's home;
  - education history;
  - numbers of permanent exclusion in the academic year;
  - proportion of challenging pupils in the year group in question; and
  - numbers of pupils already taken in through the Protocol.

The authority will have made every effort to obtain the full information requested in 5.1. If this is not forthcoming, particularly from out-of-city schools, then the process will continue with whatever information is known.

- 5.3 The Headteachers of the schools will respond to the request for comments within 7 working days.
- 5.4 In coming to a decision about the child's placement, the authority will take careful account of the views of the Headteachers and governing bodies of the schools. In particular, the authority will take account of any genuine concerns about a Fair Access admission; eg, a serious breakdown in relationships between the family and the school; a strong aversion by the family to the religious ethos of a school.
- 5.5 If one of the schools consulted agrees that the child should be admitted, the authority will inform the parent of the child's placement. If more than one school agrees to admit the authority will determine the most suitable outcome. The decision taken will be reported to the Fair Access Panel.
- 5.6 If all the schools consulted are reluctant to admit, the case will be referred to the Fair Access Panel for recommendation on the decision to be taken.
- 5.7 Any agency which is concerned that a child is out of education can refer the child directly to the Fair Access Panel.
- 5.8 Children who are in care to a local authority will be placed in the school of their carer's preference irrespective of the availability of places in the relevant age group. If it is considered there are exceptional circumstances, which may make a placement inadvisable, the case will be taken to Fair Access Panel and the decision of the panel will be complied with.
- 5.9 If, following the recommendation of the Fair Access Panel, the decision is that the pupil should be admitted to a community or voluntary controlled school, the Director of Children's Services will write to the Headteacher accordingly. The governing body are under a duty to admit the child unless, in the case of a pupil who has been excluded from two or more schools, they appeal to the Independent Appeal Panel or, in the case of a looked

after child who has been excluded from two or more schools, they ask for the case to be referred to the Adjudicator.

- 5.10 If, following the recommendation of the Fair Access Panel, the decision is that the pupil should be admitted to a voluntary aided school or foundation school, then the DCS will issue a direction under Section 96 of the School Standards and Framework Act. The governing body may appeal to the Adjudicator against such a decision. The school specified in the direction will admit the pupil within 7 working days of the direction being sent unless the governing body has decided to appeal or asked for the matter to be referred to the Adjudicator.
- 5.11 If, following the recommendation of the Fair Access Panel, the decision is that the pupil should be admitted to an academy, then the DCS will write to inform the Principal of the academy of this decision. If the academy refuses to admit, the authority will refer the matter to the Secretary of State for a decision.
- 5.12 The authority will deduct from the budget of the excluding school an amount calculated in accordance with either a local agreement or the regulations.

### **Retrospective In-year Fair Access Admissions**

- 6.1 Where on admission of a child information subsequently received following the transfer of a file from the previous (out-of-city) school indicates that, had this information been available at the time of admission, the application would have been considered as a Fair Access admission, then the Headteacher may request a retrospective Fair Access Admission.
- 6.2 Any such requests should be made to the Admissions Team providing details of the new information received, evidence of issues which have arisen since the child was admitted to the school. The request will be presented to the Fair Access Panel and the decision will be communicated to the school within 5 working days of the meeting. If the Fair Access Panel upholds the case, then the admission will be recorded as a Fair Access admission.

### **Monitoring**

- 7.1 The Fair Access Panel will receive monthly reports on the numbers of children who are missing from education. The reports will classify pupils by year group, gender and by reason (permanent exclusion, refugee, etc), and will record the action that is being taken to return the pupil to education.
- 7.2 A report will be prepared annually for the Adjudicator and others on the operation of the Protocol.

2 November 2011

## **Appendix A**

### **Admission authorities operating in the Stoke-on-Trent local authority area (at November 2011)**

- Stoke-on-Trent City Council (for community and voluntary controlled schools)

Abbey Hulton Primary  
Alexandra Infants  
Alexandra Junior  
Ash Green Primary  
Ball Green Primary  
Blurton Primary  
Burnwood Primary  
Carmountside Primary  
Christ Church CE (C) Primary  
Clarice Cliff Primary  
Crescent Primary  
Eaton Park Primary  
Etruscan Primary  
Forest Park Primary  
Gladstone Primary  
Glebe Primary  
Goldenhill Primary  
Greenways Primary  
Grove Junior  
Hamilton Infants  
Harpfield Primary  
Heron Cross Primary  
Hillside Primary  
Holden Lane Primary  
Holden Lane High School  
Hollywall Primary  
Jackfield Infants  
John Baskeyfield VC CE (C) Primary  
Kingsland CE (C) Primary  
Maple Court Primary  
Mill Hill Primary  
Milton Primary  
Moorpark Junior  
New Ford Primary  
Newstead Primary  
Northwood Infants  
Norton Primary  
Oakhill Primary  
Packmoor Primary  
Park Hall Primary  
Priory CE (C) Primary  
Sandford Hill Primary  
Sandon Primary  
Smallthorne Primary  
Sneyd Green Primary

St. Paul's CE (C) Primary  
Summerbank Primary  
Sutherland Primary  
Thistley Hough High School  
Waterside Primary  
Weston Coyney Infants  
Weston Coyney Junior  
Whitfield Valley Primary  
Willows Primary

- Belgrave St. Bartholomew's Academy Trust
- The Co-operative Academy at Brownhills Trust
- The Discovery Academy Trust
- Ormiston Academies Trust (for Ormiston Sir Stanley Matthews and Ormiston Horizon)
- St. Joseph's College Edmund Rice Academy Trust
- St. Peter's Academy Trust
- Birches Head High School Governing Body
- Haywood Engineering College Governing Body
- Sandon High School Governing Body
- Trentham High School Governing Body
- St. Margaret Ward Catholic School and Arts College Governing Body
- St. Thomas More Catholic College Governing Body
- Hanley St. Luke's CE(A) Primary Governing Body
- Our Lady's Catholic Primary Governing Body
- Our Lady and St. Benedict Catholic Primary Governing Body
- St. Augustine's Catholic Primary Governing Body
- St. George and St. Martin's Catholic Primary Governing Body
- St. Gregory's Catholic Primary Governing Body
- St. John's CE(A) Primary Governing Body
- St. Joseph's Catholic Primary Governing Body
- St. Maria Goretti Catholic Primary Governing Body
- St. Mark's CE(A) Primary Governing Body
- St. Mary's CE(A) Primary Governing Body
- St. Mary's Catholic Primary Governing Body
- St. Matthew's CE(A) Primary Governing Body
- St. Peter's Catholic Primary Governing Body
- St. Teresa's Catholic Primary Governing Body
- St. Thomas Aquinas Catholic Primary Governing Body
- St. Wilfrid's Catholic Primary Governing Body
- Stoke Minster CE(A) Primary Governing Body

## **Appendix 2**

### **Fair Access Panel (FAP)**

### **Constitution and Terms of Reference**

#### **1.0 Role**

- 1.1 The Panel is established by Stoke-on-Trent City Council in line with the local Fair Access Protocol.
- 1.2 The role of the Panel is to:
- (a) have regard to the aims and principles of the Fair Access Protocol
  - (b) consider and identify for each case referred:
    - appropriate maintained school or alternative provision
    - transport implications
    - multi-agency support required
    - any other additional resources considered appropriate
  - (c) strike a balance between finding a place quickly and finding a place that is appropriate for the child
  - (d) ensure that no school is asked to take an excessive or unreasonable number of pupils in relation to the nature of the pupils concerned.

#### **2.0 Constitution**

- 2.1 The Panel will be made up of a minimum of 3 officers from the following list:
- Strategic Manager – Consultation, Support & Learning
  - Strategic Manager – School Support
  - Strategic Manager – School Improvement
  - Admissions Manager
  - Virtual Headteacher
  - Assistant Director – Planning, Performance and School Support
  - Assistant Director – Integration Services
  - Head of Reach (PRU)
- 2.2 The Panel will include, on a rolling 3-term basis, a minimum of 2 school representatives at any one time from the following list:
- 4 Secondary Headteachers / Principals or deputies (SASCAL appointees)
  - 4 Primary Headteachers (SAPH appointees)
- 2.3 The Panel will be administered by the authority and chaired by an authority officer.
- 2.4 The role of the Headteachers will be to provide opinion and insight from a school perspective in respect of each case heard. The decision making process for each case will be undertaken by the officers of the authority.



- 2.5 Notes of the outcomes of the meeting will be kept by the authority.
- 2.6 For meetings to be valid, there needs to be present at least 3 of the listed officers.

### **3.0 Meetings**

- 3.1 The Panel will meet approximately monthly during term-time. The frequency of meetings may be adjusted with fluctuations in the caseload to be considered.
- 3.2 Panel members will declare any interest in any individually referred case, and be required to withdraw from any discussion on such a case.
- 3.3 Where insufficient information is available to make a decision on an individual case, then this may be deferred to the next meeting.

**Appendix 3**  
**Fair Access Information Form**



**CHILDREN AND YOUNG PEOPLE'S SERVICES**  
**TRANSFER OF PUPILS**

**FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_  
Fair Access Panel Officer Headteacher

**RE:** \_\_\_\_\_ **DOB:** \_\_\_\_\_

As you are aware, parents of the above pupil have requested a transfer for their child. In view of this, could you please supply the following information:

**% ATTENDANCE:** \_\_\_\_\_  
(Please attach SIMS attendance record)

**ACHIEVEMENTS:**  
(e.g. SAT results, or levels working at)

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**OPTIONS:** (If year 10/11)

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**INCIDENT/EXCLUSIONS RECORD**

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**IS THE PUPIL IN CARE?**

\_\_\_\_\_

**IF YES, TO WHICH AUTHORITY?**

\_\_\_\_\_

**Head of the Virtual school in the originating authority been consulted?** \_\_\_\_\_

**DO YOU FEEL THAT THIS TRANSFER REQUEST WOULD NEED TO BE CONSIDERED UNDER THE FAIR ACCESS PROTOCOL?**

☐ Yes    ☐ No

**IF YES, PLEASE INDICATE WHICH OF THE FOLLOWING CRITERIA THIS PUPIL WOULD FIT:**

Children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education	<input type="checkbox"/>
Children who have been out of education for more than two months or more	<input type="checkbox"/>
Children with poor attendance	<input type="checkbox"/>
Children of Gypsies, Roma, Travellers, refugees and asylum seekers	<input type="checkbox"/>
Children who are homeless	<input type="checkbox"/>
Children with unsupportive family backgrounds for whom a place has not been sought	<input type="checkbox"/>
Children who are carers	<input type="checkbox"/>
Children with special educational needs, disabilities or medical conditions (but without a statement)	<input type="checkbox"/>
Children known to the police	<input type="checkbox"/>
Children with safeguarding concerns	<input type="checkbox"/>
Children at risk of permanent exclusion	<input type="checkbox"/>

***Please attach relevant information relating to the above.***

**Please attach any other information which may be relevant.**

**NAME:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**POSITION:** \_\_\_\_\_

Please return this form via e-mail to **admissions@stoke.gov.uk**